



PUBLIC
DEFENDER
SERVICE

for the District of Columbia

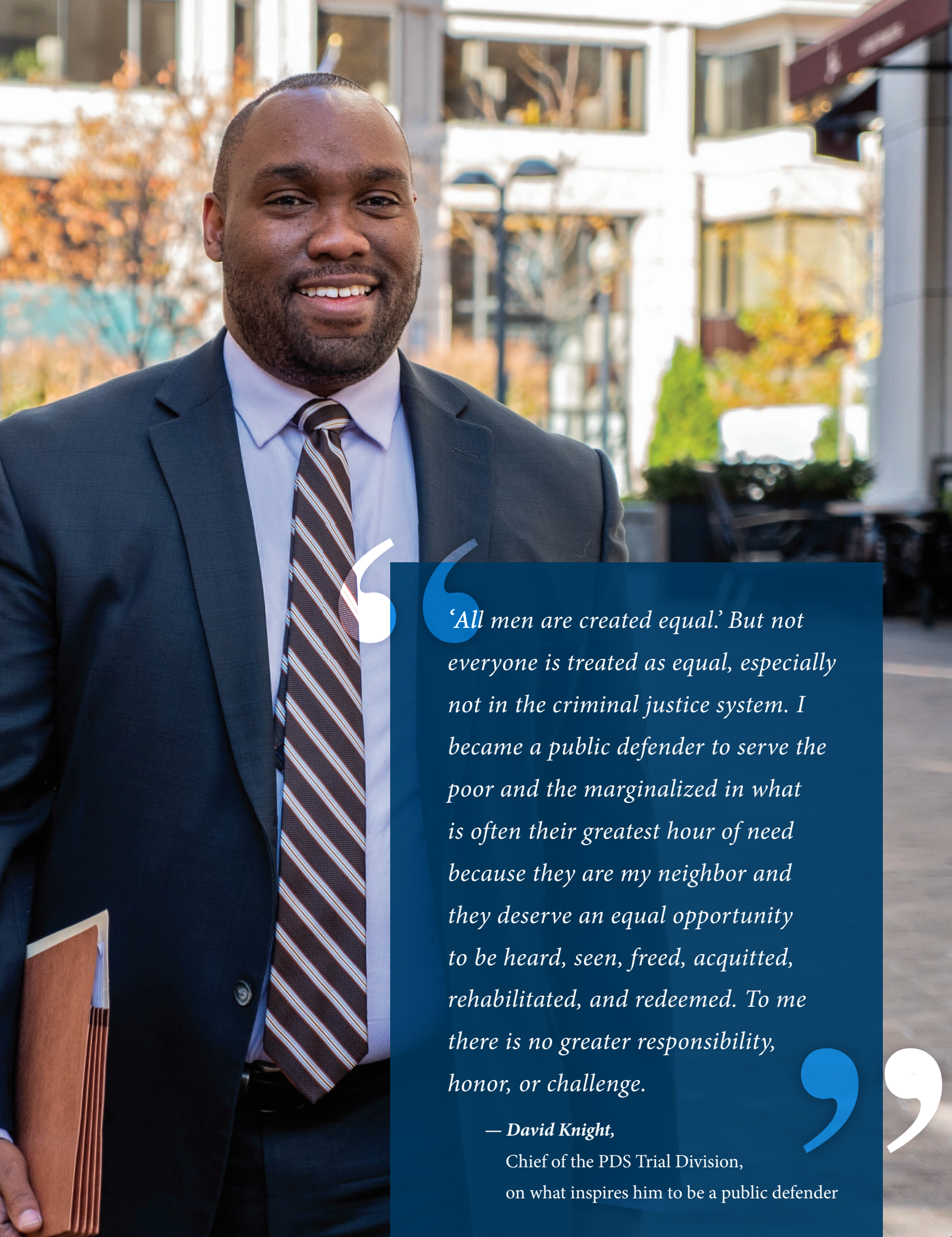


CHAMPIONS OF LIBERTY

FY 2022

ANNUAL REPORT

A YEAR OF TRANSITIONS



‘All men are created equal.’ But not everyone is treated as equal, especially not in the criminal justice system. I became a public defender to serve the poor and the marginalized in what is often their greatest hour of need because they are my neighbor and they deserve an equal opportunity to be heard, seen, freed, acquitted, rehabilitated, and redeemed. To me there is no greater responsibility, honor, or challenge.

— *David Knight*,
 Chief of the PDS Trial Division,
 on what inspires him to be a public defender

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DIRECTOR'S LETTER

Fiscal year 2022 was filled with transitions for the Public Defender Service for the District of Columbia (PDS), perhaps the most significant being the change in leadership.

I rejoined PDS as its director in September 2022, having previously served as a PDS staff attorney, PDS deputy trial chief, and Board of Trustees chair. It is an honor to lead this amazing organization into its new chapter as a 21st century institution, rooted in racial equity and community engagement. As director, I am working collaboratively with PDS's outstanding staff to continue to provide excellent, client-centered legal representation and to bring long overdue change to the criminal legal system. I am home and I am thankful.



I would be remiss if I did not acknowledge and praise former PDS director Avis E. Buchanan for her brilliant, thoughtful, and steady leadership of PDS for 18 years. During Avis's directorship, PDS thrived. Most importantly, PDS improved its programs and services to meet the modern-day legal needs of our clients, including those highlighted by the COVID-19 pandemic, such as compassionate release and representation in Incarceration Reduction Amendment Act cases.

In this annual report, you will learn about the amazing accomplishments that allowed PDS to **Emerge, Evolve, and Move** in FY 2022. We emerged from a pandemic, evolved our legal programs and services, and planned for a pending office relocation and new leadership.

Despite a year filled with significant transitions, PDS remains an exemplary public defender service for the people of the District of Columbia, and a model for the nation and the world.

Sincerely,

A handwritten signature in blue ink that reads "Heather Pinckney". The signature is fluid and cursive.

Heather N. Pinckney

Director

BOARD OF TRUSTEES AND EXECUTIVE MANAGEMENT IN FY 2022

BOARD OF TRUSTEES

CHAIR

Jonathan Stern
Partner
Arnold & Porter

VICE CHAIR

Joseph Caleb
Co-founder and Member
CalebAndonian

MEMBERS

Barry Caldwell
Principal
Wroxton Civil Ventures

Lisa Greenman
Attorney
Federal Death Penalty Resource Counsel

Brandi Harden
Managing Partner
Harden & Pinckney

Larry Moon Jr.
Author and Motivational Speaker

Bonnie Politz
Youth and Community Strategy Consultant

Michael Satin
Member
Miller & Chevalier

Leslie T. Thornton
Utility Company Executive
Retired

Sylvie Volel
Senior Director
Cerner Corporation

EXECUTIVE MANAGEMENT

Avis E. Buchanan*
Director

Heather N. Pinckney**
Director

Rudolph Acree, Jr.
Deputy Director

Laura E. Hankins
General Counsel

Eric Hirst
Chief Information Technology Officer

Roderick R. Hubbard
Chief Financial Officer

Eugene Mayo
Director of Human Resources

Janet Mitchell
Special Counsel to the Director (Strategic Planning)

Calvin Shoulders
Chief Administrative Officer

*Retired in September 2022

**Directorship began in September 2022



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

2022 JUSTICE POTTER STEWART AWARD

The Council for Court Excellence awarded its **2022 Justice Potter Stewart Award** to PDS, the ACLU National Prison Project, and Covington & Burling in recognition of their work on the 35-year class action lawsuit *Jerry M. v. District of Columbia*. The case successfully challenged the unconstitutional conditions in which children were confined in the District’s secure juvenile detention facilities. The Justice Potter Stewart Award goes to “individuals and organizations whose work on behalf of the administration of justice has made a significant contribution to the law, the legal system, the courts, or the administrative process in our nation’s capital.” The 2022 award honored the long line of PDS staff who contributed to the pursuit and success of the *Jerry M.* case.



MISSION STATEMENT

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

OVERVIEW OF PDS

For more than 60 years, PDS has led the nation in providing exceptional advocacy and legal representation for indigent adults and children. Judges and prosecutors, as well as public defenders and legal practitioners across the country, acknowledge and respect the outstanding work of PDS’s

attorneys. PDS is recognized as one of the few defender organizations in the world to meet the standards outlined in the American Bar Association’s Ten Principles of a Public Defense Delivery System.¹

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

A major portion of the work of PDS consists of representing individuals in the District of Columbia’s local criminal legal system who are charged with committing serious criminal acts and who are eligible

¹ https://www.americanbar.org/groups/legal_aid_indigent_defense/indigent_defense_systems_improvement/standards-and-policies/ten-principles-pub-def/

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

³ *Gideon v. Wainwright*, 372 U.S. 335 (1963).

for court-appointed counsel. In the District of Columbia, public defense services are provided primarily by PDS (the “institutional defender”) and a panel of private attorneys, known as Criminal Justice Act (CJA) attorneys, who are screened for membership on the panel and paid on a case-by-case basis by the D.C. courts.⁴ Because of its resources, well-regarded training program, and institutional practice knowledge, PDS lawyers handle the most serious criminal cases consistent with the best practices of the legal profession.

PDS also provides legal representation to people facing involuntary civil commitment in the mental health system, as well as to many children in the most serious delinquency cases, and to children who have special education needs in those cases. Every year, PDS attorneys represent clients in the majority of the most serious adult felony cases filed in D.C. Superior Court, clients pursuing or defending against criminal appeals, nearly all individuals facing supervised release or parole revocation under the D.C. Code, and all individuals in D.C. Superior Court requiring representation at Drug Court sanctions hearings. In addition, PDS provides technical assistance to the local criminal legal system, training for CJA and pro bono

attorneys, and additional legal services to clients in accordance with PDS’s enabling statute. On occasion and under special circumstances — for example, pursuing impact litigation — PDS represents clients in cases related to the above matters in the District’s federal courts.

The National Capital Revitalization and Self-Government Improvement Act of 1997 (the Revitalization Act),⁵ enacted by Congress, relieved the District of Columbia of certain “state-level” financial responsibilities and restructured a number of criminal legal system functions, including representation for indigent individuals. The Revitalization Act instituted a process by which PDS submitted its budget to Congress and received its appropriation as an administrative transfer of federal funds through the Court Services and Offender Supervision Agency appropriation. With the passage of fiscal year 2007 appropriations, PDS began receiving a direct appropriation from Congress. That direct funding continues to this day. In accordance with its enabling statute and the Constitution, PDS remains a fully independent organization and does not fall under the administrative, program, or budget authority of any federal or local executive branch agency.

⁴ Plan for furnishing representation to indigents under the District of Columbia Criminal Justice Act. D.C. Code § 11-2601 et seq.

⁵ Pub. L. No. 105-33, Title XI (1997).

Since its creation, PDS has maintained a reputation nationally and in the District of Columbia criminal legal system for exceptional advocacy. The strength of PDS has always been the quality of the legal services that the organization delivers. Judges, panel attorneys, prosecutors, and especially clients acknowledge and respect the excellent advocacy of PDS’s attorneys, as do public defenders and legal practitioners across the nation.

LEGAL SERVICES

PDS is a model public defender program that applies a holistic approach to representation, using both general litigation skills and

specialty practices to provide complete, quality representation in complex cases. PDS attorneys regularly provide advice and training to each other, and they often form teams of attorneys from across divisions to handle particularly complex cases. This section of the report describes PDS’s seven legal services divisions.

TRIAL DIVISION

Attorneys in the Trial Division provide zealous legal representation to adults in criminal proceedings in D.C. Superior Court and to children in delinquency matters. Attorneys are assigned to cases based on their experience and performance. Over the course of five or six years of intensive



supervision and training, attorneys generally transition from litigating juvenile delinquency matters to litigating the most serious adult offenses.

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

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

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

APPELLATE DIVISION

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



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

MENTAL HEALTH DIVISION

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

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

SPECIAL LITIGATION DIVISION

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

They collaborate with their PDS colleagues and with members of the broader legal community with whom they can make common cause. They practice before local and federal trial and appellate courts in the District of Columbia and as amicus curiae before the U.S. Supreme Court. The achievements of the Special Litigation

Division include submitting the first IRAA petition for probation that was unopposed by the prosecution, achieving the reform of civil forfeiture practice, and securing the exonerations of four men who spent a combined century in prison for convictions that were based in part on the invalid testimony of FBI hair analysts.

PAROLE DIVISION

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

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

CIVIL LEGAL SERVICES DIVISION

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

A major component of this division's diverse practice involves special education advocacy by attorneys with expertise in special education law. The federal Individuals with Disabilities Education Act mandates that students with disabilities receive a free and appropriate public education in the

least restrictive environment, and that they receive the services and accommodations they need to meet agreed-upon educational goals. Special education advocacy is a cornerstone of the Civil Legal Services Division's practice because of the vital importance of education and the pressing special educational needs of many court-involved youth.

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

COMMUNITY DEFENDER DIVISION

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

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



program also represents individuals who are living in the community under the supervision of the U.S. Parole Commission and are seeking termination of their parole or supervised release. PRLS attorneys also serve as liaisons between PDS and individuals convicted of D.C. Code offenses who are serving sentences in D.C. Department of Corrections or Federal Bureau of Prisons facilities. The attorneys also monitor conditions of incarceration and assist clients with parole and other release-related matters.

As part of its reentry support, PRLS represents individuals who are trying to seal eligible criminal records in D.C. Superior Court and individuals who are seeking employment and housing but are adversely affected by their criminal records. PRLS also represents and advocates for individuals in matters where the collateral consequences of prior arrests, convictions, or incarceration create barriers to success in the community. In support of this work, PDS produced *The D.C. Reentry Navigator: Empowering You To Succeed With a D.C.*

Criminal Record, a 900-page, 16-chapter book that is a comprehensive compilation of expert knowledge and reentry resources for people arrested, charged, tried, or convicted under District of Columbia law. PDS created *The D.C. Reentry Navigator* as a resource for people working to regain their lives following arrest, conviction, or incarceration.

PRLS is also an active participant in community events geared toward returning citizens and participates in a variety of formal and informal committees with other criminal legal system stakeholders to work on systemic change and policy, and to advocate for the rights of individuals who have been involved with the system.

Through its Juvenile Services Program, the Community Defender Division represents children at administrative due process hearings, provides in-person legal consultations for children at the District's youth detention centers, and works with community organizations to develop reentry programs that address the special needs of children. In addition to staffing legal rights offices in the District's two secure juvenile facilities, attorneys in the Juvenile Services Program visit local group homes and foster care homes to offer legal assistance to youths who have been placed there by the Court. Attorneys in the program

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

LEGAL SUPPORT SERVICES

Legal Support Services is composed of professionals from three divisions within PDS — the Investigations Division, the Office of Rehabilitation and Development (ORD), and the Defender Services Office (DSO) — who work closely with attorneys on individual cases. Investigative specialists ensure that each case is carefully investigated prior to a client's decision to accept a plea offer or proceed to trial.⁶ ORD's forensic social workers provide presentencing assistance to address mitigation issues and to provide program alternatives for appropriate clients.⁷ Other legal support services are provided by a multilingual language specialist, who facilitates communication with non-English-speaking clients; a librarian, who manages PDS's specialized collection and electronic access to research and oversees the website PDS maintains for CJA attorneys; and two paralegals, who work on cases and projects.

INVESTIGATIONS DIVISION

The Investigations Division supports all the legal divisions of PDS, in particular the Trial Division, by providing thorough and professional investigative work, which includes locating witnesses, conducting field interviews, taking written statements, collecting and assessing digital evidence from many sources (e.g., security camera footage, cell phone records, gunshot

detection technology, and GPS records), serving subpoenas, collecting police reports, copying court and administrative files, and preparing exhibits for trials and other hearings. In addition to producing exceptional investigative work in PDS cases, the staff conducts initial and ongoing training for court-certified CJA investigators, who provide investigation services to the CJA attorneys.⁸

⁸ The CJA website can be found at <http://www.cjad.org/>.



⁶ See, e.g., *Kimmelman v. Morrison*, 477 U.S. 365 (1986), in which defense counsel's failure to investigate and present Fourth Amendment claim was ruled constitutionally ineffective assistance of counsel.

⁷ See *Wiggins v. Smith*, 539 U.S. 510 (2003), in which the decision of counsel not to expand investigation of the petitioner's life history for mitigating evidence beyond the presentence investigation report and Department of Social Services records fell short of prevailing professional

OFFICE OF REHABILITATION AND DEVELOPMENT

The Office of Rehabilitation and Development (ORD) is composed of experienced licensed forensic social workers and professional counselors. These professionals are skilled specialists who, among other services, provide the D.C. Superior Court with information about viable community-based alternatives to incarceration. Because ORD staff members are well-versed in all of the D.C.-area rehabilitative programs (e.g., drug treatment, job training, education programs, parenting classes), they are frequently asked to provide consultation

for judges, CJA lawyers, and others in the legal system. In addition, ORD staff members prepare two directories: the comprehensive *Directory of Adult Services: Community and Confinement Access Guide* and the *Directory of Youth and Families Resource Guide: Community and Confinement Access Guide*, which list a wide range of services available to adults and children in the legal system.

These directories, available on the PDS website,⁹ are used by the Court Services and Offender Supervision Agency, the Federal Bureau of Prisons and its contract prisons, D.C. Superior Court, and many other

⁹ <https://www.pdsdc.org/resources/professional-resources/pds-publications>.



agencies and organizations working with clients in the legal system. The District's Criminal Justice Coordinating Council has used the adult manual to create and post on their 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.¹⁰

DEFENDER SERVICES OFFICE

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

ADMINISTRATIVE OFFICES

PDS has a number of divisions that provide technical and administrative assistance to PDS staff. Though small, these divisions support the overall effective functioning of PDS using internal expertise along with outside contractor support. These divisions include the Budget and Finance Office, the Human Resources

¹⁰ <http://www.cjccresourcelocator.net/ResourceLocator/>.



Office, the Information Technology Office, and Administrative Services. In concert with individual attorneys and the PDS executive staff, these divisions provide services that include procurement of expert services for individual cases, financial accountability, development of strategies for enhancing PDS's human capital, recruitment, development of an electronic case management system, maintenance of PDS's IT infrastructure, and copying and supply services.

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



SIGNIFICANT
ACCOMPLISHMENTS
IN FY 2022

FY 2022 SAW PDS
EMERGING, EVOLVING,
AND MOVING — AND
AT THE SAME TIME,
STAYING THE COURSE.

PDS is
emerging. >>>

As restrictions from the pandemic loosened and the country began learning to live with COVID-19, PDS and the District of Columbia’s legal system agencies have been adapting as well. Because speedy trial rights were suspended for over two years — D.C. Superior Court had only three jury trials in 2021 — PDS clients have spent an inordinate amount of time incarcerated at the D.C. Jail and the Correctional Treatment Facility awaiting trial. Although

trials have finally resumed, the trial backlog for PDS clients remains high.

PDS is working intently to protect clients’ interests: filing renewed bond motions to get clients released; taking advantage of remote hearings to move clients’ cases forward; and exhorting prosecutors to discuss the plea, trial, and sentencing options available to clients in long-delayed cases. The PDS Defender Services Office has fully resumed

responsibility for determining the eligibility for court-appointed counsel now that the Superior Court and the U.S. Marshals Service are again bringing arrestees from the District's Central Cell Block to the Court's cell block, where eligibility interviews can take place. And the U.S. Parole Commission (USPC) has finally moved from hybrid

parole and supervised-release revocation hearings to fully in-person hearings. PDS parole attorneys no longer have to make difficult decisions about whether to go forward with a hearing where the client is required to appear in person while government witnesses testify remotely from the USPC office.

PDS is *evolving.*



With additional resources provided in FY 2022, PDS was able to litigate more Incarceration Reduction Amendment Act (IRAA) and compassionate release cases. As their success with these cases has increased, PDS staff members have learned more about the housing, employment, social service, and counseling support needed by clients who are transitioning from decades in prison to life in a very unfamiliar world. The extent of the need is particularly striking for clients whose close relatives have died, whose old neighborhoods have changed radically, and for whom cell phones and other technology have presented steep learning curves. This has led PDS to redouble its efforts to help position these clients for success,

establishing a far-reaching network of resources to meet their needs.

In the course of their work on IRAA and compassionate release cases, PDS staff discovered a Federal Bureau of Prisons (BOP) practice that puts individuals sentenced by D.C. Superior Court, most of whom are Black, at a disadvantage relative to the mostly white individuals sentenced by federal courts. In FY 2022, PDS filed a lawsuit, *Blades v. Garland*,¹¹ challenging the BOP's use of a system for scoring the criminal history of individuals sentenced by the D.C. Superior Court that is harsher than the scoring system used for individuals sentenced in federal court. Criminal history scores for individuals

sentenced in federal court are calculated by the U.S. Probation Office using the U.S. Sentencing Guidelines. The score is litigated by the prosecution and defense counsel and is confirmed by the sentencing judge. But individuals sentenced by D.C. Superior Court are not assigned a criminal history score calculated under the U.S. Sentencing Guidelines before entering prison. Instead, the BOP uses an overly simplified and stricter scoring system of its own that results in categorically higher criminal history scores. For example, in determining an individual's score, the BOP counts juvenile offenses, all petty offenses, and long-ago offenses, which the federal scoring system largely excludes.

The result is that people sentenced by D.C. Superior Court are more likely to be given higher security classifications and be placed in higher security prisons, where they are subjected to more violence and have fewer programming opportunities than federally-sentenced individuals with similar criminal histories. In addition, the arbitrarily higher criminal history scores of individuals sentenced by D.C. Superior Court make them less likely to receive home confinement or earn compassionate release. The PDS lawsuit seeks to put individuals sentenced by the D.C. Superior Court on equal footing with their federally sentenced counterparts.

PDS is *moving.*



In FY 2022, the General Services Administration began taking steps to implement the long-anticipated move of PDS headquarters from 633 Indiana Avenue NW to 633 3rd Street NW. The new location, while presenting some challenges, offers a number of benefits and conveniences to PDS, among them being occupancy of a superior physical plant and greater influence over how the building is managed.

PDS is also moving figuratively: It began a transition to new leadership at the end of FY 2022, when Avis Buchanan retired after 18 years as PDS director and Heather Pinckney, a former PDS deputy trial chief and Board of Trustees chair, became the new director.

¹¹ *Blades v. Garland*, 22-cv-00279 (DDC).

Below are examples of the significant accomplishments PDS achieved in FY 2022:

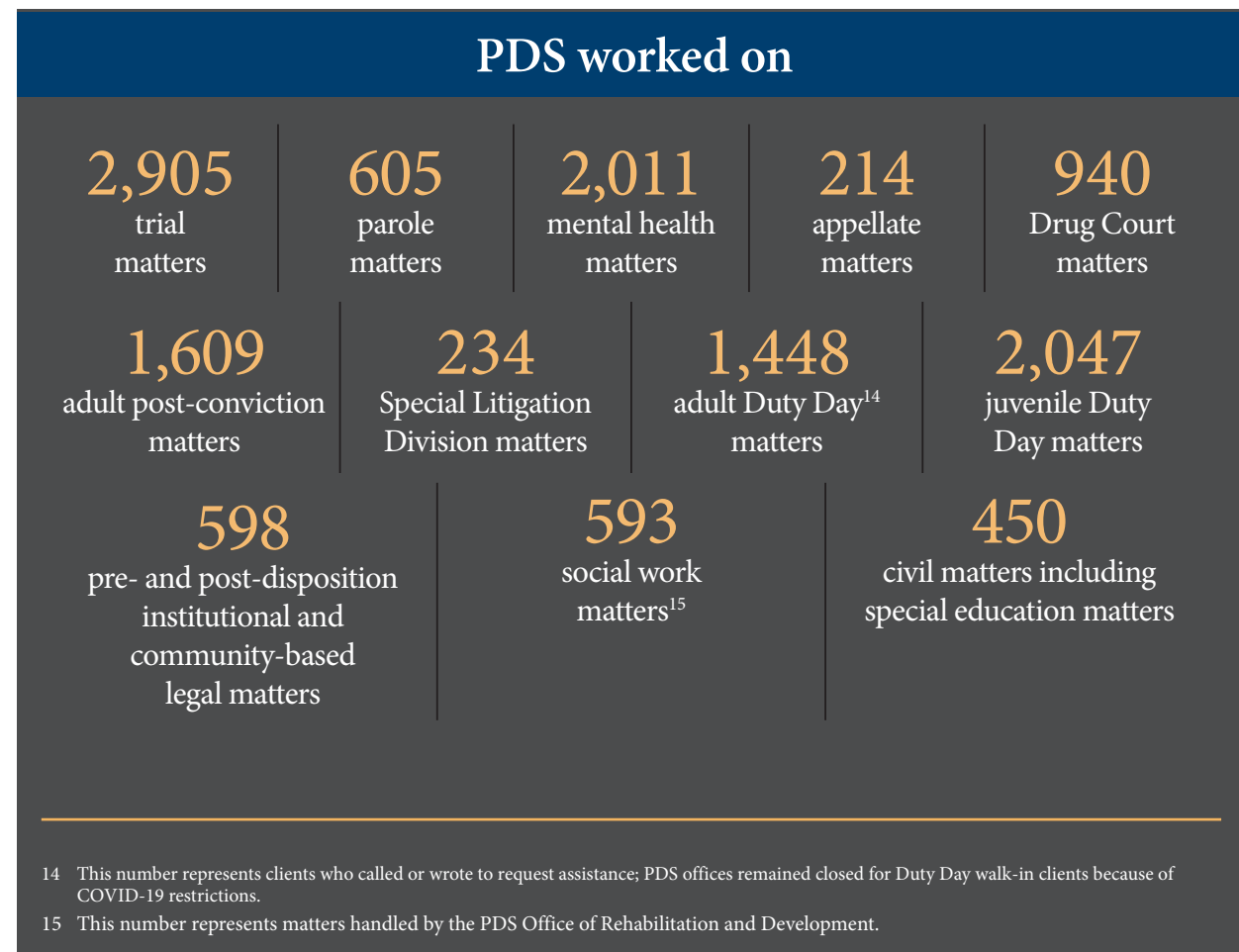
CASEWORK AND OUTCOMES

Due to the increase in serious crime in the District,¹² PDS has been inundated with cases, but — staying the course — the staff has also focused on the many underlying issues in the community that affect its clients. PDS recognizes that poverty, racism, trauma, lack of quality education, lack of mental health supports, and insecure housing play fundamental roles in clients' lives and rehabilitation efforts. Every PDS client has their own individual

circumstances, and it is a tenet of PDS's representation to recognize that any effort to stem violence in communities must include services and resources to address the social and mental health issues that community members confront regularly. This understanding informs the work that PDS performs across all of its divisions and helps PDS achieve success. PDS reports the following outcomes and performance data for FY 2022:¹³

¹² In calendar year 2017, there were 116 homicides in the District; in 2021, there were 226—an increase of 95 percent. <https://mpdc.dc.gov/page/homicide-closure-rates>

¹³ Reflects activity through July 31, 2022.



100%



PDS won 100 percent of the IRAA hearings it conducted.

80%



PDS prevailed in 80 percent of its cases in hearings before the Commission on Mental Health, securing either complete dismissal or mitigation (e.g., securing outpatient commitment instead of inpatient commitment).

45%



PDS won reinstatement and release in 45 percent of the parole and supervised release revocation cases it defended in hearings before the U.S. Parole Commission.

40%



PDS won 40 percent of its community status review hearings, which are the juvenile legal system's equivalent of parole revocation hearings.

90%



PDS won 90 percent of its compassionate release motions filed by its Special Litigation Division.

46%



PDS's reversal rate before the District of Columbia Court of Appeals was double that of the rest of the Criminal Justice Act panel attorneys (46 percent vs. 23 percent).

80%



PDS's Trial Division won full acquittals or favorable mixed verdicts in 80 percent of its jury trials for FY 2022 through July 31, 2022.

CLASS ACTION LITIGATION

Throughout FY 2022, PDS continued its long tradition of pushing for systemic reforms and improvements on behalf of system-involved individuals.

The Council for Court Excellence awarded its **2022 Justice Potter Stewart Award** to PDS, the ACLU National Prison Project, and Covington & Burling in recognition of their work on the 35-year class action lawsuit *Jerry M. v. District of Columbia*. The case successfully challenged the unconstitutional conditions in which children were confined in the District's secure juvenile detention facilities. The Justice Potter Stewart Award goes to "individuals and organizations whose work on behalf of the administration of justice has made a significant contribution to the law, the legal system, the courts, or the administrative process in our nation's capital." The 2022 award honored the long line of PDS staff who contributed to the pursuit and success of the *Jerry M.* case.

Three cases PDS litigated in FY 2022 demonstrate PDS's dedication to challenging criminal legal practices that are discriminatory or harmful to individuals in the criminal legal system.

PDS settled a federal class action lawsuit, *Banks v. Booth*,¹⁶ against the D.C. Department of Corrections (DOC), in which PDS sued for better treatment of detained individuals during the height of the COVID-19 pandemic. Through court-ordered inspections and negotiations with the District of Columbia, the case achieved improvements in sanitation practices, resident access to showers and cleaning supplies, and COVID-related health care.

PDS filed *Lewis v. United States Parole Commission et al.*¹⁷ on behalf of people who have been released on parole for D.C. Code offenses. District of Columbia Code §24-404 requires that the USPC terminate parole after a person has been on release for five years unless the USPC finds, after a hearing, that the person presents a risk of committing crimes in the future. Investigation revealed that the USPC routinely flouts this legal requirement, keeping people on supervision for years beyond the five-year limit without holding parole termination hearings for them. Despite having requested a change in the law to give it the authority to terminate a person's parole early, the USPC is arguing that it is not bound by D.C. Code §24-404.

PDS filed a D.C. Freedom of Information Act lawsuit in D.C. Superior Court

against the D.C. Metropolitan Police Department (MPD), which ultimately prompted MPD to release thousands of pages of records it had previously withheld related to its creation and use of a racially discriminatory gang database.

INCARCERATION REDUCTION AMENDMENT ACT



I feel like my life was just a broken jigsaw puzzle, and you picked up the pieces and put it back together.

— Client JA
to his IRAA defense team

As mentioned previously, PDS won 100 percent of its clients' IRAA hearings in FY 2022. Below we describe the cases of just a few clients who were released from incarceration as the result of the efforts of PDS attorneys.



The Case of FB. FB was sentenced to life in prison for a crime he committed when he was 19 years old. PDS filed an

IRAA motion on his behalf, describing his growth during his 28 years of incarceration: FB earned his GED, worked as a clerk in the prison's education department, became a trusted mentor and leader for younger men, and developed a reputation for protecting the most vulnerable and maintaining peace in an otherwise chaotic prison environment. PDS interviewed close to 50 family members and friends and obtained 43 letters of support for FB to show the Court how many people's lives had been positively impacted by FB and how many people were committed to his success. PDS also retained three experts whose reports were filed with FB's IRAA motion: a mitigation specialist who compiled a multigenerational history of FB's family and childhood, a clinical psychologist who evaluated FB's current level of dangerousness and fitness to reenter society, and a prison expert who contextualized FB's record within the BOP. PDS also connected with a victim in the case who supported FB's release. The motion included a reentry plan for FB that described, among other supports, arrangements made for his housing and employment. A few days after FB's 48th birthday, his sentence was reduced by a judge to effectuate his immediate release under IRAA. Today FB is reunited with his family and is thriving in the community.

¹⁶ *Banks v. Booth*, 20-cv-849 (DDC).

¹⁷ *Lewis v. United States Parole Commission*, 22-cv-2182 (DDC).



The Case of PW. PW was serving a sentence of 45 years in prison for a murder and a carjacking that he committed when he was 19. Prior to his incarceration, PW was a high school graduate with no criminal record; he had been working two jobs since the age of 16 to help support his single mother and seven younger siblings. During his 17 years of incarceration, PW maintained an exemplary record of good conduct, rehabilitative program participation, and steady employment as a GED tutor, sports referee, captain's orderly, and suicide watch companion.

When he became eligible for IRAA, the PDS legal team prepared an IRAA motion. During this months-long process, the team obtained and reviewed thousands of pages of records; conducted numerous interviews with PW and dozens of his family members, friends, and incarcerated peers; and conducted extensive historical research on the neighborhood and prison environments that had shaped PW's life. A PDS-trained victim outreach specialist contacted the murder victim's mother and offered her information about the case and the opportunity to connect with PW, which she eagerly accepted. The restorative justice process began with an exchange of letters between PW and the victim's mother and culminated with a video meeting between them a few days before the IRAA hearing. During the meeting and at the

hearing, PW expressed deep remorse for the pain he caused the victim's family and the community, and the victim's mother expressed her forgiveness and her desire to keep in touch with PW upon his return to the community. In the order granting the IRAA motion, the judge noted that the courage and sincerity evinced by PW and the victim's mother made a "tremendous impression" on the court. Today, just a few months after his release, PW is employed as a violence interrupter for Cure the Streets, a gun-violence reduction program run by the Office of the Attorney General for the District of Columbia.



The Case of SK. SK, who grew up witnessing the abuse of family members, was convicted of murder at a young age and spent the majority of his life in prison. A learning disability precluded him from participating in many of the BOP-offered programs or obtaining his GED, which in turn prevented him from being paroled. When PDS took on his IRAA case, its team of attorneys, investigators, and social workers worked with SK and those with whom he had built relationships while in prison to develop a more complete picture of the remarkable person SK had become and of the productive ways he had spent his time in prison. In particular, he had become an avid painter and musician. He shared his gifts by giving his paintings to other residents and by teaching people

incarcerated with him to play the guitar. He had a de minimis disciplinary record in the BOP, and the co-residents who spent time with him all commented on his peaceful nature. His defense team also crafted a comprehensive reentry plan for him to provide the support he would need after so many decades of incarceration and to address his serious health issues. After reviewing PDS's motion, the government did not oppose SK's release, and the court discharged him to unsupervised probation.



The Case of PM. Attorneys from Georgetown's Criminal Clinic originally represented PM in his compassionate release motion, in which the judge found that the client was rehabilitated and not a danger. Not only had PM earned his GED just a few years after his conviction, but he had also completed over 50 courses while in the BOP and served as a mentor to other incarcerated people, several of whom had already been released prior to PM's IRAA motion. Despite the evidence of rehabilitation, the judge denied compassionate release based on her finding that PM's COVID vulnerability was not "extraordinary and compelling."

Georgetown then referred the case to PDS's Appellate Division, whose attorneys appealed the judge's decision. The Court of Appeals vacated the denial and remanded for further consideration of whether the

client's situation was "extraordinary and compelling." PDS found that because PM had impressed so many people with his work ethic while incarcerated, he had several employment offers waiting for him. He also had the support of many family members with whom he had stayed very close despite nearly 30 years of incarceration. That support network, combined with the evidence of PM's rehabilitation while in prison, ultimately led the government to concede that he should be released immediately under IRAA, and the judge granted the motion. After PM's release, PDS's forensic social worker was immediately available to advise him on how to obtain reentry resources and health insurance and how to make medical appointments. PM is now doing well and is thrilled to be reunited with his family, including his three grandchildren, whom he met for the first time after being released.

EFFECTIVE DEFENSE PRACTICE

Winning trials is one clear example of effective advocacy, but pointing out to the government the factual or legal weaknesses in its cases is also a critical aspect of effective defense practice. While this approach is useful in plea negotiations, PDS has also used it to achieve outright dismissal by the government in a substantial number of cases. In FY 2022, advocacy by PDS trial lawyers, investigative specialists, and

forensic social workers resulted in the dismissal of **17 percent of PDS's serious cases**. The following PDS advocacy efforts led to dismissals:

- Investigation by PDS attorneys revealed that the government had not disclosed essential *Brady* evidence to the defense in more than one case. After filing motions and having hearings, PDS obtained dismissals by the government.
- PDS investigative specialists tracked down witnesses who gave *Laumer*¹⁸ statements (statements against their penal interests), which, when provided to the government, prompted the dismissal of the cases.
- Forensic social workers from PDS presented mitigating information to the government, resulting in deferred prosecution or dismissal of the cases involved.

PDS advocacy across divisions also resulted in clients being released from pretrial detention and benefiting from sentence mitigation. Examples from specific PDS divisions are described below.

Trial and Investigations Divisions.

In FY 2022, a PDS investigator and a trial attorney worked tirelessly to ensure that LK could be released to a substance abuse treatment program. LK had been charged with the murder of

his abusive parent. The PDS investigative specialist testified at LK's initial detention hearing about the horrific abuse that LK and his siblings had suffered at the hands of this parent. This testimony, which painted the full picture and context of the homicide, led the court to release LK pending trial. However, LK was once again detained because his severe substance abuse issues caused him to fall out of compliance with his court-ordered conditions of release. While LK was detained at the Department of Corrections (DOC), he was further traumatized as he listened to a person in a nearby cell die of a fentanyl overdose.

PDS was aware that LK needed and wanted help and, after much work, found an available inpatient substance abuse treatment program appropriate for him. Again, the PDS team worked hard to provide the full context of LK's situation to the court, enabling the court to see the depth of LK's substance abuse problem and his need for treatment. The team persuaded the court to place LK into the substance abuse program. Bureaucratic delays at the DOC, however, threatened to derail the placement. The PDS investigative specialist persisted, finding the individuals and information that were needed to facilitate LK's release. These efforts culminated with the investigative specialist picking LK up from the jail and driving him to the substance abuse treatment program.



Trial and Office of Rehabilitation and Development Divisions.


When his PDS attorney first met with him about his robbery case, MZ explained that he had been struggling with alcohol abuse and had been looking for ways to get help but did not know where to start. He shared that during the month of the robbery incident, three of his family members had died in quick succession, and he had started abusing alcohol to deal with the grief. The PDS social worker assigned to his case connected MZ to an outpatient addiction program and to grief counseling. MZ responded positively to the support that the programs offered and regained his sobriety. Because of his sustained sobriety, MZ was able to secure employment and

marry his longtime partner. His family members were impressed by what a better father, grandfather, and husband MZ became once he stopped drinking.

During the pendency of the case, the forensic social worker compiled updates on MZ to send to the PDS attorney. The social worker's summary memo was so compelling that, to assist with plea negotiations, the attorney provided it to the prosecutor on the case. After reviewing the document, the prosecutor extended a plea offer of one misdemeanor and requested a relatively light sentence of 100 days imprisonment, suspended, and 12 months of supervised probation. But the court agreed with the PDS trial team's sentencing arguments and imposed a sentence of only

18 *Laumer v. United States*, 409 A.2d 190 (D.C. 1979) (en banc).


60 days' imprisonment, suspended, with five months of unsupervised probation. MZ later said that he felt strongly that every case should have a team like the one he had. He explained that often cases like his are really about personal struggles or mental health; if there is just a lawyer on the case, that person might not know all the resources available to address the root causes of the behavior. But with a team of people, the lawyer can focus on the legal aspects of the case and the social worker can focus on the many other issues involved and on the needs of the client.



**Community Defender
Division, Prisoner and
Reentry Legal Services
Program (PRLS).**


In FY 2022, DM, a teacher, came to PRLS distraught and terrified after receiving a notice of intent to terminate her teaching license from the Office of the State Superintendent of Education (OSSE). DM had a criminal conviction on her record that occurred after her initial licensing. OSSE based the notice to terminate her license on its misunderstanding of a law that had been repealed and replaced. As a result, DM was in danger of being terminated by the school district. PRLS began by educating OSSE about the new law and the applicable standards and then filed a 37-page motion explaining why, under the application of the new law, DM's teaching license should not be revoked. The successful filing noted that DM's conviction was not directly related to the license she sought to keep, provided evidence of her rehabilitation, and explained

why allowing her to retain her license was in the interest of the school district. As a result of PDS's representation, DM kept her teaching license and was able to continue serving students as a teacher.



**Community Defender
Division, Juvenile Services
Program.**


In FY 2022, the Juvenile Services Program represented securely detained youth in 97 institutional disciplinary hearings. The hearing officers, who were employees of the Department of Youth Rehabilitation Services, imposed additional sanctions in only 45 percent of the hearings — even though multiple incident reports were submitted by facility staff to support each incident.



**Community Defender
Division, Juvenile Services
Program (JSP).**

Over the course of a couple years, a PDS attorney worked with KA, a minor charged in adult criminal court. KA was not represented by PDS in his criminal matter, but the PDS lawyer met KA when he was ordered detained at New Beginnings, the District's secure detention facility for committed children, where JSP maintains an office. The attorney quickly recognized that KA had significant challenges engaging with peers and adults. She learned shortly thereafter that he had an autism spectrum disorder. KA asked the PDS attorney for help understanding aspects of his case and of the terms of his guilty plea, which would have required the court to sentence him to six to eight years of imprisonment

in an adult BOP facility. KA continually expressed basic misunderstandings about his plea and sentence, which caused the PDS attorney to ask KA's non-PDS trial attorney about KA's competency. After consulting with a number of clinicians, including one who opined that KA's capacities meant he "would not survive an adult prison sentence," the PDS attorney offered her assistance to KA and his attorney and ultimately challenged KA's competency to proceed with the sentencing in his case. After reviewing multiple evaluations of KA, the government finally understood his significant limitations and, after receiving many requests, ultimately agreed to transfer KA's case to juvenile court, where his significant needs could be more appropriately addressed.



Mental Health Division.
In FY 2022, Mental Health Division attorneys secured the release of 96 percent of their clients who appeared at probable cause hearings (contested and non-contested). This success saved taxpayer funds, made hospital resources available to those most in need, and, most importantly, allowed individuals who should not have been committed involuntarily to regain or retain their liberty.

PDS also secured either complete dismissal or mitigation (i.e., outpatient rather than inpatient commitment) in 40 percent of 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. 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 than that of inpatient treatment and typically achieves more favorable outcomes for clients.

In another success, the Mental Health Division won unconditional release from Department of Behavioral Health control for three clients who had been found not guilty by reason of insanity in cases that were over 10 years old; one case was more than 30 years old. These clients are successfully continuing with mental health treatment without costly governmental and judicial oversight.



Appellate Division.

In FY 2022, PDS's Appellate Division continued to lead the D.C. criminal defense bar in identifying and litigating important legal questions arising from the District of Columbia's compassionate release statute (D.C. Code § 24-403.04). In addition to winning compassionate release on remand from successful appeals for individual clients,¹⁹ PDS continued to screen all compassionate release appeals in the D.C. Court of Appeals and participated as amicus curiae in cases that raised important issues of

first impression. In one such case, *Autrey v. United States*,²⁰ the Court of Appeals agreed with PDS that the availability of COVID-19 vaccines did not necessarily make prisoners ineligible for compassionate release based on their vulnerability to COVID-19. Rather, trial courts must engage in "a fact-specific analysis of the prisoner's condition(s) and the evolving scientific evidence regarding how effective vaccination is likely to be in the particular case."²¹ PDS's work as amicus in this case ensured that compassionate release would remain available to vaccinated prisoners whose age or medical conditions continued to make them acutely vulnerable to severe illness from COVID-19.

The Appellate Division also secured important victories in traditional appellate cases. In *Harris v. United States*,²² PDS won a victory for its client and secured an important precedent interpreting *Batson v. Kentucky*,²³ the Supreme Court case that held that a prosecutor may not use peremptory strikes to eliminate would-be members of the petit jury (i.e., trial jury) on the basis of their race. While the prosecutor in Mr. Harris's case had urged the trial court to be "very careful in its findings" regarding the use of race, trying to focus the Court on the potential professional implications for the prosecutors, the Court of Appeals emphasized that under *Batson*,

the issue is not racial animus, but the defendant's right to a fair trial. The Court shared the concern expressed by other jurists that trial judges hesitate to sustain *Batson* challenges because of a perception that such a ruling would be tantamount to calling the prosecutor "racist." The Court noted that the perpetuation of this misconception allows improper race-based strikes to go unchecked. As to Mr. Harris's case, the Court of Appeals held that the trial court had failed to properly scrutinize the purportedly race-neutral reasons proffered by the prosecutor for striking two Black jurors. The case established the important precedent that, particularly in racially charged cases, a trial court cannot defer to vague explanations by a prosecutor to justify racially imbalanced strikes, but rather must conduct a "rigorous evaluation" and "probing inquiry" of the prosecutor's explanations.

In *Williams v. United States*,²⁴ PDS secured an opinion on the proper unit of prosecution in burglary cases. In an issue of first impression in the District of Columbia, the Court of Appeals held that it was improper for the government to secure two separate convictions for burglary — one for entry into the dwelling and one for entry into the bedroom of the same dwelling — because there was no distinct possessory interest between the bedroom

and the rest of the dwelling. Rejecting the government's expansive interpretation of the burglary statute, the Court brought the District's burglary jurisprudence in line with that of numerous other jurisdictions that had considered the issue.

In *Cardozo v. United States*,²⁵ PDS acted as amicus to help secure en banc review in a case that will allow the Court of Appeals to revisit its outdated and overly expansive definition of the offense of kidnapping, which currently encompasses even momentary seizures that are incidental to other offenses, such as robbery and assault. The District's kidnapping statute has been in effect since 1932, and prior decisions of the Court of Appeals have construed its terms so broadly that the panel majority in *Cardozo* felt compelled to uphold the kidnapping conviction of a man who had "bear hugged" a woman on the street for just a few seconds before she shrugged him off. PDS's success in persuading the Court of Appeals to grant en banc review will allow it to consider overturning its damaging precedent and adopt a more limited definition of kidnapping — one that would be in line with the modern consensus that kidnapping requires more than a momentary seizure or a seizure incidental to another offense. PDS will continue its involvement as amicus while the case is litigated before the en banc court.

¹⁹ *Wynn v. United States*, 1978 FEL 002932 (Dec. 21, 2021); *Hill v. United States*, 1984 FEL 000758 (Jan. 14, 2022).

²⁰ 264 A.3d 653 (D.C. 2021).

²¹ *Id.* at 656.

²² 260 A.3d 663 (D.C. 2021).

²³ 476 U.S. 79 (1986).

²⁴ 268 A.3d 1265 (D.C. 2022).

²⁵ *Cardozo v. United States*, 255 A.3d 979 (D.C. 2021), vacated and reh'g en banc granted, 268 A.3d 862 (D.C. 2022) (mem.).

The PDS Appellate Division also secured an important ruling by an associate judge of the Superior Court in a landlord-tenant case arising from PDS's Civil Legal Services Division. In *Edgewood Mgmt. Corp. v. Bond*,²⁶ the associate judge ruled for the PDS client and vacated a settlement agreement that the client had signed before she was able to obtain an attorney. To settle eviction proceedings, the client had agreed to vacate her apartment. The judge agreed with PDS that the landlord's attorney had induced the client to sign the agreement by making a material misrepresentation of fact: When the client asked the landlord's attorney what would happen if she did not sign the landlord-drafted settlement agreement, the attorney gave her incomplete information. Concluding that the attorney's statement — a "half-truth" — was a material misrepresentation and that the client had reasonably relied on the statement to her detriment, the judge agreed with PDS and ruled for the client. This ruling — which the landlord ultimately decided not to appeal — constituted an important warning to landlord attorneys regarding the need to be accurate when negotiating agreements with unrepresented parties in landlord-tenant court.



Parole Division.

The Parole Division typically handles more than 1,000 matters annually for clients

who are facing revocation of parole or supervised release. In FY 2022, PDS represented 440 clients at probable cause hearings before the U.S. Parole Commission and was able to win release for 199 of them. Clients who were released at the probable cause hearing did not need to have final revocation hearings.

Because of the pandemic, all alternative programs had been suspended, with the result that clients who were held after probable cause hearings had to have their matters resolved through agreements to revocation, revocation hearings, or written advocacy for release short of hearing. Some are still awaiting an opportunity to resolve their cases.



Civil Legal Services Division.

PDS's commitment to holistic defense extends beyond the courtroom into the schoolhouse and the community, and can be instrumental to the long-term success of court-involved youth with disabilities. As a result of the Civil Legal Services Division's special education work, 10 court-involved students with disabilities who were confined at St. Elizabeths Hospital, the D.C. Jail, the Youth Services Center, or New Beginnings, or were enrolled at Maya Angelou Public Charter School, graduated from high school in 2022.

In one case, a Civil Division special education lawyer filed an administrative state complaint for a court-involved client relating to violations of the Individuals with Disabilities Education Act while the student was detained at St. Elizabeths Hospital. That complaint, which ended in a settlement, resulted in critical educational relief, including individual tutoring, comprehensive vocational assessments, life coaching services, tuition money for the client, and other supports.

PDS special education attorneys also testified and submitted written comments to the Office of the State Superintendent of Education on changes to final Chapter 30 regulations that would be beneficial to detained youth. These went into effect on July 1, 2022.

VAN SERVICE FOR THOSE RELEASED FROM SUPERIOR COURT

Every day except Sunday, dozens of people are released from D.C. Superior Court following their arrest. These individuals sometimes leave court in just a paper gown, having had their clothes confiscated. Others leave without a wallet, keys, or a phone, as those items remain in the possession of the Metropolitan Police Department or the agency that made the arrest.

After the Washington Metropolitan Area Transit Authority stopped allowing these individuals to show the wristband from their detention to Metro station managers or bus drivers and use the system for free, they were left stranded at D.C. Superior Court.

PDS first alerted the D.C. Council to this problem in 2018. As a result of PDS's advocacy, the D.C. Council eventually created a grant to address the issue. In FY 2022, the District's Office of Victim Services and Justice Grants selected a local transportation provider, owned by a returning citizen, to drive individuals home from court. The service now provides transportation to individuals released from court 24 hours a day, six days a week.

TIME-SAVING TECHNOLOGY

In FY 2022, PDS began a pilot program using "JusticeText," a web-based transcription software that permits staff to upload audio or video files for transcription. It automates the process of syncing audio and video to produce transcripts with time stamps for audio and subtitles for video. Previously, investigative specialists would have to document their own time stamps and insert subtitles manually. This software saves the expense of hiring contractors for transcription and the time of keying in text. It also makes creating video clips more efficient.

26 Case No. 2019 LTB 17056 (order dated March 7, 2022).

CRIMINAL JUSTICE ACT TRAINING

As part of its mission, PDS assists the Criminal Justice Act (CJA) bar by responding to their inquiries on Duty Day, assisting them with forensic and immigration issues, and offering them trainings throughout the year. In FY 2022, PDS conducted trainings in these subject areas:

- DNA evidence
- police misconduct
- immigration practice
- discovery
- Fourth and Fifth Amendment suppression law
- cross-examination trial skills
- advanced defense investigation
- sentencing
- post-sentencing consequences
- U.S. Supreme Court and D.C. Court of Appeals cases

These trainings are critical in keeping members of the CJA panel informed and up to date on current practices. In FY 2022 the trainings received an **overall rating of 4.9 out of 5** and generated much positive feedback:

- “Very helpful”
- “Clear explanations, very practical”
- “The PowerPoint presentation was simple and effective, with wonderful practice tips”

“
A valuable
education, worth
every minute.”

— CJA bar member

- “Excellent, I wish I could have recorded it to listen to it more than once”
- “Presentation was awesome, looking forward to the next one”
- “As always, the PowerPoint was tailored perfectly for the subject matter”
- “Grateful for the time the speakers/veteran lawyers gave of themselves to educate us”
- “Clear, on point, and good direction/instruction”
- “So much information that was incredibly helpful”
- “Very informative and affirmed best practices with lots of great tips”
- “All of the presenters were knowledgeable and clear in communication information”
- “Excellent integration of attorney and two investigator speakers”

LAW CLERKS AND INVESTIGATIVE INTERNS

Over the course of almost five years, from spring 2015 through fall 2019, PDS had 540 interns participate in its Criminal Law Internship Program. In 2022, a survey was sent to those interns to see what they had gone on to do after their internship; 278 of the 540 interns responded. Of those who responded, 157 attended law school after their internship. **Thirty former interns have returned to PDS to work as investigative specialists, mitigation specialists, and paralegals; four have returned as PDS attorneys.**

Likewise, PDS’s law clerk program has produced a number of PDS attorneys. Between FY 2012 and FY 2022, **PDS hired 57 former law clerks as attorneys.** Many other former law clerks were inspired by their PDS clerkship experience to become public defenders in other locations, including California, Colorado, Illinois, and New Hampshire. In addition to guiding interns and law clerks to advance client representation, PDS attempts to provide them with a meaningful experience. As the career choices of interns and law clerks show, PDS is advancing the cause of public defense through its hiring and its work with future attorneys.



The following quotes are from a law clerk, two intern investigators, and an IT contractor expressing the impact that their experience at PDS had on them:

“I had an amazing experience and learned so much ... watching attorneys during their trials and hearings. I’m proud to live in a city with the caliber of service — and people — that PDS stands for.”

— FY 2022 law clerk

“This internship is one of the most impactful experiences I have had. My favorite part of it was being able to connect to clients and their families. I was lucky to have become part of their lives and to help tell their stories. There really is no better feeling than watching someone be released from the system after decades, and knowing you played a role in that.”

— FY 2022 intern investigator

“As an intern at PDS my purpose and passion in life to do public defense work was confirmed. There are many fantastic people at PDS whose drive and love for this work motivated me more to continue my path to become a defense attorney.”

— FY 2022 intern investigator



FINAL ANALYSIS

The core work of PDS is the representation of individual clients facing a loss of liberty. Every year, PDS lawyers, investigative specialists, forensic social workers, and other staff assist clients in thousands of matters. The proceedings for involuntary commitment, parole revocation, and criminal and juvenile delinquency cases are adversarial in nature, and PDS has able adversaries in the District’s Office of the Attorney General and the U.S. Attorney’s Office for the District of Columbia.

A true justice system depends on all components — judges, prosecutors, and defense attorneys — fulfilling their respective roles. PDS plays a central part in ensuring that all cases, whether they result in plea agreements or trials, involve comprehensive investigation and thorough consultation

with the client. For those matters that proceed to trial or to an administrative hearing, PDS litigates each matter to the fullest, ensuring that the proceeding constitutes a full and fair airing of reliable evidence.

As it has every year since its inception, PDS fought forceful fights in FY 2022 and found resolutions where possible for many clients. Whatever the outcome or type of case, PDS’s goal for each client was competent, quality representation. Adequate financial support for PDS’s services is essential to assist the District in meeting its constitutional obligation to provide criminal defense representation in the District’s courts, to ensure the reliability of the results, to avoid costly wrongful convictions, and to ensure that due process protections are in effect before anyone loses their liberty.



Getting to watch, and getting to support an organization that is a literal representation of the Sixth Amendment in action is as meaningful to me as anything else that drives me to be successful, and has changed my perspective on how I might want my career to progress. Working at PDS has shown me the difference between doing work you’re proud of, and doing work you’re proud of that matters.

— FY 2022 IT systems contractor



FINANCIAL STATEMENTS



ALLMOND & COMPANY, LLC

CERTIFIED PUBLIC ACCOUNTANTS

750 I FORBES BOULEVARD, SUITE 200
LANHAM, MARYLAND 20706

(301) 918-8200
FACSIMILE (301) 918-8201

Independent Auditors' Report

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

Report on the Financial Statements

Opinion

Pursuant to District of Columbia Code, Section 2-1606, we have audited the accompanying financial statements of the Public Defender Service for the District of Columbia (PDS), which comprise the balance sheets as of September 30, 2022 and 2021; the related statements of net cost, changes in net position, and budgetary resources for the fiscal years then ended; and the related notes to the financial statements (hereinafter referred to as the financial statements).

In our opinion, the financial statements present fairly, in all material respects, the financial position of the Public Defender Service for the District of Columbia as of September 30, 2022 and 2021 and its net costs, changes in net position, and budgetary resources for the fiscal years then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinion

We conducted our audits in accordance with U.S. generally accepted auditing standards (GAAS); the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 22-01, *Audit Requirements for Federal Financial Statements*. Our responsibilities under those standards and OMB Bulletin No. 22-01 are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the PDS and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence that we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Responsibilities of Management for the Financial Statements

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

Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS, generally accepted government auditing standards (GAGAS), and OMB Bulletin No. 22-01 will always detect a material misstatement when it exists.

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

In performing an audit in accordance with GAAS, GAGAS, and OMB Bulletin No. 22-01, our responsibilities are to exercise professional judgment and maintain professional skepticism throughout the audit, to identify and assess risks of material misstatement of the financial statements, whether due to fraud or error, and to design and perform audit procedures that are responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements in order to obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. In addition, in making those risk assessments, we obtain an understanding of internal control relevant to an audit of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of PDS's internal control. Accordingly, we express no such opinion.

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

Required Supplementary Information (RSI)

U.S. generally accepted accounting principles issued by the Federal Accounting Standards Advisory Board (FASAB) require that the information in the RSI be presented to supplement the financial statements. Such information is the responsibility of management and, although not a part of the financial statements, is required by FASAB, which considers it to be an essential part of financial reporting for placing the financial statements in appropriate operational, economic, or historical context. We have applied certain limited procedures to the RSI in accordance with U.S. generally accepted government auditing standards, which consisted of inquiries of management about the methods of preparing the RSI and comparing the information for consistency with management's responses to our inquiries, the financial statements, and other knowledge we obtained during the audit of PDS's financial statements, in order to report omissions or material departures from FASAB guidelines, if any, identified by these limited procedures. We did not audit and we do not express an opinion or provide any assurance on the RSI because the limited procedures we applied do not provide sufficient evidence to express an opinion or provide any assurance.

Other Information

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

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

Report on Internal Control over Financial Reporting

In connection with our audits of PDS's financial statements as of and for the years ended September 30, 2022 and 2021, we considered PDS's internal control over financial reporting, consistent with the auditor's responsibilities discussed below.

Results of Our Consideration of Internal Control over Financial Reporting

Our consideration of internal control was for the limited purpose described below, and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies¹ or to express an opinion on the effectiveness of PDS's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of PDS's internal control over financial reporting. Given these limitations, during our audit, we did not identify any deficiencies in internal control that we consider to be material weaknesses or significant deficiencies; however, material weaknesses or significant deficiencies may exist that have not been identified.

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

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

Responsibilities of Management for Internal Control over Financial Reporting

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

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

Auditor's Responsibilities for Internal Control over Financial Reporting

In planning and performing our audit of PDS's financial statements as of and for the fiscal year ended September 30, 2022, in accordance with U.S. generally accepted government auditing standards, we considered PDS's internal control relevant to the financial statement audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of PDS's internal control over financial reporting. Accordingly, we do not express an opinion on PDS's internal control over financial reporting. We are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses. We did not consider all internal controls relevant to operating objectives, such as those controls relevant to preparing performance information and ensuring efficient operations.

Definition and Inherent Limitations of Internal Control over Financial Reporting

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

Intended Purpose of Report on Internal Control over Financial Reporting

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

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

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

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

Our tests for compliance with selected provisions of applicable laws, regulations, contracts, and grant agreements disclosed no instances of noncompliance for fiscal year 2022 that would be reportable under U.S. generally accepted government auditing standards. However, the objective of our tests was not to provide an opinion on compliance with laws, regulations, contracts, and grant agreements applicable to PDS. Accordingly, we do not express such an opinion.

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

We performed our tests of compliance in accordance with U.S. generally accepted government auditing standards. Our responsibilities under those standards are further described in the Auditor's Responsibilities for Tests of Compliance section below.

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

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

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

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

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

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

Allmond & Company, LLC

Lanham, MD
November 15, 2022

Public Defender Service for the District of Columbia Balance Sheet
As of September 30, 2022 and 2021
(in dollars)

	<u>2022</u>	<u>2021</u>
Assets		
Intra-governmental		
Fund Balance With Treasury (Note 2)	\$ 18,589,952	\$ 16,051,785
Total Intra-governmental	<u>18,589,952</u>	<u>16,051,785</u>
Other Than Intra-governmental		
Accounts Receivable, Net (Note 3)	850	823
General Property, Plant, and Equipment, Net (Note 4)	1,105,693	1,288,765
Total Other Than Intra-governmental	<u>1,106,543</u>	<u>1,289,588</u>
Total Assets	<u>\$ 19,696,495</u>	<u>\$ 17,341,373</u>
Stewardship PP&E		
Liabilities:		
Intra-governmental		
Accounts Payable (Note 6)	\$ -	\$ -
Other Liabilities		
Other Liabilities (without reciprocals)		
Employer Contributions and Payroll Taxes Payable (Note 6)	37,107	90,397
Other Current Liabilities - Benefit Contributions Payable		
Employer Contributions and Payroll Taxes Payable (Note 6)	122,959	299,839
Unfunded FECA Liability (Note 5)	56,357	49,908
Other Unfunded Employment Related Liability (Note 5)	-	11,479
Total Intra-governmental	<u>216,423</u>	<u>451,623</u>
Other Than Intra-governmental		
Accounts Payable (Note 6)	1,646,313	1,096,606
Federal Employee and Veteran Benefits Payable		
Employer Contributions and Payroll Taxes Payable (Note 6)	22,595	56,189
Unfunded Leave (Note 5)	2,474,866	2,531,699
Actuarial FECA Liability (Note 5)	327,552	296,233
Other Liabilities		
Accrued Funded Payroll and Leave (Note 6)	518,053	1,281,330
Total Other Than Intra-governmental	<u>4,989,379</u>	<u>5,262,057</u>
Total Liabilities	<u>\$ 5,205,802</u>	<u>\$ 5,713,680</u>
Net Position:		
Unexpended Appropriations - Funds from other than Dedicated Collections	\$ 16,048,235	\$ 12,945,438
Cumulative Results of Operations -Funds from other than Dedicated Collections	<u>(1,557,542)</u>	<u>(1,317,745)</u>
Total Net Position	<u>14,490,693</u>	<u>11,627,693</u>
Total Liabilities And Net Position	<u>\$ 19,696,495</u>	<u>\$ 17,341,373</u>

Public Defender Service for the District of Columbia Statement of Net Costs
As of September 30, 2022 and 2021
(in dollars)

	<u>2022</u>	<u>2021</u>
Gross costs	\$ 50,458,998	\$ 45,670,974
Less: Earned Revenue (Note 8)	-	-
Net Cost of Operations	<u>\$ 50,458,998</u>	<u>\$ 45,670,974</u>

Public Defender Service for the District of Columbia Statement of Changes in Net Position
As of September 30, 2022 and 2021
(in dollars)

	<u>2022</u>	<u>2021</u>	
Unexpended Appropriations:			
Beginning Balances	\$ 12,945,438	\$ 12,089,509	855,929
Adjustments			-
Corrections of Errors	-	(19,144)	19,144
Beginning Balances, as Adjusted	<u>12,945,438</u>	<u>12,070,365</u>	875,073
			-
Appropriations Received (Note 9)	52,598,000	46,212,000	6,386,000
Appropriations Used	(48,198,188)	(44,228,027)	(3,970,161)
Other Adjustments	<u>(1,297,015)</u>	<u>(1,108,900)</u>	(188,115)
Net Change in Unexpended Appropriations	<u>3,102,797</u>	<u>875,073</u>	2,227,724
Total Unexpended Appropriations - Ending	<u>\$ 16,048,235</u>	<u>\$ 12,945,438</u>	3,102,797
			-
Cumulative Results of Operations:			
Beginning Balances	\$ (1,317,745)	\$ (1,630,226)	312,481
Adjustments			-
Corrections of Errors	-	(419,285)	419,285
Beginning Balances, as Adjusted	<u>(1,317,745)</u>	<u>(2,049,511)</u>	731,766
			-
Appropriations Used	48,198,188	44,228,027	3,970,161
Donations and Forfeitures of Cash and Cash Equivalents	-	282,075	(282,075)
Imputed Financing (Note 10)	<u>2,021,013</u>	<u>1,892,638</u>	128,375
Net Cost of Operations (Note 8)	<u>(50,458,998)</u>	<u>(45,670,974)</u>	(4,788,024)
Net Change in Cumulative Results of Operations	<u>(239,797)</u>	<u>731,766</u>	(971,563)
Cumulative Results of Operations - Ending	<u>(1,557,542)</u>	<u>(1,317,745)</u>	(239,797)
Net Position	<u>\$ 14,490,693</u>	<u>\$ 11,627,693</u>	2,863,000

Public Defender Service for the District of Columbia Statement of Budgetary Resources
As of September 30, 2022 and 2021
(in dollars)

		<u>2022</u>	<u>2021</u>
Budgetary resources:			
1071* Unobligated balance from prior year budget authority, net (discretionary and mandatory) (Note 15)	\$ 3,539,136	\$ 8,675,385	
1290* Appropriations (discretionary and mandatory) (Note 9)	<u>52,598,000</u>	<u>46,494,075</u>	
1910 Total budgetary resources	<u>\$ 56,137,136</u>	<u>\$ 55,169,460</u>	
Status of budgetary resources:			
2190 New obligations and upward adjustments (total) (Note 11):			
Unobligated balance, end of year			
2204* Apportioned, unexpired accounts	5,118,301	294,585	
2304* Exempt from apportionment, unexpired accounts	<u>194,689</u>	<u>281,985</u>	
2412 Unexpired unobligated balance, end of year (Note 2, Note 11)	5,312,990	576,570	
2413 Expired unobligated balance, end of year (Note 2)	<u>2,829,603</u>	<u>3,084,970</u>	
2490 Unobligated balance, end of year (total)	<u>8,142,593</u>	<u>3,661,540</u>	
2500 Total budgetary resources	<u>\$ 56,137,136</u>	<u>\$ 55,169,460</u>	
Outlays, Net and Disbursements, Net			
4190 Outlays, net (total) (discretionary and mandatory)	48,762,818	44,169,586	
4210* Agency outlays, net (discretionary and mandatory)	<u>\$ 48,762,818</u>	<u>\$ 44,168,586</u>	

* Represents a line number that is unique to the SBR. Further information on the descriptions and composition of these lines can be found in OMB Circular No. A-11, Appendix F.

Public Defender Service for the District of Columbia

**Notes to Principal Statements
As of September 30, 2022 and 2021**

NOTE 1: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

(a) Reporting Entity

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

(b) Basis of Accounting and Presentation

(1) Basis of Accounting

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

(2) Basis of Presentation

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

(c) Revenue and Financing Sources

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

(d) Assets and Liabilities

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

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

(e) Fund Balance with Treasury

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

(f) Accounts Receivable

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

(g) General Property, Plant and Equipment

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

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

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

(h) Accrued Annual, Sick and Compensatory Time

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

(i) Life Insurance and Retirement Plans

Federal Employees Group Life Insurance (FEGLI) Program

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

Retirement Programs

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

For employees under FERS, PDS contributes an amount equal to one percent of the employee's basic pay to the tax deferred Thrift Savings Plan (TSP) and matches employee contributions up to an additional four percent of pay. FERS employees can contribute \$20,500 of their gross earnings to the plan. CSRS employees can also contribute \$20,500 of their gross earnings to the plan, but they receive no matching PDS contribution.

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

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

(j) Contingent Liabilities

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

(k) Unexpended Appropriations

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

(l) Income Taxes

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

(m) Use of Estimates

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

(n) Subsequent Events

Subsequent events and transactions occurring after September 30, 2022 through the date of the auditor’s opinion have been evaluated for potential recognition or disclosure in the financial statements. The date of the auditors’ opinion also represents the date that the financial statements were available to be issued.

(o) Principal Financial Statements

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

NOTE 2: FUND BALANCE WITH TREASURY

Treasury performs cash management activities for PDS. The net activity represents fund balance with Treasury. The fund balance with Treasury represents the right of PDS to draw down funds from Treasury for expenses and liabilities. Fund balance with Treasury as of September 30, 2022 and September 30, 2021, consists of the following:

Fund Balance with Treasury by Fund Type:

	FY 2022			FY 2021		
	Entity	Non-Entity	Total	Entity	Non-Entity	Total
	Assets	Assets		Assets	Assets	
General Funds	\$ 18,589,952	-	18,589,952	\$ 16,051,785	-	16,051,785

The fund balance includes unused appropriations held by Treasury. The status of the fund balance is classified as unobligated available, unobligated unavailable, or obligated and not yet disbursed. The unavailable amounts include those appropriated in

prior fiscal years, which are not available to fund new obligations. The obligated balance represents amounts designated for payment of goods and services ordered but not yet received, or goods and services received, but for which payment has not yet been made.

Status of fund balance with Treasury as of September 30, 2022 and September 30, 2021, consists of the following:

Fund Balance with Treasury by Availability:

	FY 2022	FY 2021
Unobligated Balance		
Available	\$ 5,312,990	\$ 576,570
Unavailable	2,829,603	3,084,970
Obligated balance not yet disbursed	10,447,359	12,390,245
Totals	\$ 18,589,952	\$ 16,051,785

NOTE 3: ACCOUNTS RECEIVABLE

Entity accounts receivable with the public include employee and former employee debt. Accounts receivable as of September 30, 2022 and September 30, 2021, consist of the following:

Entity:	FY 2022	FY 2021
Intragovernmental		
Accounts Receivable	\$ -	\$ -
Total Intragovernmental	-	-
With the Public		
Accounts Receivable	850	823
Total with the Public	850	823
Total Accounts Receivable	\$ 850	\$ 823

NOTE 4: GENERAL PROPERTY, PLANT & EQUIPMENT

The table below summarizes cost and accumulated depreciation of general property, plant, and equipment.

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

As of September 30, 2021

	Cost	Accumulated Depreciation	Net Asset Value
Furniture and Equipment	\$ 2,972,028	\$ (1,804,862)	\$ 1,167,166

Software	3,204,675	(3,204,675)	-
Leasehold Improvements	371,817	(250,218)	121,599
Total property, plant, and equipment	<u>\$ 6,548,520</u>	<u>\$ (5,259,755)</u>	<u>\$ 1,288,765</u>

NOTE 5: LIABILITIES NOT COVERED BY BUDGETARY RESOURCES

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

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

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

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

The allocated PDS liability for FY 2022 and FY 2021 was \$56,357 and \$49,908, respectively. The expense recorded for future fiscal years will be the change in the liability from one fiscal year to the next. The estimated future compensation benefits liability is recorded for reporting purposes only. This liability constitutes an extended future estimate of cost which will not be obligated against budgetary resources until the fiscal year in which the cost is actually billed to PDS. The cost associated with this liability cannot be met by PDS without further appropriation action.

Liabilities not covered by budgetary resources as of September 30, 2022 and September 30, 2021, consist of the following:

	<u>FY 2022</u>	<u>FY 2021</u>
Intra-governmental Liabilities:		
FECA-Unfunded	\$ 56,357	\$ 49,908
Other Unfunded Employment Related Liability	-	11,479
Total Intra-governmental Liabilities	56,357	61,387
Other Than Intra-Governmental Liabilities:		
Unfunded Leave	2,474,866	2,531,699
Estimated Future FECA	327,552	296,233
Total Liabilities Not Covered by Budgetary Resources	<u>\$ 2,858,775</u>	<u>\$ 2,889,319</u>

NOTE 6: LIABILITIES ANALYSIS

Liabilities as of September 30, 2022 and September 30, 2021, consist of the following:

	<u>FY 2022</u>	<u>FY 2021</u>
Covered by Budgetary Resources:		

Intra-governmental Liabilities		
Accounts Payable	\$ -	\$ -
Other Liabilities		
Other Liabilities (without reciprocals)		
Employer Contributions and Payroll Taxes Payable	37,107	90,397
Other Current Liabilities - Benefit Contributions Payable		
Employer Contributions and Payroll Taxes Payable	122,959	299,839
Total Intra-governmental Liabilities	160,066	390,236
Other Than Intra-Governmental Liabilities		
Accounts Payable	1,646,313	1,096,606
Federal Employee and Veteran Benefits Payable		
Employer Contributions and Payroll Taxes Payable	22,595	56,189
Other Liabilities		
Accrued Funded Payroll and Leave	518,053	1,281,330
Total Liabilities Covered by Budgetary Resources	2,347,027	2,824,361
Total Liabilities Not Covered by Budgetary Resources	2,858,775	2,889,319
Total Liabilities	<u>\$ 5,205,802</u>	<u>\$ 5,713,680</u>

NOTE 7: OPERATING LEASES

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

<u>Fiscal Year</u>	<u>Total</u>
2023	3,542,237
2024	3,486,213
2025	2,840,431
2026	2,857,280
2027-2033	17,105,209
Total future lease payments	<u>\$ 29,831,370</u>

Rental expenses under operating leases for office space were \$3,586,258 and \$3,550,648 for fiscal years ended September 30, 2022 and September 30, 2021, respectively. PDS signed a ten-year lease with the General Services Administration for office space at 633 Indiana Avenue beginning October 2010. This lease was extended for 24 months beginning October 2020. Previously, PDS paid these building costs through a reimbursable agreement with the Court Services and Offender Supervision Agency. In 2010, PDS signed a ten-year lease with the General Services Administration for office space at 601 Pennsylvania

Avenue beginning October 2014. PDS has vacated 680 Rhode Island in FY 2017 and moved to 1442 Pennsylvania Avenue. A 10-year lease was signed with General Services Administration for office space at 1442 Pennsylvania Avenue beginning September 2017. In May 2022, PDS signed a ten-year lease with the General Services Administration for office space at 633 3rd Street beginning in March 2023.

NOTE 8: INTRAGOVERNMENTAL COSTS AND EXCHANGE REVENUE

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

	<u>FY 2022</u>	<u>FY 2021</u>
Intragovernmental Costs	\$ 14,559,804	\$ 13,939,196
Public Costs	<u>35,899,194</u>	<u>31,731,778</u>
Total Costs	<u>50,458,998</u>	<u>45,670,974</u>
Public Earned Revenue	<u>-</u>	<u>-</u>
Total Public Earned Revenue	<u>-</u>	<u>-</u>
Net Cost of Operations	<u>\$ 50,458,998</u>	<u>\$ 45,670,974</u>

NOTE 9: APPROPRIATIONS RECEIVED

PDS received appropriations as follows:

	<u>FY 2022</u>	<u>FY 2021</u>
Appropriations	\$ 52,598,000	\$ 46,212,000
Rescission – Prior Year	<u>-</u>	<u>-</u>
Net Appropriations	<u>\$ 52,598,000</u>	<u>\$ 46,212,000</u>

NOTE 10: IMPUTED FINANCING

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

	<u>FY 2022</u>	<u>FY 2021</u>
Pension Expenses	\$ 335,148	\$ 299,976
Federal Employees Health Benefits (FEHB)	1,684,705	1,591,580
Federal Employees Group Life Insurance (FEGLI)	<u>1,160</u>	<u>1,082</u>
Total	<u>\$ 2,021,013</u>	<u>\$ 1,892,638</u>

NOTE 11: STATEMENT OF BUDGETARY RESOURCES

The Statements of Budgetary Resources provide information about budgetary resources and their status at the end of the period. It is the only financial statement exclusively derived from PDS’s budgetary general ledger in accordance with budgetary accounting rules that are incorporated into generally accepted accounting principles for the Federal Government. The total Budgetary Resources as of September 30, 2022 and September 30, 2021, of \$56,137,136 and \$55,169,460 respectively, includes new budget authority, unobligated balances at the beginning of the year, spending authority from offsetting collections, recoveries of prior year obligations and permanently not available rescissions and cancellations of expired authority. PDS’s unobligated balances available at September 30, 2022 and September 30, 2021 were \$5,312,990 and \$576,570, respectively.

Apportionment Categories of New Obligations and Upward Adjustments. PDS’s New Obligations and Upward Adjustments as of September 30, 2022 and September 30, 2021 by apportionment Category A are shown in the following table. Category A apportionments distribute budgetary resources by fiscal quarters.

	<u>New Obligations and Upward Adjustments</u>	
	<u>FY 2022</u>	<u>FY 2021</u>
Direct	\$ 47,994,543	\$ 51,507,920

NOTE 12: UNDELIVERED ORDERS

The amount of budgetary resources obligated for undelivered orders at September 30, 2022 and September 30, 2021 were \$8,100,332 and \$9,565,883, respectively.

	<u>FY 2022</u>	<u>FY 2021</u>
Federal	\$ 6,681,476	\$ 6,515,266
Non-Federal	<u>1,418,856</u>	<u>3,050,617</u>
Total undelivered orders	<u>\$ 8,100,332</u>	<u>\$ 9,565,883</u>

NOTE 13: RECONCILIATION OF NET COST OF OPERATIONS TO BUDGET

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

**Public Defender Service
As of September 30, 2022
(In dollars)**

**Budget and Accrual Reconciliation
For the period ended September 30, 2022**

	Intragovernmental	With the public	FY 2022
Net Operating Cost (SNC)	14,559,804	35,899,194	50,458,998
Components of Net Operating Cost Not Part of the Budgetary Outlays			
Property, plant, and equipment depreciation	-	(274,132)	(274,132)
Increase/(decrease) in assets:			
Accounts receivable	-	27	27
(Increase)/decrease in liabilities:			
Accounts payable	-	(549,707)	(549,707)
Salaries and benefits	230,171	796,871	1,027,042
Other liabilities (Unfunded leave, Unfunded FECA, Actuarial FECA)	5,031	25,513	30,544
Other financing sources:			
Federal employee retirement benefit costs paid by OPM and imputed to the agency	(2,021,013)	-	(2,021,013)
Components of the Budget Outlays That Are Not Part of Net Operating Cost			
Acquisition of capital assets	-	91,059	91,059
NET OUTLAYS (Calculated Total)	12,773,993	35,988,825	48,762,818

For the period ended September 30, 2021

	Intragovernmental	With the public	FY 2021
Net Operating Cost (SNC)	13,939,196	31,731,778	45,670,974
Components of Net Operating Cost Not Part of the Budgetary Outlays			
Property, plant, and equipment depreciation	-	(110,760)	(110,760)
Increase/(decrease) in assets:			
Accounts receivable	-	(210,430)	(210,430)
(Increase)/decrease in liabilities:			
Accounts payable	121	142,657	142,778
Salaries and benefits	(57,182)	(163,273)	(220,455)
Other liabilities (Unfunded leave, Unfunded FECA, Actuarial FECA)	2,776	(119,723)	(116,947)
Other financing sources:			
Federal employee retirement benefit costs paid by OPM and imputed to the agency	(1,892,638)	-	(1,892,638)

Components of the Budget Outlays That Are Not Part of Net Operating Cost

Acquisition of capital assets	-	859,621	859,621
Other Temporary Timing Differences	-	47,443	47,443
NET OUTLAYS (Calculated Total)	11,992,273	32,177,313	44,169,586

NOTE 14: COVID-19 ACTIVITY

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

NOTE 15: RECONCILIATION OF PRIOR YEAR ENDING UNOBLIGATED BALANCE AND CURRENT YEAR BEGINNING UNOBLIGATED BALANCE

There is a material difference of \$1,027,608 between the prior year ending Unobligated Balance of \$2,511,528 and the current year beginning Unobligated Balance of \$3,539,136 on the Statement of Budgetary Resources. The difference is primarily due to the increased amount of recoveries.

PUBLIC
DEFENDER
SERVICE

for the District of Columbia



633 Indiana Avenue, N.W.
Washington, D.C. 20004

Toll Free: (800) 341.2582

Phone: (202) 628.1200

TTY: (202) 824.2531

Fax: (202) 824.2423

www.pdsdc.org

   @pdsdc

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