

THE
PUBLIC
DEFENDER
SERVICE

for the District of Columbia



CHAMPIONS OF LIBERTY

Fiscal Year 2020

Congressional Budget Justification

Avis E. Buchanan, Director

March 18, 2019

**PUBLIC DEFENDER SERVICE
FISCAL YEAR 2020 CONGRESSIONAL BUDGET JUSTIFICATION**

Table of Contents

LEGAL AUTHORITY AND MISSION	2
BUDGET JUSTIFICATION SUMMARY	4
FISCAL YEAR 2020 REQUIREMENTS	4
Summary of PDS's FY 2018 Accomplishments	5
PROGRAM DESCRIPTION	14
Legal Services	14
Legal Support Services	18
PDS PERFORMANCE	20
Case Performance Data	20
Additional Case Accomplishments	24
Additional Accomplishments	27
Historical Performance	30
Training	31
CONCLUSION	31
BUDGET DISPLAYS	35
APPROPRIATION LANGUAGE	38
ORGANIZATION CHART	39

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 justice system and thereby protect society's interest in the fair administration of justice.

A major portion of the work of the organization consists of representing individuals in the District of Columbia's local criminal justice system who are charged with committing 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 overall higher skill level, PDS generally handles the more serious criminal cases, and CJA attorneys generally handle the less serious criminal cases. 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 indigent children in the most serious delinquency cases, including those who have special education needs due to learning disabilities. Every year, PDS attorneys represent indigent 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 defendants in Superior Court requiring representation at Drug Court sanctions hearings. In addition, PDS provides technical assistance to the local criminal justice system, training for CJA and pro bono attorneys, and additional legal services to indigent clients in accordance with PDS's enabling statute.

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 certain "state-level" financial responsibilities and restructured a number of criminal justice functions, including representation for indigent individuals. The Revitalization Act instituted a process by which PDS submitted its budget to 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

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).

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 justice system for exceptional advocacy. The strength of PDS has always been the quality of the legal services that the organization delivers. Judges and prosecutors alike acknowledge and respect the excellent advocacy of PDS's attorneys,⁵ as do public defender agencies and criminal justice bars across the nation.

⁵ When asked why prosecutorial jobs are often perceived as higher prestige and higher status positions than public defense jobs, Philadelphia District Attorney Larry Krasner commented: "There is . . . that sort of notion that being a prosecutor is more important or better among many people. . . . I also think there are different groups. There are a lot of people who would never consider being a prosecutor, and they view the Public Defender Service in Washington, D.C., as being the greatest office in the world, and it's a truly great office that attracts incredible talent." <https://www.nbcnews.com/think/opinion/how-prosecutors-can-help-end-mass-incarceration-larry-krasner-podcast-ncna890126> at 14:30; July 10, 2018. (Edited for clarity).

**PUBLIC DEFENDER SERVICE FOR THE DISTRICT OF COLUMBIA
BUDGET JUSTIFICATION SUMMARY**

FY 2020 Summary of Changes

		FY 2020 PDS Need
		(\$ in 000s)
		FTE
		<hr/>
FY 2019 Enacted		219
		45,858
Adjustments to Base		
Less	Non-Recurring Expense (HQ Move)	(4,471)
Add	General Pricing Level Adjustments	201
Total, Adjustments		<hr/> (4,270)
FY 2020 Base		219
		41,588
Add	Priority Programs	5
		472
FY 2020 Adjusted Base		224
		42,060
Add	Non-Recurring Expense (HQ Move)	344
FY 2020 REQUEST		<hr/> 224
		42,404

FISCAL YEAR 2020 REQUIREMENTS

The Public Defender Service for the District of Columbia (PDS) requests a total of \$42,404 thousand for Fiscal Year (FY) 2020. This amount includes an operating budget of \$41,588 thousand for FY 2020, which would allow PDS to maintain operations and absorb inflationary increases in compensation and other operating expenses.

PDS is also seeking funding in three additional areas.

First, PDS seeks combined funding of \$422 thousand for five positions to respond to additional demand for legal representation for PDS clients in the District of Columbia.

Second, PDS seeks one-time, three-year funding of \$344 thousand, the balance of the anticipated \$4,815 thousand cost of a new headquarters office, \$4,471 thousand of which was provided in the FY 2019 enacted budget.

Third, PDS requests \$50 thousand in increased out-of-town travel costs associated with representing more parole grant clients who are serving sentences in various Federal Bureau of Prisons facilities located throughout the country.

These requests, for a total \$42,404 thousand in funding, 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 PDS's goals of increased efficiency and effectiveness.

Summary of PDS's FY 2018 Accomplishments

With the funding provided in FY 2018, PDS continued to be a well-functioning public defender office, achieving excellent results. As in previous years, PDS had many positive case outcomes in trial, appellate, civil, mental health, and other cases.

PDS continued to build on its progress toward effectively incorporating and evaluating data in managing the organization. PDS is improving its evaluation of PDS performance through the increasing ability to obtain and analyze outcome data⁶ and through surveys of various stakeholders.⁷ The results demonstrate that PDS continues to be a high-performing program. PDS receives high praise from judges on the quality of the representation provided by PDS lawyers and receives excellent scores from CJA lawyers on the quality of the training and support provided to them. In FY 2018:

- PDS's Trial Division won full acquittals or favorable mixed verdicts in 65 percent of its jury trials.
- PDS's Mental Health Division won more than 30 percent of its contested probable cause hearings.
- PDS's Appellate Division continued to secure appellate reversals at a rate more than ten times higher than that of the rest of the defense bar (36 percent versus 3 percent).
- PDS's Parole Division won 41 percent of its contested hearings.
- PDS's Juvenile Services Program won 41 percent of its community status review hearings.

⁶ Since PDS completed its five-year, multi-stage project of upgrading PDS's case management system in 2015, PDS has steadily increased its ability to take advantage of the system's added data warehouse capacity. PDS now has outcome data for several divisions to use to more accurately analyze the historical performance of those practice areas. PDS continues to refine its data production and analysis and, ultimately, intends to identify ways of usefully comparing PDS's performance over time with that of other defender institutions and systems that also generate outcome data.

⁷ An example is PDS's 2018 Client Satisfaction Survey, discussed below at 27-29.

In FY 2018, PDS worked on 3,283 trial matters; 1,664 parole matters; 1,843 mental health matters; 168 appellate matters; 383 civil matters, including special education matters; 590 post-commitment (juvenile) and 1,250 post-conviction (adult) matters; 2,592 Drug Court matters; 91 Special Litigation Division matters; 3,598 adult Duty Day matters and 3,203 juvenile Duty Day matters.

In addition, PDS continued to provide representation in the majority of the homicide cases filed in Superior Court.

PDS Percentage of Homicide Cases

FY 2015	66%
FY 2016	70%
FY 2017	72%
FY 2018	68%

In FY 2018, PDS took on new client representation responsibilities as a result of the Incarceration Reduction Amendment Act (IRAA).⁸ IRAA allows individuals who have already served 20 years of incarceration for an offense committed prior to age 18 to petition the Superior Court for a lesser sentence. Each of these new IRAA cases requires a tremendous amount of investigation of factual and mental health issues, mitigation work, and document retrieval. For each case, PDS must gather and review material covering at least a 20-year period in order to assist the client in taking advantage of this re-sentencing opportunity.

Also, in FY 2018, as in each year of its existence, PDS focused on addressing the mental health needs of PDS clients. Building on PDS's history of work in this area, which is described further below, PDS's Trial Division established a Mental Health Practice Group (MHPG) to enhance PDS's practice in this complicated field.⁹ PDS also won unconditional release for three clients who had spent a combined total of 71 years as residents or supervisees of the District's residential mental health treatment facility, St. Elizabeths Hospital—far longer than was warranted by their mental health circumstances.

⁸ Comprehensive Youth Justice Amendment Act of 2016, D.C. Law 21-238; specifically, Title III of the bill, the Incarceration Reduction Amendment Act of 2016 (IRAA). The FY 2019 enacted budget provided supportive funding for this initiative.

⁹ The MHPG is made up of a small group of attorneys in the Trial Division 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 and is the point of contact for experts, attends hearings regarding mental health issues of the client, and co-counsels competency hearings and trials where an insanity defense is raised.

POLICY AND FUNDING PRIORITIES

Resource Request Summary

For FY 2020, PDS requests a total of \$42,404 thousand for FY 2020. This amount includes an operating budget of \$41,588 thousand to maintain regular operations. In addition to its regular operating budget, PDS requests funds for three categories of need: positions, relocation expenses, and travel costs for client representation. PDS requests:

1. funding of \$422 thousand for five professional support positions as well as support costs to respond to increased demand for legal representation for PDS clients. The positions are listed below in priority order.
 - two Mental Health Division positions—one forensic social worker (\$131 thousand) and one mental health investigative specialist (\$90 thousand) to support PDS’s current and expanding work on behalf of mental health clients;
 - three investigative specialist positions (\$201 thousand total) to meet investigative needs resulting from the increased demand in trial cases for investigative services, such as the review of police body worn camera footage as well as of other electronic evidence;
2. one-time, three-year funding of \$344 thousand as the follow-on funding to the \$4,471 thousand in funds included in the FY 2019 enacted budget for PDS to implement a possible headquarters office relocation upon the expiration of a lease in September 2020; and
3. funding of \$50 thousand for the increased out-of-town travel costs associated with representing parole grant clients who are serving sentences in various remote Federal Bureau of Prisons facilities located throughout the country.

PDS’s FY 2020 Budget Request is designed to equip PDS to remain a high-functioning public defender office and to increase PDS’s overall effectiveness.

Resource Request—Positions (\$422 thousand)

PDS’s first priority is to achieve its mission to provide constitutionally required, first-rate quality representation for its clients. Seeking to maintain its excellence in advocacy requires that PDS be alert to changes in law, policy, and practices that affect PDS’s clients’ interests. Maintaining quality representation requires that PDS be prepared to respond to all of those changes. PDS must be prepared to respond to the increased number of release opportunities available to mental health clients, to address appellate decisions that result in novel legal arguments on behalf of PDS clients, and to adjust to the increasing use of technology in criminal cases. It is central to PDS’s ability to manage such issues on behalf of clients and mitigate the negative effects of those issues on clients and their cases; this requires a constant evaluation of what resources will best serve the mission. For FY 2020, PDS requests \$421 thousand to support the five positions described below.

Mental Health Division – Two positions: one forensic mental health social worker; and one mental health investigative specialist

These positions will assist the Mental Health Division in meeting the social work and investigative needs of clients in the District’s justice system with mental health needs.

Since its inception in 1960, PDS has been a leader in the defense community on focusing on the intersection of civil, criminal, and mental health issues. As part of its mission, PDS has always recognized the importance of mental health concerns, illustrated by the fact that from the time the office began operation there was a Mental Health Division (MHD) at PDS. This focus has become more important as the enormous fiscal, health, and human costs of the increasing number of individuals with mental health and substance use conditions in the civil and criminal justice systems are recognized. As Montgomery County Department of Corrections and Rehabilitation Director Robert Green has stated, “America’s jails and prisons have become mental health facilities.”¹⁰

Mental health issues appear in both the District’s civil and criminal justice systems, and many of PDS’s program divisions’ work includes matters that arise directly or indirectly in both. PDS’s Mental Health Division represents clients who have been found not guilty by reason of insanity (NGI) in the criminal justice system as well as clients who face involuntary civil commitment. PDS’s mental health work is just another way in which PDS strives to obtain positive outcomes for clients, improve the reliability of the District’s justice systems, and collaborate with other system components to develop and support evidence-based programs. These programs cost-effectively improve those systems and reduce recidivism in a criminal justice system that is overburdened with people cycling through who present mental health issues.

Mental Health Division – one forensic social worker position (\$131 thousand)

PDS requests funds for one forensic social worker position to focus on the new effort of reducing the number of not-guilty-by-reason-of-insanity clients receiving judicial oversight. Moving clients into the voluntary mental health treatment system from the system requiring judicial oversight is critical to saving justice system dollars while maintaining the treatment regimens necessary for client well-being and community safety.

PDS seeks funding for a forensic social worker¹¹ to provide support for PDS’s recently expanded representation of persons found NGI in their criminal cases and committed indefinitely to the District of Columbia’s mental health hospital, St. Elizabeths Hospital.¹² These clients include persons who remain detained at St. Elizabeths or are on supervised release in the community. An NGI client cannot be released from hospitalization until the court finds that the person has recovered his sanity, will not in the reasonable future be dangerous to himself or others, and is

¹⁰ <https://www.nbcwashington.com/investigations/More-Than-40-Suicides-in-DC-Area-Jails-Since-2014-488936311.html>.

¹¹ 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.

¹² D.C. Code § 24-501(d).

entitled to either conditional or unconditional release from the hospital.¹³ If the court finds that unconditional release—terminating the commitment—is not warranted, the court can order a less restrictive treatment setting.¹⁴ PDS currently represents approximately 50 percent of individuals on NGI commitments from the Superior Court. Of these NGI clients, 48 percent are hospitalized; the remaining 52 percent are conditionally released and live in the community.¹⁵ Most of the NGI clients have commitment orders from the 1960s through the 1990s, and most of their underlying criminal charges were for misdemeanors and low-level felonies.¹⁶ Each NGI client is entitled to seek court review of their treatment level bi-annually.¹⁷

PDS requests funding for a social worker position to assist MHD attorneys for the first time ever in screening NGI clients and identifying those who would be good candidates for petitioning the court for conditional or unconditional release. While the hospital may, and sometimes does, certify to the court that a patient appears to qualify for release, either unconditional or conditional,¹⁸ in most cases the indefinite commitment order will remain in place until the NGI client requests the court's review.¹⁹ The burden then is on the individual to prove that her sanity is recovered, that she is not dangerous to herself or others, and that release is warranted. These cases are very resource intensive. They often involve contested hearings with the U.S. Attorney's Office in opposition, and they require at least one mental health expert to testify on behalf of the NGI client.

Funding a forensic social worker would assist in clearing the backlog of NGI cases that need oversight and resolution and would result in considerable savings for PDS, the U.S. Attorney's Office, Superior Court, and the District itself. The forensic social worker would perform the initial evaluation of PDS clients rather than PDS having to hire an outside expert. In addition, the social worker would prepare psycho-social reports for submission to the court and potentially testify as an expert in the case. This would save PDS from having to hire an outside expert initially, as well as in the 40 to 60 percent of its NGI cases where expert testimony is required. Even where an outside expert would still be needed, the forensic social worker would perform the tasks of identifying and preliminarily consulting with that expert at a lower cost than if

¹³ D.C. Code § 24-501(e).

¹⁴ D.C. Code § 24-501(e). To analogize to the penal system, this structure is essentially an indefinite prison sentence where the judge periodically decides whether to end the prison sentence unconditionally or to release the person conditionally on parole. As with a parolee, a person's conditional release could be "revoked," and he could be confined again to a mental hospital until the next time the court decides conditional release is warranted.

¹⁵ NGI clients living in the community have three possible sources of supervision: the Superior Court, St. Elizabeths Hospital's Forensic Outpatient Department, and the client's community-based mental health provider.

¹⁶ This means that in almost every instance, the individual has been committed to a mental health hospital for years—perhaps even decades—and often longer than the maximum prison sentence he or she could have received in the criminal case.

¹⁷ D.C. Code § 24-501(k).

¹⁸ D.C. Code § 24-501(e).

¹⁹ D.C. Code § 24-501(k).

performed by an attorney. In addition, the forensic social worker would monitor conditionally released clients, helping to ensure their success and gradual move to unconditional release and preventing “revocation” of the conditional release and recommitment to the hospital. PDS also expects that the work of the forensic social worker would reduce the number of contested hearings. Where the client, the hospital, and the U.S. Attorney’s Office all agree to a particular outcome, such as conditional release, a drawn-out contested hearing would be avoided; however, obtaining agreement from all parties requires substantial preliminary work such as identifying and arranging for an appropriate community-based mental health treatment provider and housing—all things a social worker could accomplish.

Mental Health Division – one investigative specialist position (\$90 thousand)

PDS requests funds for one mental health investigative specialist position to provide critical resources and support to attorneys litigating cases involving involuntary psychiatric commitment in the District of Columbia.

As stated above, PDS represents persons subject to civil commitment proceedings and persons committed to St. Elizabeths Hospital following a finding of not guilty by reason of insanity. Due to an increased societal and judicial focus on mental health,²⁰ PDS has seen a significant increase in the number and types of cases MHD handles.

Currently, MHD continues to handle 100 percent of the civil commitment petitions (forensic cases) that statutorily follow when a criminal defendant is found incompetent to stand trial (“*Jackson* finding”²¹). PDS also handles 100 percent of the private civil commitment petitions initiated by family members or other private individuals.²² Forensic cases and private petitions require more investigative resources than emergency hospitalization cases: in forensic cases, both the underlying criminal case and the mental health issues must be investigated. Typically,

²⁰ The D.C. Court of Appeals in *United States v. Blakeney*, 77 A.3d 328 (D.C. 2013), has obligated criminal defense attorneys to more assertively focus on and raise competency in criminal proceedings. This trend has led to an apparent increase in the number of defendants undergoing competency proceedings and, when found incompetent, subjected to civil commitment proceedings. MHD handles 100 percent of the civil commitment proceedings stemming from a finding of incompetence.

Similarly, as the Superior Court now informs the public on its website, *see* <https://www.dccourts.gov/services/family-matters/mental-health-and-mental-habilitation>, families have an avenue to initiate civil commitment proceedings against their loved one. This practice has dramatically increased the number of family-initiated civil commitment petitions filed. MHD handles 100 percent of these cases.

²¹ *Jackson v. Indiana*, 406 U.S. 715 (1972).

²² Due to the complexity of both forensic and private petition cases and the high level of practice demonstrated by MHD attorneys, the Chair of the Commission on Mental Health (the quasi-judicial body that hears civil commitment cases) requested in 2003 that PDS attorneys be the only ones to handle these cases. Historically, this arrangement did not require additional staffing. However, as noted above, changes in the law and an increased focus on mental health issues has resulted in increased filings.

the client in these cases has a complex, multifaceted criminal and mental health history, which requires an investigative specialist to gather and synthesize a large number of records and a sizeable amount of other information. The incompetency finding is frequently accompanied by a guardianship case that further complicates the mental health case.

Private petition cases are also complex. The clients in these cases frequently have extensive criminal and mental health histories. Additionally, the cases often involve civil protection orders, child custody concerns, and landlord-tenant issues. Gathering and synthesizing all of this information is a labor-intensive task.

The impact of the increased forensic and private petition filings has been significant and requires the addition of an investigative specialist to MHD’s staff. The current staffing ratio is two investigative specialists to eight attorneys. In addition to all of their other cases, MHD attorneys and investigative specialists all take an equal number of forensic and private petition cases. In FY 2018, 70 forensic and private petition cases were filed, requiring the investigative staff to handle 34 complex cases each. This workload does not include emergency hospitalization cases, re-hospitalization cases, or revocations and recommitment cases. The upward trend from FY 2013 to FY 2018 is captured below.

Fiscal Year	Forensic Petitions	Private Petitions	Total
2013	20	0	20
2014	24	10	34
2015	21	6	27
2016	33	13	46
2017	49	15	64
2018	41	29	70

This reflects a 250 percent increase in the number of petition cases between FY 2013 and FY 2018 and starkly illustrates the urgent need for more support for the Division.

Investigations Division - Three investigative specialist positions (\$201 thousand total)

PDS requests funds for three investigative specialists to conduct the investigative work that attorney staff require and to provide needed increased general support to six of PDS’s seven legal divisions and its Office of Rehabilitation and Development

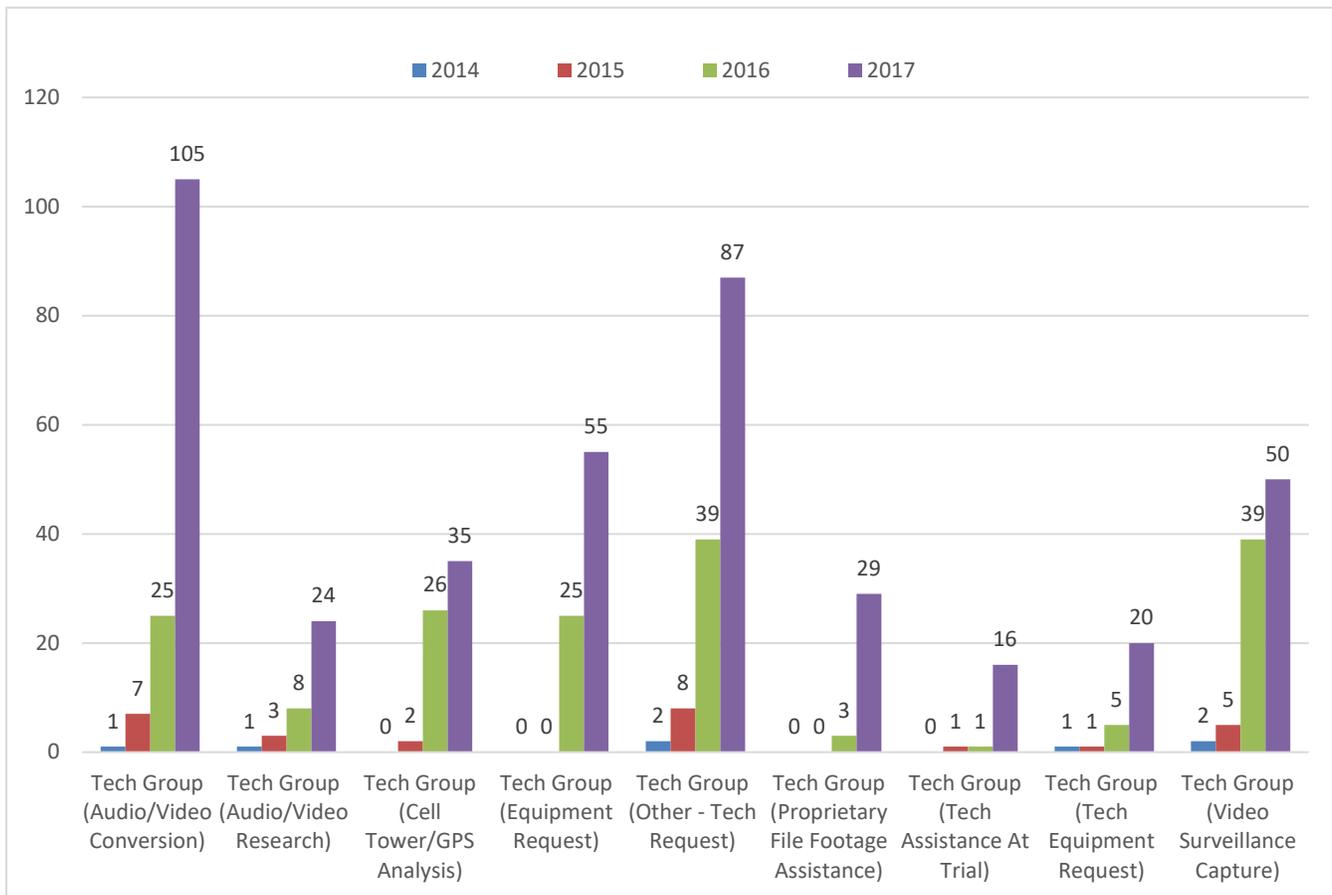
In the past five years, PDS has experienced a marked increase in the number and types of investigative tasks that investigative specialists have been required to perform in order for PDS to meet the constitutional mandate of fully investigating all cases. Since 2016, pursuant to *Brady v. Maryland*,²³ the U.S. Attorney’s Office has been providing documentation concerning individual police officers’ misconduct records, which often requires investigative specialists to review and analyze voluminous source documentation and interview witnesses to the alleged misconduct. Along with witness statements and police paperwork, discovery from the U.S. Attorney’s Office 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, jail

²³ 373 U.S. 83 (1963).

phone calls that can be hundreds of hours long, and extensive cell site location data that can be used to incriminate or exculpate a defendant by showing his or her location and direction of travel during the course of a day. The prevalence of surveillance video from commercial entities and residences has also increased the amount of time investigative specialists spend not only reviewing the material but also retrieving it from members of the community and businesses.

The following chart shows the growth in the workload of just the Technical Support Group, a working group within the Investigations Division,²⁴ between CY 2014 and CY 2017:

**PDS Investigations Division – Technical Support Group
Workload between CY 2014 and CY 2017**



²⁴ While all investigative specialists perform tasks related to electronic evidence, the Technical Support Group (Tech Group) specializes in technology-related aspects of investigations and courtroom presentation. The Tech Group assists all PDS divisions with any technology-related case needs including gathering surveillance footage and audio and video recordings, handling proprietary software, and presenting audio and video materials in court. The Tech Group works with PDS’s IT Office to make sure that needed hardware and software are in place for any attorney or case needs. The Tech Group also provides training to all divisions on how to perform investigative tasks that involve technology.

The D.C. Metropolitan Police Department's full implementation of body-worn cameras (BWCs) 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.²⁵ Review of BWC footage is particularly time-consuming because it typically shows multiple perspectives of a scene or an event. The footage includes audio as well as video and often must be synchronized across video clips in order to present a complete event to the jury.

In CY 2014, two years before BWCs were fully implemented, all investigative specialists spent a total of 17,242 hours in a year on just technology-related investigation. In CY 2017, the most recent full year of BWC use, investigative specialists spent 22,013 hours on technology-related issues, a 27 percent increase due in significant part to the use of BWCs. As technology evolves, the need for training and the sheer number of hours involved in retrieving and evaluating the information continue to increase. Now that all discovery is stored electronically, the growth in this material can be seen in PDS's increased data storage, which has gone from two terabytes in FY 2013 to 16 terabytes in FY 2018, the bulk of which is Trial Division discovery data.

This requirement to fully investigate cases applies as well to parole revocation cases where the same new investigative tasks exist. Likewise, in all other legal divisions at PDS, when an investigative specialist is required to assist the attorney in a case, the investigative specialist necessarily uses the same resources and investigative tools described above.

Resource Request—New PDS Headquarters Office (\$344 thousand)

The lease for PDS's headquarters office, located at 633 Indiana Avenue, N.W., expires in September 2020. The General Services Administration (GSA) has estimated that PDS will need a total of \$4,815 thousand to relocate. The FY 2019 enacted budget provided PDS with \$4,471 thousand in one-time, three-year funding towards the relocation. PDS now requests the balance of \$344 thousand.

PDS expects that its headquarters office will house most of PDS's staff and major functions: the Trial, Appellate, Investigations, Parole, Mental Health, and Special Litigation Divisions; the Human Resources Office; the Budget and Finance Office; the Executive Office; Administrative Services; and the main reception area, three conference rooms, and PDS's largest LAN (Local Area Network) room.

Working with GSA and using its standards, PDS continues taking steps to identify suitable office space. In preparing for this relocation, PDS is not seeking to increase the amount of space used by the organization as a whole.

As with the FY 2019 funding, PDS requests three-year funding because PDS historically lacks control over the timing of selecting office space and relocating. GSA estimates that the entire

²⁵ For example, in a case where a juvenile client was charged with aggravated assault while armed, the government turned over more than 30 hours of video.

project may take up to four years. Three-year funding will provide flexibility to address project delays.

Resource Request—Client Representation Out-of-Town Travel Costs (\$50 thousand)

Funding is requested for the additional out-of-town travel required by expanded client representation in parole grant hearings.

PDS requests \$50 thousand in funding for additional out-of-town travel costs due to its expanded client representation in parole grant hearings. Client representation travel expenses have increased significantly—clients can be assigned to federal Bureau of Prisons facilities anywhere in the country,²⁶ and parole grant hearings are held at the institutions where the clients are serving their sentences. PDS must therefore travel to the various institutions to meet clients,²⁷ and prepare for and provide advocacy at the hearing. In addition, prisons are often located in remote areas, increasing the time and cost required to travel.

Attorneys try to maximize efficiency and minimize out-of-town travel costs by making one trip sufficient for more than one hearing at the same institution.

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),²⁸ 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 seven practice groups: the Trial Division, the Appellate Division, the Mental Health Division,

²⁶ BOP locations across the country are listed at the BOP website, at <https://www.bop.gov/locations/map.jsp?broadScope=prisons>.

²⁷ In the past two years, attorneys have represented clients at hearings at prisons outside of the District of Columbia metropolitan area in California, Colorado, Florida, Illinois, Indiana, Maryland, Minnesota, Pennsylvania, Virginia, and West Virginia. Earlier hearings were held in Georgia, Kentucky, Massachusetts, Missouri, New Jersey, North Carolina, Oregon, and South Carolina.

²⁸ 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, attorneys furnished by PDS, and qualified students participating in clinical programs.

the Special Litigation Division, the Parole Division, the Civil Legal Services Division, and the Community Defender Division. 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 undertook more than 18,000 legal matters in FY 2018. As described below, these matters encompassed a wide range of legal representation, including homicide trials, special education proceedings, parole revocation hearings, disciplinary hearings for detained children and adults, challenges to the treatment of clients under supervision, collateral attacks on wrongful convictions, involuntary civil commitment proceedings, and groundbreaking appellate representation.

Trial Division

Staff attorneys in the Trial Division zealously represent adults in criminal proceedings in Superior Court or provide zealous legal representation to children in delinquency matters. Attorneys are assigned to specific levels of cases based on experience and performance. As a result of intensive supervision and ongoing training, attorneys generally transition over the course of 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.²⁹

Traditionally, less senior Trial Division staff attorneys handle the most difficult or resource-intensive delinquency cases (cases involving children with serious mental illnesses or learning disabilities or children facing serious charges), some general felony cases,³⁰ and a limited number of misdemeanor cases.³¹ Trial Division staff attorneys also provide representation in a variety of other legal matters through PDS's Duty Day program and Superior Court's Drug Court program.

²⁹ In FY 2018, PDS was appointed to 68 percent of all homicide cases as well as 66 percent of all assault with intent to kill cases. Subject to conflicts of interest and codefendant cases, PDS is also assigned to the majority of offenses that have significant mandatory minimum sentences and in FY 2018, PDS took 75 percent of the first-degree sexual assault cases, 47 percent of the armed robbery cases, and 57 percent of all carjacking cases.

³⁰ General felony cases include weapons offenses, felony drug offenses, and serious assaults.

³¹ 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. However, 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 a case involving a systemic issue that PDS is uniquely suited to address.

Appellate Division

The attorneys in the Appellate Division are primarily responsible for handling direct appeals and other appellate litigation generated in PDS cases, providing legal advice to CJA attorneys in appellate matters, and responding to requests from the District of Columbia Court of Appeals for briefs in non-PDS cases involving novel or sophisticated legal issues. Another important function of the Appellate Division is to provide a wide range of technical assistance and training to other PDS divisions. The Appellate Division attorneys' knowledge and experience allow them to assist in complicated cases without having to perform long hours of original research each time 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 mental hospital upon allegations that the person is a danger to himself or others as a result of mental illness. MHD lawyers also represent persons in post-commitment proceedings, including commitment reviews and outpatient revocation hearings; in involuntary commitment proceedings of persons found incompetent to stand trial because of mental illness or mental retardation; and in matters relating to persons found not guilty by reason of insanity in Superior Court or in United States District Court cases. The lawyers in this division also provide information to the District of Columbia Council on proposed mental health and mental retardation legislation, conduct training sessions on the rights of 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 justice 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. Among their achievements are the end of indiscriminate shackling of juveniles in court; the reform of civil forfeiture practice; and the exonerations of four men who spent a combined century in prison for convictions based in part on the invalid testimony of FBI hair analysts.

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. The attorneys represent clients at revocation hearings before the U.S. Parole Commission pursuant to local and federal laws. The majority of the revocation hearings are held at local detention facilities; however, through the development of diversion programs, some of the hearings take place at locations within the community.

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, the Division provides training to members of the District of Columbia Bar, members of the Federal Bar, attorneys in District of Columbia law firms providing pro bono services, CJA attorneys, students in District of Columbia law school clinics, and law students from throughout the United States clerking at PDS on parole and supervised release matters. This training educates criminal defense lawyers and students on the collateral impact criminal cases have on clients who are also on parole or supervised release, and expands the pool of attorneys available to handle parole 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 range of civil matters that are collateral or ancillary to the clients' involvement in the delinquency or criminal justice 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 (adverse immigration consequences, loss of parental rights, loss of housing, seizure of property, loss of employment) and can arise even if the person is acquitted of the criminal charges or has been only arrested and never charged.

A major component of CLS's diverse civil practice is special education advocacy by CLS attorneys with expertise under the federal Individuals with Disabilities Education Improvement Act, which mandates special accommodations in public schools for children who cannot be adequately educated in a traditional classroom setting due to learning disabilities or other physical or intellectual challenges. Special education advocacy is a cornerstone of CLS's civil practice because of the vital importance of education and the pressing special educational needs of many court-involved youth.

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

Community Defender Division

As part of PDS's holistic approach to public defense, the Community Defender Division (CDD) provides services to adults and children, primarily those who are in the post-adjudication stage of a criminal or juvenile delinquency case in Superior Court. CDD provides its services through specialized programs for adult and juvenile clients.

For adult clients, CDD responds to the legal and social services needs of incarcerated persons and newly released individuals through its Prisoner & Reentry Legal Services Program (PRLS). PRLS serves individuals housed at institutions operated by the D.C. Department of Corrections as well as throughout the nation by the federal Bureau of Prisons. Services include legal representation of clients in administrative hearings in D.C. Department of Corrections facilities and in parole grant hearings in Bureau of Prisons facilities. The program also represents individuals in the community under the supervision of the U.S. Parole Commission seeking termination of parole or supervised release. CDD also serves as the PDS liaison to individuals

convicted of District of Columbia Code offenses and serving sentences in the District of Columbia Department of Corrections and Bureau of Prisons facilities. CDD works to monitor their conditions of incarceration and assist them on parole and other release-related matters.

As part of its reentry support, PRLS represents individuals in motions to seal eligible criminal records in the Superior Court of the District of Columbia and provides representation to those who are seeking employment and housing but are adversely affected by their criminal records. PRLS represents and advocates for individuals in other matters where the collateral consequences of prior arrests, convictions, and/or incarceration serve as barriers to success in the community. PRLS is also an active participant in community events geared toward returning citizens. Lastly, PRLS participates in a variety of formal and informal committees with other criminal justice stakeholders to work on systemic change and policy, and to advocate for the rights of justice-involved persons.

Through its Juvenile Services Program (JSP), CDD represents children at administrative due process hearings, provides in-person legal consultations for children at the District's youth detention centers, and works with community organizations to develop reentry programs that address the special needs of children. In addition to staffing legal rights offices inside the District's two secure juvenile facilities, JSP visits local group homes and foster care homes to offer legal assistance to committed youth. JSP also visits juvenile clients placed in long term residential facilities all over the United States. As these clients rarely, if ever, have legal visits from their appointed attorneys, maintaining this in-person contact with juveniles who are sent away from home and placed in these facilities, 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 professionals 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.³² ORD's forensic social workers provide presentencing assistance to address mitigation issues and to provide program alternatives for appropriate clients.³³ 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 research and to oversee the website PDS maintains for CJA attorneys, and two paralegals who work on cases and projects.³⁴

³² 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).

³³ See *Wiggins v. Smith*, 539 U.S. 510 (2003) (decision of counsel not to expand investigation of petitioner's life history for mitigating evidence beyond presentence investigation report and department of social services records fell short of prevailing professional standards).

³⁴ As stated above, PDS operates as a single program, allowing it to shift resources between specialties as needed. Currently, PDS has 10 forensic social workers, 34 investigative specialists, three paralegals, one interpreter, and one library technician who support the lawyers in their

Investigations Division

The Investigations Division supports all the legal divisions of PDS, in particular the Trial Division, by providing thorough and professional investigative work, which includes locating witnesses, conducting field interviews, taking written statements, collecting and assessing digital evidence (e.g., security camera footage, cell phone records, body-worn camera video, “Shot Spotter” (gunshot location) 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 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, among other services, provide the Superior Court with information about viable community-based alternatives to incarceration. Because the ORD staff are well-versed in all of the District of Columbia 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 justice system. In addition, the staff of ORD prepare a comprehensive annual *Directory of Adult Services: Community and Confinement Access Guide* and a biennial *Directory of Youth & Families Resource Guide: Community and Confinement Access Guide* that list a wide range of services available to adults and children in the criminal justice system. These directories, available on PDS’s website,³⁵ are used by the Court Services and Offender Supervision Agency, the Bureau of Prisons and its contract prisons, Superior Court, and many other agencies and organizations working with clients in the criminal justice system. The District’s Criminal Justice Coordinating Council (CJCC) has used the adult manual to create and post on the CJCC’s website an interactive, electronic map with a “pop-up” feature that allows website visitors to see the location of all the services described in the manual.³⁶

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 CJA attorneys, law school clinic students, pro bono attorneys, and PDS attorneys for appointment to new cases on a daily basis.³⁷ In 2018, the office conducted eligibility interviews and assisted in the appointment process for

casework. In addition, 13 administrative assistants support the 162 lawyers and professional staff who provide direct client services.

³⁵ http://www.pdsdc.org/ord/2016_Youth_Directory.html#p=1. PDS’s website can be found at www.pdsdc.org.

³⁶ <http://www.cjccresourcelocator.net/ResourceLocator/ResourceLocatorHome.aspx>.

³⁷ This office is staffed with 10 professionals.

more than 27,000 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, Human Resources Office, the Information Technology Office, and Administrative Services.³⁸ In concert with individual attorneys and the PDS executive staff, these divisions provide such services as procurement of expert services for individual cases, financial accountability,³⁹ strategies for developing PDS's human capital, recruitment, 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 and each employee's work are valued for the manner in which they enhance direct client representation. PDS's single-program approach allows PDS to manage and adjust its staffing to bring the ideal mix of general skills and specialized expertise to each case according to the client's needs.

PDS PERFORMANCE

PDS continues to maintain its longstanding tradition of providing exceptional representation to clients and helping to ensure that case outcomes are not driven by an individual's ability to pay for an attorney.

Case Performance Data

Because PDS's former Atticus case management system was not a data warehouse, PDS historically reported or tracked only certain metrics of the performance of its Trial, Appellate, Parole, and Mental Health Divisions, choosing metrics that informed PDS about key aspects of the divisions' performance. As PDS continues to upgrade Atticus, PDS has expanded the number and types of these performance measures for which data are collected. In addition, PDS is also using different surveys to measure outcomes specific to clients' needs and to client satisfaction. PDS reports the following outcomes⁴⁰ and performance data.⁴¹

³⁸ These four divisions are staffed with 29 professionals.

³⁹ While a clean audit is an expectation and not an accomplishment for PDS's Budget & Finance Office, it is worthy to note that PDS continues to receive clean financial audits.

⁴⁰ The D.C. Rules of Professional Conduct prohibit PDS from identifying clients and revealing information about their cases outside of the public record. D.C. Rule of Professional Conduct 1.6.

⁴¹ Because some of the yearly data sets are small, the aggregation includes several years of data.

Trial Division

In FY 2018, PDS continued to be appointed to every serious juvenile case, except those where the child already had CJA counsel as a result of a previous arrest or where there was a conflict of interest. PDS also continued to get the vast majority of the most serious adult cases, including homicides, assault-with-intent-to-kill cases, and sexual assaults. PDS was able to obtain complete acquittals, or favorable mixed verdicts, in 65 percent of the jury trials that occurred in FY 2018. This outstanding rate is due in large part to the extraordinary efforts of PDS investigative specialists, and lawyers from the Trial, Appellate, and Special Litigation Divisions.

In FY 2018, PDS received from Superior Court aggregate data for all PDS and non-PDS criminal cases between CY 2008 and CY 2017. PDS plans to use this data to compare outcomes with non-PDS cases, evaluate its performance, focus on areas where improvements can be made, and assess and improve the performance of public defense in the District of Columbia overall. Prior to receiving this data, PDS was able to make some initial comparisons for FY 2007 through FY 2014. During that period, in all felony cases, PDS had a complete acquittal or a mixed verdict result in 77 percent of its cases that went to trial. In the most serious cases (e.g., sexual assaults and murder charges), PDS had a complete acquittal rate of 30 percent versus a non-PDS complete acquittal rate of 18 percent. During the same time period, in cases with other serious felony charges (e.g., armed offenses, burglaries, etc.), PDS had a complete acquittal rate of 36 percent versus 24 percent for non-PDS cases.

Appellate Division

PDS's Appellate Division continues 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 adjudication and foster public respect for the courts. Both the District of Columbia Court of Appeals (DCCA) and the Superior Court often enlist (or happily accept) PDS's Appellate Division as *amicus* when faced with difficult legal questions in order to benefit from PDS's institutional expertise and to assure a just and reasoned outcome. In matters that were resolved or are still pending in FY 2018, PDS filed *amicus* briefs in 11 such cases presenting exceptionally important questions. For example, PDS has filed both client and *amicus* briefs and argued before the DCCA in a cluster of cases presenting the question of what local courts must do to comply with the Supreme Court's mandate in recent decisions prohibiting sentencing juvenile offenders to life without parole absent a determination that the juvenile fits the narrow category of irredeemable youth.⁴² PDS filed an *amicus* brief addressing what legal standard applies when the government seeks to administer involuntary medication to an incompetent criminal defendant.⁴³ In another instance, PDS immediately answered the call of a Superior Court judge seeking assistance regarding Double Jeopardy issues raised by the

⁴² *Williams v. United States*, 16-CO-570 (PDS client); *McCrimmon v. United States*, 16-CO-1142 (*amicus*); *Evans v. United States*, 17-CO-154 (*amicus*).

⁴³ *Taylor v. United States*, 17-CO-174.

prosecution's post-acquittal motion; it filed a comprehensive *amicus* opposition that enabled a swift and accurate resolution in the defendant's favor.⁴⁴

In *Dawkins v. United States*,⁴⁵ PDS succeeded in obtaining a reversal of the client's conviction for voluntary manslaughter while armed in a case that involved an important principle of self-defense law. The court's published opinion now clarifies that in cases that begin with an unarmed fight, the court must instruct the jury against penalizing the defendant for not retreating from the conflict. In *In re K.G.*,⁴⁶ the court issued its first published opinion in a juvenile detention appeal in over two decades, agreeing with PDS that the trial judge's order of detention was unlawful and must be reversed. The court emphasized that judges must heed the precise terms of the juvenile detention statute, which were drafted in light of recent research on the development of the brain during adolescence indicating that detaining children for poor decision-making to punish or educate them is ineffective and counterproductive. In *In re C.A.*,⁴⁷ PDS advocacy garnered a published opinion reversing a juvenile adjudication that similarly clarified important and recurring legal standards, in that case regarding impeachment by prior inconsistent statements and rehabilitation by prior consistent statements.

PDS continues to make significant strides in more speedily filing briefs once the Court of Appeals issues a briefing order. Between FY 2010 and FY 2015, PDS reduced the amount of time between the Court's issuance of a notice to file and the filing of the brief from 13 months to nine months. Since 2015, PDS has continued to improve, reducing that period to a little less than seven and a half months.⁴⁸ PDS's goal, as stated in PDS's FY 2015 Congressional Budget Justification,⁴⁹ is to reduce that time to just 40 days by FY 2019 without sacrificing quality.

The excellence of PDS's appellate representation is also captured in a statistic that compares PDS's reversal rate to that of the rest of the defense bar. In published opinions from calendar years 2005 through 2016, PDS's reversal rate was six times that of the rest of the defense bar (32 percent versus 5 percent) and in 2017 the reversal rate for PDS was 39 percent versus 10 percent for non-PDS lawyers. This statistic improved in FY 2018, during which PDS's reversal rate was more than ten times that of the remainder of the defense bar (36 percent versus 3 percent). As PDS has noted before, this statistic also correlates directly to excellence in trial-level lawyering: reversal on appeal is exceedingly difficult unless trial lawyers "make a record" in the court below, which means that they must fairly present the legal issue to trial judges to permit them to avert serious error in the first instance.

⁴⁴ *United States v. Dipaolo*, 2017 CMD 015570.

⁴⁵ 2018 WL 3580701 (D.C. July 26, 2018).

⁴⁶ 178 A.3d 1213 (D.C. 2018).

⁴⁷ 186 A.3d 118 (D.C. 2018).

⁴⁸ PDS progressed from an average of just over eight months in FY 2016 to an average of seven and a half months in FY 2018.

⁴⁹ PDS FY 2015 Congressional Budget Justification, at 24.

Thus, PDS’s Appellate Division continues to deserve the comment of one appellate judge that “the general quality of the PDS attorneys appearing before the Court of Appeals is very high indeed.”⁵⁰

Mental Health Division

In FY 2018, PDS’s Mental Health Division won 30 percent of the cases that went forward with a contested probable cause hearing. These hearings are presided over by an associate judge of the Superior Court. These initial hearings simply determine whether the prosecution meets the low standard of probable cause before it can proceed to the next stage of the civil commitment process. Of all of PDS’s FY 2018 probable cause hearings (contested and non-contested), PDS was able to secure conversions to a voluntary status for 88 percent of clients. When PDS prevails at these hearings, clients who would otherwise be using hospital resources are released, saving taxpayer funds and making the hospital resources available to those most in need (and, most importantly, permitting persons who should not be committed involuntarily to retain their liberty).

PDS is also appointed to 100 percent of civil commitment cases that statutorily follow when a criminal defendant is found incompetent to stand trial (“*Jackson* finding”). The number of *Jackson* and private petition cases resulting in civil commitment petitions is increasing annually.⁵¹

In FY 2018, PDS prevailed in 50 percent of all the cases that went to a contested hearing before the Commission on Mental Health—a panel consisting of a magistrate judge of the Superior Court and two doctors employed by the court—by securing either complete dismissal or mitigation (securing outpatient commitment instead of inpatient commitment). Historically, PDS has been able to mitigate outcomes and secure outpatient treatment for the vast majority of its clients. The cost of treatment in the community is considerably less expensive than inpatient treatment, which achieves less favorable outcomes for individuals.

Parole Division

The Parole Division is the sole source of representation for more than 95 percent of the hundreds of parolees and supervised releasees facing revocation proceedings in the District of Columbia. The Division’s lawyers practice before the U.S. Parole Commission (USPC), which uses federal regulations to govern the revocation process from warrant issuance through sentence imposition. The vast majority of persons whose parole or supervised release is revoked by the USPC are persons who have minor technical violations and not arrests for new criminal offenses. PDS mitigates the outcomes of violation allegations and of re-incarceration through zealous advocacy, including by giving context to the violations and proposing alternatives to revocation.

PDS represents more than 1,000 clients annually who are facing parole or supervised release revocation. In FY 2018, PDS represented 1,095 clients at probable cause hearings before the USPC. Of those clients, 44 percent proceeded to one of three types of revocation proceedings. The remaining cases were resolved by offer and acceptance of expedited pleas, a sentence to

⁵⁰ PDS 2013 Judicial Survey.

⁵¹ See above at 10-11.

treatment within the local jail, or deemed ineligible for a local hearing based on the person's new conviction. Revocation hearings are conducted at the Correctional Treatment Facility before hearing examiners employed by the USPC, and their recommendations are reviewed by a U.S. Parole Commissioner who issues the final decision. In FY 2018, PDS won reinstatement and release in 46 percent of these contested hearings allowing these clients to return to their communities and families. PDS convinced the USPC to impose sentences less than those recommended by the federal guidelines in nearly 40 percent of cases.

Community Defender Division

In FY 2018, the Juvenile Supervision Program (JSP) represented 29 children in the juvenile delinquency system equivalent of parole revocation hearings (called "Community Status Review Hearings"). In 12 of these hearings, the prosecution request to place the youth in a more restrictive setting was denied, so the youth remained in community placements. This is an especially impressive outcome given that youth are eligible to have their levels raised based on just two technical violations, hearsay is admissible at these administrative hearings, and the fact finders are employees of the same juvenile justice agency requesting the more restrictive setting.

JSP also represented securely detained youth in 306 institutional disciplinary hearings. The hearing officers (who are also agency employees) imposed additional sanctions in only 41 hearings (just 13 percent of all such hearings.)

Additional Case Accomplishments

The above performance data demonstrate PDS's success, but data alone give an incomplete picture of that success. PDS not only reduces the costs associated with inpatient versus outpatient treatment and with secure detention versus community supervision, PDS also makes a difference in individual lives by ensuring clients' fair treatment in the criminal justice system. The cases described below illustrate the impact that PDS has as a well-functioning public defender office.⁵²

Trial Division matters:

PDS secures dismissal for innocent client charged with armed robbery: PDS was assigned a client who had never had any interaction with the criminal justice system and was suddenly charged with armed robbery. PDS met with the client in a central holding cell prior to the client's first appearance in court. Prior to the prosecution's initial presentment of the case in court, PDS secured documents that proved that the client was at work at the time of the robbery. Despite receiving these work records, prosecutors persisted in pursuing the case, even persuading the court to have the client remain incarcerated during the pendency of the case.

After the presentment, PDS got and reviewed the surveillance footage from the client's job showing that he was clearly at work at the time of the robbery. After reviewing the video, PDS wrote an emergency motion for the client's release in advance of his preliminary hearing, and the prosecutor conceded the motion and dismissed the case.

⁵² Pursuant to the requirements of the D.C. Rules of Professional Conduct, PDS obtains permission from clients to describe their cases and masks their identity.

PDS saves young man's contracting job after case of mistaken identity: PDS assisted a young man attempting to get a security clearance who had an erroneous conviction on his record. PDS received a call from a young man who was very distressed about a threat to his employment due to his identity having been stolen and misused during a traffic stop a decade earlier. The man had recently been hired as a government contractor, received top security clearance and was assigned to a position at a sensitive federal government location. However, despite his top security clearance, when he reported to work for the first time, he was denied access due to the arrest incorrectly attributed to him.

PDS immediately contacted the Office of the Attorney General (OAG), the District's prosecuting authority in traffic cases. The OAG responded that they had no experience with or established procedures for resolving stolen identity cases.⁵³ The OAG said that the only way to remove this case from the client's record was to file a record-sealing motion with the court on the basis of actual innocence. While that motion did not provide the kind of protection necessary in this case, PDS negotiated with the OAG and drafted an unopposed modified motion.⁵⁴ Fifteen days after the client sought assistance from PDS, the motion was granted. The following week, the client reported that he had been cleared by security and was now able to work without any difficulty.

PDS secures the right services and supports to get a young man back on track: PDS represented a young man who, although he had serious cognitive challenges, served as the primary caretaker for a severely ill parent. Succumbing to peer pressure and financial concerns, he participated in a robbery that was primarily committed by a co-defendant. His participation resulted in his arrest and incarceration at the D.C. Jail.

The client's incarceration was particularly difficult for him because he was no longer able to assist his parent with their medical needs. He also, however, was able to empathize with the victim and appreciate the serious consequences of his actions. PDS's Office of Rehabilitation and Development provided the court with a comprehensive report demonstrating the client's challenges and strengths. Because of this advocacy, prior to sentencing the client was released from the jail in order to attend a summer school program. Participation in the program helped him get accepted into a charter school. In addition, PDS connected the client to a mentoring program that provided him with positive male role models in his community. As a result of these connections and his incredible progress, the client was sentenced to a period of probation.

Mental Health Division matters:

Ten years to unconditional release: A client not initially represented by PDS was arrested in 2008 for assaulting a police officer and then found not guilty by reason of insanity in 2009. Prior to his arrest, the client had been a well-known and very successful boxer. After the not guilty by reason of insanity finding, he was sent to St. Elizabeths Hospital. As the years went by, no post-commitment proceedings were initiated on the client's behalf. In 2011, PDS took over the case.

⁵³ The majority of stolen identification and incorrect court and law enforcement record cases handled by PRLS involve charges prosecuted by the United States Attorney's Office and are resolved by a fingerprint comparison.

⁵⁴ The OAG does not have a precedent for allowing defense counsel to file unopposed motions to seal, but after reviewing the motion, they conceded the issue.

At that time, St. Elizabeths Hospital concluded that he was mentally stable, and by 2013 it was clear that his mental illness was in complete remission. While at St. Elizabeths, the client had not engaged in any threatening, dangerous, or aggressive behavior and had been a model patient. In addition, he had always complied with his medication and treatment plans. Nonetheless, gaining community release under very intense supervision was a long, difficult process. In 2015, having lived in the community successfully for two years, he petitioned the court for unconditional release. Two years later, the motion was finally heard. Despite universal agreement among government and defense experts that the client had been in full remission for at least six years and that he had not engaged in acts of violence since the offense, the court denied his request. Given his ongoing positive response to mental health treatment, PDS continued to press for his unconditional release, finally obtaining it in 2018. The client, now employed, continues to function well in the community.

Twenty-three years to unconditional release: In 1995, a PDS client was charged with multiple counts stemming from the killing of his best friend. On some counts, he was found not guilty by reason of insanity (NGI); on others he was convicted and sentenced to prison for 15 years to life. The sentence and NGI commitment were served concurrently. Prior to the incident, the client was a promising graduate engineering student, teaching to help with expenses. The case stemmed from a psychotic break the client had suffered. While at St. Elizabeths, he became a model patient always complying with the rules, avoiding disciplinary infractions, and invested completely in his treatment. Despite his excellent record while institutionalized, the hospital put off recommending release, and due to his indeterminate sentence, the client also needed to appear before the U.S. Parole Commission. PDS secured not only a conditional release that allowed the client to live in the community, but also secured an early termination of his parole. The client got an apartment, worked diligently with his mental health providers in the community, and cooperated with the outpatient supervision he received from St. Elizabeths. He obtained part-time employment at a District agency as a peer advocate and now helps others who live with mental illness. Despite this progress, when PDS filed for unconditional release, the hospital opposed the motion. After months of advocacy from PDS, the government agreed to the unconditional release of the client with the condition that the release order's implementation be delayed for six months. During that period, the client's behavior and adjustment remained stellar: he not only maintained his stability but his employment was expanded to full-time, and he enrolled in an evening graduate school program. The client obtained his unconditional release this year, and he is now living successfully on his own.

Civil Legal Services Division matter:

A PDS client became homeless after being charged with a criminal offense. After taking a plea, the client was placed on probation at which point PDS sought to help the client acquire a District of Columbia Housing Authority (DCHA) voucher. Because of the criminal case, she had lost her public housing and had accrued significant back rent. At the time PDS got involved, the client and her two sons were living in a storage room in a residential building. The client had been on the waiting list for a housing voucher for years, but the obstacle now was the past rent debt that she had accrued during the criminal case while she was barred by the court from the apartment she had been living in. PDS demonstrated to DCHA that the amount of back rent owed was less than they were demanding and secured assistance from a number of local churches to cover the remaining amount. The client received the housing voucher and now has access to stable housing for her and her family.

Community Defender Division matters:

PDS successfully litigated two habeas petitions in Superior Court, winning court-ordered release from unlawful detention for two juvenile clients. PDS won release from illegal detention for many clients through informal advocacy and the threat of litigation. PDS's practice in this area ensures that the due process rights of committed youth are upheld and that they do not spend unnecessary time in detention.

Additional Accomplishments

Client satisfaction survey results:

As part of evaluating PDS's performance in providing quality representation to clients, in FY 2018 PDS sent an anonymous client satisfaction survey to clients who had been recently represented by PDS and were serving a prison sentence due to either conviction at trial or the entry of a plea.⁵⁵ While PDS understood that these clients might be less satisfied in their experience than clients who had not lost at trial or been sentenced to incarceration, PDS believed it was important to understand these clients' experience with the defense team in order to focus on areas of potential improvement and to help understand where PDS is doing well. The survey asked about clients' interactions with trial attorneys, investigative specialists and forensic social workers.

Overall, the results serve as another indicator of the high quality of PDS's client-centered representation:⁵⁶

- 90 percent agreed that their PDS lawyer had treated them with respect and courtesy;
- 84 percent agreed that their PDS investigative specialist had treated them with respect and courtesy;
- 90 percent agreed that their PDS lawyer explained the choice they had between pleading guilty and going to trial;
- 80 percent agreed the service they received from their PDS lawyer was excellent.

⁵⁵ PDS sent the survey to 248 clients. Each survey packet included a cover letter, the survey, and a Business Reply Mail Account envelope so clients could return the survey at no cost. Sixty-eight clients responded to the survey resulting in a survey response rate of 27 percent. Clients were asked if they agreed or disagreed, and to what degree, with a series of statements about the quality of PDS's representation.

⁵⁶ While the majority of responses were favorable, PDS did note areas to target for improvement. Only 74 percent of clients agreed that their PDS lawyer was working for them and that they could reach their lawyer when they needed to, and only 76 percent of clients agreed that their social worker treated them with respect and courtesy. PDS plans to follow up on these results with training for trial attorneys and forensic social workers to improve staff-client interactions.

Finally, even in areas where the results were favorable, PDS will still seek to improve, as anything less than 100 percent agreement leaves room for growth.

In addition, many clients took advantage of the option of providing comments, most of which reflected the excellent work of PDS staff (edited for brevity and anonymity):

“My experience was great with the first team of trial lawyers. I felt they fought for me past the end. I also feel that way about the appeal lawyer.... I’m truly thankful for PDS b/c without their help no one know where I would be.”

“My lawyer was [...] and I would just like to say she was the best attorney I could ask for. She treated my case as if she was on trial for murder and not me, she stayed up to date and kept me knowledgeable about my case constantly. She also made sure her P.I. care and seen me as much as possible and took care of things involving my case. So with that said I would like to thank PDS for providing me with such a brilliant and hardworking lawyer in Ms. [...] and please let her know I appreciate her. THANK YOU!”

“The ‘Team’ of lawyer and interns that worked on my case was exceptional I consider them friends, the level of care, concern, from my well being, and my family health overall has been exceptional my case had so many factors and I’m not the easiest client, I made their job harder . . . and they went above and beyond to ensure all my wishes were included in their defence and still ensure I get the best possible I am forever grateful to [...] and the others that work and is still working with us. Job well done.”

“I would like to add that everyone who worked on my team helped me a lot with my struggles and helped me with my mental health. Thank for your help The public defender team.”

“I went to the court of appeals twice and all the appellate attorneys were very helpful as was my trial attorney [...]. [...] was also assigned to my cases before he was promoted. He also did an outstanding job. I don’t think I could get better representation.”

“Those two were the best pds’s I ever had and I wanna say keep up the good work. And to all the other good pds lawyer keep up the good work. ...”

“I would like to add that, i think all lawyers that work for the P.D.S, service in some way if not all treat their clients with respect and concern. such as was the case with my lawyer [...] who did a great job representing me.”

“I’m so blessed to have the Public Defender Service fight for my freedom. They helped me with myself as, a teenager I have low self-esteem. I don’t know where I would be (mentally) if I didn’t have them on my team!”

“To whom this may concern, I was represented by [...] and a team of extrodinary investigators.... You know I had nuffing but good things to say about my legal team. im still thanking god he put you guys with me.... Tell the rest of my old team I said hello. God bless all of you and keep up the good work you’ve been doing.”

“I would like to add that [...] is the best P.D.S I have ever had the pleasure of working with . It is truly a blessing to have someone like [...] [in] your corner. I think she should

get paid more to train your other P.D.L's. And if it[']s not to[o] much to ask, can you tell Ms. [...], I said, Thanks for everything.”

Second year of new training program for CJA trial attorneys:

In FY 2018, PDS repeated FY 2017's pilot extended trial skills training program for newly appointed CJA attorneys. The two-week, full-time program, modeled after the skill-based portion of PDS's own trial training program for its new attorneys, was organized and implemented by PDS's Training Director. The program included opportunities for a small group of CJA attorneys to participate in mock exercises to develop or improve specific skills, such as opening statements, cross-examinations, direct examinations of expert witnesses, and closing arguments, and to receive performance critiques. Based on the attorneys' positive response to the training⁵⁷ and their improved performance, PDS offered the program again in FY 2018 and trained twice as many attorneys. PDS also provided follow-up training to the first training group as they prepared to transition to representing clients in jury trials.

Second year of new training program for CJA appellate attorneys:

In FY 2018, PDS continued its commitment to assisting the CJA panel in appellate work. Recognizing the need for better appellate training and support, PDS began a pilot project for training and mentoring CJA appellate lawyers in FY 2017. The 13-week training program, oriented toward experienced and new members of the appellate CJA panel, focuses on the law and tactics of writing an effective statement of facts in an appellate brief. The classes emphasized the importance of a disciplined attentiveness to appellate standards of review while advancing adversarial goals, particularly in appeals from bench trials and in presenting sufficiency-of-the-evidence claims, two characteristics of many CJA appellate cases. In addition, the training and mentoring project conducted moot courts for 12 CJA practitioners, with additional moot courts scheduled.

HR Analytics:

PDS's Human Resources Office converted seven years' worth of personnel data into an electronic format, allowing PDS to track and analyze personnel data easily. Previously, PDS produced personnel data only when requested. Now, PDS continuously collects and analyzes personnel data and trends in labor cost details, new hires and separations, benefits costs, staffing, etc. to produce a more refined analysis, including by division, by calendar year, by fiscal year, and by job category. As a result, PDS is now positioned to request and to allocate resources in a more efficient manner.

Electronic Archiving:

With funds provided in the FY 2017 budget, PDS began implementation of its electronic archiving project for case materials. PDS engaged a contractor to create an online system that

⁵⁷ The new program received an overall average rating for content and materials of 5.0 on a five-point scale. Comments on various sessions included, “Absolutely outstanding!,” “Presenters were fantastic,” “helpful and insightful,” “sessions covered everything A-Z,” “practice exercises and feedback were best,” and “good variety of material.”

allows authorized PDS staff to electronically search and recall files online. Once the system was operational, PDS began downsizing its print collection in storage. During FY 2018, PDS converted into digital format 1,720 boxes containing 21,644 individual files. PDS staff will now be able to save storage costs and more easily identify and retrieve case files electronically on the multiple occasions those files are needed.

Historical Performance

The above FY 2018 accomplishments provide only a snapshot in a long history of high level performance, and the exceptional quality of the advocacy of PDS's staff is reflected beyond performance data and case outcomes. PDS's skills have been recognized over time by:

- the eight awards PDS, as an institution, and its staff have received from outside organizations;
- the one federal appellate court judicial appointment, three federal trial court judicial appointments, two local appellate court judicial appointments, and eight local trial court judicial appointments of PDS attorneys or alumni;
- the offers of employment by federal public defender offices across the country to PDS staff investigative specialists—seven in FY 2017 alone;
- the reliance of every court in the District of Columbia, including the U.S. Supreme Court, on PDS *amicus* filings;
- the consistently high ratings District of Columbia trial and appellate judges give PDS when surveyed about the quality of legal representation PDS provides;
- the requests from defender offices around the country for assistance and for pleadings, training guides, and other materials developed by PDS's specialty practice groups;
- the hundreds of applications PDS receives each year from talented individuals seeking to become PDS staff attorneys, law clerks, and interns;
- the requests from the public defender organizations across the country including in California, Florida, Georgia, Illinois, Kentucky, Maryland, Mississippi, Missouri, Pennsylvania, Virginia, Texas and New York for PDS attorneys to present training involving trial advocacy skills, investigation techniques, appellate practice, and forensic science;
- the requests from legal organizations from around the world for consultation about the PDS model of public defense, including requests from groups from Argentina, Armenia, China, Israel, Iran, and Kenya;
- the Pulitzer Prize for nonfiction awarded to a PDS alumnus who wrote about criminal justice issues he observed as a PDS attorney representing juvenile and adult clients; and
- the award of a MacArthur Foundation “genius grant” to a PDS alumnus who used his experience as PDS's training director to create a program that, using PDS's training principles, trains public defenders throughout the South.

Training

In FY 2018, PDS continued its commitment to advancing quality defense for those who cannot afford to hire their own attorneys. As in the past, PDS produced the following trainings: a Winter, Summer, and Fall training series on criminal law and procedure topics for local attorneys⁵⁸ and a local training for certified CJA investigative specialists. PDS also resumed production of its Forensic Science Conference, this year featuring presentations on the D.C. Court of Appeals' recent adoption of a substantially different legal standard for the admissibility of scientific evidence.⁵⁹

Annually, PDS lawyers from each of its legal divisions provide more than 50 hours of training for hundreds of non-PDS attorneys representing indigent clients in the District of Columbia. As described above, PDS has launched two new training initiatives targeted at trial and appellate CJA attorneys. PDS plans to evaluate the effectiveness of the training efforts by surveying the attorneys and the judges, and monitoring outcomes in the attorneys' cases with the goal of improving case outcomes for all indigent persons in the District of Columbia.

CONCLUSION

The core work of PDS is the representation of individual clients facing a loss of liberty. The examples above all flow from the work done every day by PDS lawyers, investigative specialists, social workers, and other staff 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 fair 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

⁵⁸ The series received an overall average rating for content and materials of 4.7 on a 5-point scale. Comments on various sessions included, "Outstanding," "Clear and concise," "Top-rated," "Easy to follow with great tips, handouts, and cases," "Very detailed instruction," "Overflowing with information and ideas," "Extremely well organized and thoughtful," "Engaging," "Excellent topics," "Informative," "Materials were very comprehensive," "Information was practical and useful," and "Materials were well-organized and presented clearly."

⁵⁹ In 2016, in *Motorola v. Murray*, 147 A.3d 751 (D.C. 2016), the D.C. Court of Appeals abandoned the "Frye" admissibility standard for scientific evidence and became a "Daubert" jurisdiction. PDS filed an *amicus* brief in the *Motorola* case in support of the change. The *Frye* admissibility standard focused on the general acceptance of the science, *Frye v. United States*, 293 F. 1013 (1923), while under *Daubert*, the trial court must make "a preliminary assessment of whether the reasoning or methodology underlying the testimony is scientifically valid and of whether that reasoning or methodology properly can be applied to the facts in issue." *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579, 592-93 (1993). Since the D.C. Court of Appeals adopted *Daubert*, it is incumbent on the defense to test and potentially challenge scientific reasoning and its application to the facts in client cases. Challenges to emerging scientific methods, such as the use of probabilistic genotyping in DNA, will be costly and time consuming because they will require independent expert review of the methodology across several disciplines.

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. As it has every year since its inception, in FY 2018, PDS has won many trials, fought a forceful fight in others, and found resolution prior to trial 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 his liberty.

APPENDIX

As noted throughout this FY 2020 Congressional 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 example below illustrates, a typical PDS case involves many if not all of the divisions that make up PDS.

First Seventy-Two Hours:

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 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 about the case.

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 video footage and analyzing cell site 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 appointed 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 disclosed to the defense by the prosecution.

The trial attorney consults an attorney in the **Civil Legal Services Division** with immigration expertise to evaluate 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 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 site location 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*⁶⁰ issues. In addition, an attorney in the **Trial Division** who is a member of the new **Mental Health Practice Group**⁶¹ is assigned to co-counsel the case.

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 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 **Atticus**, PDS's case management system designed by the **Information Technology Office** to help with client information management, attorney supervision, team assignments, and data reporting.

⁶⁰ See above at 10.

⁶¹ See above at n. 9.

BUDGET DISPLAYS

PUBLIC DEFENDER SERVICE FOR THE DISTRICT OF COLUMBIA

FY 2020 Summary of Changes

	FT E	Amount (\$ in 000s)
FY 2019 Enacted	219	45,858
Adjustments to Base		
Les s		
Non-Recurring Expense (HQ Move)	-	(4,471)
Add		
General Pricing Level Adjustments	-	201
Total, Adjustments	-	(4,270)
FY 2020 Base	219	41,588
PROGRAM CHANGES		
Priority Programs	5	472
FY 2020 Adjusted Base	224	42,060
Add		
Non-Recurring Expense (HQ Move)		344
FY 2020 REQUEST	224	42,404

PUBLIC DEFENDER SERVICE
FY 2020 Salaries and Expenses
Summary of Requirements by Object Class
(\$ in 000s)

<u>Grades:</u>	FY 2018 Actual*		FY 2019 Enacted		FY 2020 Budget Request	
	FTE	Amount	FTE	Amount	FTE	Amount
ES	3	489	3	491	3	500
AD-15	21	3,349	24	3,801	24	3,877
AD-14	61	8,202	59	8,100	59	8,270
AD-13	44	4,756	43	4,700	44	4,900
AD-12	23	2,005	29	2,561	29	2,620
AD-11	20	1,535	17	1,350	18	1,460
AD-10	-	-	-	-	-	-
AD-09	17	1,034	17	1,075	17	1,100
AD-08	2	127	3	135	3	140
AD-07	17	857	18	883	21	1053
AD-06	4	183	4	187	4	195
AD-05	2	83	2	81	2	83
Total Appropriated Positions	214	22,620	219	23,364	224	24,198
EX/ES FTE		3		3		3
GS FTE		211		216		221
Average EX/ES Salary		163		164		166
Average AD Salary		105		106		107
Average AD Grade		12		12		12
<u>Object Class</u>						
-						
11.1 Full Time Permanent	214	22,620	219	23,364	224	24,198
11.5 Other Pers. Comp,		240		230		250
11.8 Special Pers. Services		723		650		0
12.0 Benefits		7,471		7,544		7,762
13.0 Unemployment Comp.		1		1		1
Personnel Costs	214	31,055	219	31,789	224	32,211
21.0 Travel & Training		286		374		424
22.0 Transportation of Things		5		5		7

23.1 Rental Payments to GSA	3,913	3,331	3,415
23.2 Rental Pmts.to Others, & Misc.	221	250	260
23.3 Comm., Utilities & Misc.	334	353	360
24.0 Printing and Reproduction	29	43	43
25.1 Consulting Services	1,200	1,139	1,200
25.2 Other Services	1,812	1,700	1,600
25.3 Purchases from Gov't Accts.	1,213	1,066	1,215
25.4 Maintenance of Facilities	4	31	31
25.7 Maintenance of Equipment	719	720	740
26.0 Supplies and Materials	437	463	465
31.0 Furniture and Equipment	601	123	89
Non-Personnel Costs	10,774	9,598	9,849
TOTAL	41,829	41,387	42,060
31.0 Non-recurring Expense Headquarters Relocation		4,471	344
Grand Total	41,829	45,858	42,404
OUTLAYS	37,905	37,248	37,854

**Actual as of Oct 1, 2018*

APPROPRIATION LANGUAGE

Public Defender Service for the District of Columbia

Appropriation Language Fiscal Year 2020

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, [\$45,858,000] **\$42,404,000**, of which \$344,000, shall remain available until September 30, 2022, for costs associated with relocation under a replacement lease for headquarters offices, field offices, and related facilities: **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 a program substantially similar to the program set forth in subchapter II of chapter 35 of title 5, United States Code, for employees of the District of Columbia Public Defender Service, 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.

ORGANIZATION CHART

