

THE
PUBLIC
DEFENDER
SERVICE

for the District of Columbia



CHAMPIONS OF LIBERTY

Fiscal Year 2015

Congressional Budget Justification

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March 10, 2014

PUBLIC DEFENDER SERVICE
Fiscal Year 2015 Budget Justification

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LEGAL AUTHORITY AND MISSION

The Public Defender Service for the District of Columbia (PDS) is a federally funded, independent organization governed by an eleven-member Board of Trustees. Originally operating as the Legal Aid Agency from 1960 to 1970, PDS was created in 1970 by a federal statute¹ enacted to comply with a constitutional mandate to provide defense counsel to people who cannot afford an attorney.² The mission of PDS is to provide and promote quality legal representation to indigent adults and children facing a loss of liberty in the District of Columbia justice system and thereby protect society's interest in the fair administration of justice.

A major portion of the work of the organization consists of representing individuals in the District of Columbia's local criminal justice system who are charged with committing serious criminal acts and who are eligible for court-appointed counsel. In the District of Columbia, public defense services are primarily provided by PDS, the "institutional defender," and a panel of private attorneys, known as Criminal Justice Act (CJA) attorneys, who are screened for membership on the panel and paid on a case-by-case basis by the District of Columbia courts.³ Because of its better resources, well-regarded training program, and overall higher skill level, PDS generally handles the more serious criminal cases, and the CJA attorneys generally handle the less serious criminal cases. The federal public defender system is modeled in most respects on this structure.

PDS also provides legal representation to people facing involuntary civil commitment in the mental health system, as well as to many of the indigent children in the most serious delinquency cases, including those who have special education needs due to learning disabilities. PDS attorneys represent indigent clients in the majority of the most serious adult felony cases filed in the District of Columbia Superior Court every year, clients pursuing or defending against criminal appeals, nearly all individuals facing parole revocation under the District of Columbia Code, and all defendants in the District of Columbia Superior Court requiring representation at Drug Court sanctions hearings. In addition, PDS provides technical assistance to the local criminal justice system, training for CJA and pro bono attorneys, and additional legal services to indigent clients in accordance with PDS's enabling statute.

In 1997, the Congress enacted the National Capital Revitalization and Self-Government Improvement Act of 1997 (the Revitalization Act),⁴ which relieved the District of Columbia of certain "state-level" financial responsibilities and restructured a number of criminal justice functions, including representation for indigent individuals. The Revitalization Act instituted a process by which PDS submitted its budget to the Congress and received its appropriation as an administrative transfer of federal funds through the Court Services and Offender Supervision Agency appropriation. With the enactment of the Fiscal Year 2007 Appropriation Act, PDS now receives a direct appropriation from the Congress. In accordance with its enabling statute and the constitutional mandate it serves, PDS remains a fully independent organization and does not

¹ Pub. L. No. 91-358, Title III, § 301 (1970); *see also* D.C. Code §§ 2-1601 – 1608 (2001).

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

³ Plan for Furnishing Representation to Indigents under the District of Columbia Criminal Justice Act. D.C. Code §§ 11-2601 – 2608 (2001).

⁴ Pub. L. No. 105-33, Title X (1997).

fall under the administrative, program, or budget authority of any federal or local executive branch agency.

Since its creation, PDS has maintained a reputation nationally and in the District of Columbia criminal justice system for exceptional advocacy. The strength of PDS has always been the quality of the legal services that the organization delivers. Judges and prosecutors alike acknowledge and respect the excellent advocacy of PDS's attorneys, as do public defender agencies and criminal justice bars across the nation.

**PUBLIC DEFENDER SERVICE
BUDGET JUSTIFICATION SUMMARY**

FY 2015 Summary of Changes

	<u>FTE</u>	<u>2015 PDS Need</u>
FY 2014 Enacted Budget	218	40,607
Adjustments to Base:		
Less Non-Recurring Expense		
Moving Expenses	-	(1,150)
Add		
New positions	6	554
Pay Raises	-	221
General Pricing Level	-	104
Efficiency Savings	-	(255)
Total, Adjustments	6	(526)
FY 2015 Base	224	40,081
Non-Recurring Expense - Moving Expenses	-	1,150
FY 2015 Request	224	41,231

FISCAL YEAR 2015 REQUIREMENTS

The Public Defender Service for the District of Columbia requests an operating budget of \$40,081,000 for Fiscal Year 2015. This would allow PDS to fill six positions that are needed to adequately staff PDS's Trial Division and to provide representation to unrepresented adults seeking release on parole for District of Columbia sentences. PDS's operating budget request represents an increase of only 1.6 percent or \$624,000, from the FY 2014 operating budget appropriation of \$39,457,000. PDS also requests one-time funding of \$1,150,000 for moving four program and administrative divisions from two satellite offices due to the expiration of the leases for these two locations.⁵

⁵ PDS requested and received \$1,150,000 for these moving expenses in FY 2014. PDS continues to work with the General Services Administration to negotiate leases for these satellite offices. Because the lease negotiation process is complicated and time-consuming (e.g., PDS waited several weeks for a required flood plain analysis to be conducted for PDS's Pennsylvania Avenue, N.W. site), it is extremely doubtful that any of the relocations will take place in FY 2014.

For FY 2014, PDS received funding for five attorney positions⁶ to fill vacancies caused by operating pursuant to flat or reduced budgets for four years.⁷ For FY 2015, PDS requests six attorney positions. Five of these six positions would permit PDS's Trial Division to further recoup the decline in staffing that has occurred as a result of PDS's operating pursuant to flat or reduced budgets. The sixth attorney position would allow PDS's Institutional Services Program to represent adults seeking parole from Federal Bureau of Prisons facilities.

This request is consistent with PDS's policy and funding priorities – providing representation to individuals facing serious charges who cannot afford to hire an attorney – and directly supports the Congress's overarching goal of supporting high performing programs.

POLICY AND FUNDING PRIORITIES

PDS is a small, single program; the only local institutional public defender in the District of Columbia; and the only local institutional public defender funded by the Congress. PDS's priority is ensuring that all persons in the District of Columbia receive due process when threatened with a loss of liberty. All PDS divisions and employees either support or provide representation in furtherance of this mission. The available evidence demonstrates that PDS effectively carries out its mission and saves taxpayer funds.

PDS's Effectiveness

Despite not having a research division and despite being denied access to certain electronic criminal justice system data controlled by District of Columbia law enforcement agencies and courts, PDS continues to make strides toward more effectively incorporating evidence and evaluation in managing the organization and maintaining its reputation for high quality performance. PDS has evaluated its performance through its growing capacity to generate outcome data and through surveys of stakeholders.⁸ The results demonstrate that PDS is a high performing program. PDS continues to receive scores of over 90 percent from judges and CJA attorneys assessing the quality of the representation provided by PDS lawyers and the quality of the training provided to the CJA lawyers. The results of PDS's most recent survey of judges confirm their high opinion of PDS's performance with scores of 100 percent in all but a single category. More specific to case outcomes:

- PDS's Parole Division data shows that the division wins 35 percent of its contested hearings and mitigates the sentences in another 27 percent.
- PDS's Mental Health Division wins 35 percent of the contested probable cause hearings and wins 50 percent of the contested commission hearings.

⁶ Three positions were for the Trial Division, and two were for the Juvenile Services Program in the Community Defender Division.

⁷ PDS's FY 2010 enacted budget was \$37,316,000; PDS's enacted budget for FY 2011 was \$37,241,000; it was the same for FY 2012. Because of the budget reduction triggered by sequestration, PDS's FY 2013 budget was \$35,293,000.

⁸ Detailed results are presented at pp. 21, 24.

- PDS’s Appellate Division, from 2005 through 2013, secured reversals in 33 percent of its appellate cases as compared to a four percent reversal rate for the rest of the defense bar – a PDS success rate eight times higher than that of the rest of the appellate defense bar.⁹

By increasing the staffing level of the Appellate Division, PDS has maintained the above appellate reversal performance while also reducing the appellate backlog by 67 percent over the past three years. As explained below,¹⁰ however, this effort has come at a cost to the staffing of the Trial Division. Because the Trial Division is a critical part of the Appellate Division’s success (by making the required arguments in the trial court to preserve issues for consideration on appeal) and a critical part of a high performing public defense system, PDS is seeking funding to more fully staff the Trial Division.

Reduction in Taxpayer Costs

A study of 83 wrongful convictions uncovered in Illinois determined that the cost to taxpayers was \$214 million or \$2.5 million per wrongful conviction.¹¹ A study of criminal defense systems similar to the District of Columbia’s criminal defense system (a combination of an institutional defender and a panel system) demonstrates that institutional defender representation is more cost-effective, saving taxpayers on average 25 percent per case in adult criminal representation.¹² As detailed in PDS’s FY 2013 Budget Justification, PDS’s Trial Division saves taxpayer funds by preventing wrongful convictions.¹³ Every year, PDS’s Trial Division

⁹ Performance data for PDS’s Appellate Division is easily captured because outcomes appear in electronically available published appellate decisions, and, starting in 2005, Memorandum Opinions and Judgments (or unpublished decisions) also became available electronically. For PDS’s matters in the Superior Court of the District of Columbia, PDS has not been able to secure electronic access to case outcomes from the Court other than in PDS’s own cases. And PDS has been able to generate electronically case outcome data only for the past one to two fiscal years, depending on the legal division. With the upgraded Atticus system, PDS will increase its ability to provide outcome data and will continue to try to secure the requisite electronic data from the Superior Court to compare PDS’s performance against that of other legal services providers.

¹⁰ See below at pp. 7-11.

¹¹ See <http://www.forbes.com/sites/erikkain/2011/06/29/the-high-cost-of-wrongful-convictions/>, June 29, 2011 (detailing a study by the Better Government Association and the Center on Wrongful Convictions).

¹² See Statement of Michael S. Nachmanoff, Federal Public Defender for the Eastern District of Virginia on Behalf of the Federal Public Defender and Community Defenders Before the Judiciary Committee Subcommittee on Bankruptcy and the Courts; Sequestering Justice: How the Budget Crisis is Undermining Our Courts; July 23, 2013, (Attachments One and Two); <http://www.judiciary.senate.gov/pdf/7-23-13NachmanoffTestimony.pdf>.

¹³ “Two FY 2011 PDS cases illustrate this point. PDS was appointed to two separate homicide cases. In each case, the government sought and secured an indictment for first degree murder and related charges. But for the work of PDS, both of these cases would have proceeded to trial with a high probability of conviction. Instead, after hundreds of hours of investigation, more than 100 hours of attorney time on pretrial litigation and hours of expert services poring over cell tower records and fingerprint evidence, PDS presented the evidence its lawyers, experts, and

convinces the government to dismiss cases after an arrest and even after the government has indicted the case. PDS accomplishes this through thorough investigation, expert assessments, and litigation demonstrating that the wrong person was charged. This work is accomplished at a fraction of the cost of a wrongful conviction.¹⁴ However, because PDS has had to leave an increasing number of Trial Division positions unfilled, PDS has had to reduce the number of cases it can accept.

Every division at PDS plays a part in improving the effectiveness of the criminal justice system, case by case. But PDS goes even further. Using the information PDS learns at the trial level in case after case, PDS collaborates with others in the criminal justice system to develop and support evidenced-based programs that, cost effectively, improve the criminal justice system and reduce recidivism. Three such programs are two U.S. Parole Commission programs, the Short-term Interventions for Success program and the Mental Health Sanctions Docket, and the District of Columbia Superior Court's revised Drug Court program discussed in the Accomplishments section below.¹⁵

With an increase in funding to cover inflationary costs and allow PDS to more fully staff its Trial Division and to represent those who may otherwise forfeit their liberty, the Congress can promote high performing programs that save taxpayers money, reduce the burdens of debilitating over-incarceration, and support justice in the District of Columbia.

Resource Request

To recoup personnel losses due to a succession of flat budgets and sequestration, PDS requests funding for six positions for FY 2015: five positions would assist PDS in regaining capacity in the Trial Division, and one would allow PDS to represent adults serving District of Columbia sentences who are seeking parole from Federal Bureau of Prisons facilities. PDS's requests are limited to mission-critical needs.

Trial Division – Five new positions – \$462,000

PDS needs five trial attorney positions. Failure to fund these positions will shift costs to the federally funded Superior Court CJA program and jeopardize the quality of representation being provided in the most serious cases.

In FY 2014, PDS sought and received funding for three Trial Division positions. For FY 2015, PDS requests funding for five additional positions. Returning the Trial Division to its former staffing complement remains a priority for PDS. PDS has operated for three years with flat

investigators had uncovered to the prosecution. In each case, PDS convinced the prosecution that it had charged and indicted the wrong person. Each case was dismissed within only weeks before the trial was scheduled to start. The cost of avoiding these two wrongful convictions was less than \$50,000. The costs involved in two trials – two wrongful convictions with lengthy sentences, appeals, other post-conviction proceedings and retrials – are unquantifiable.” PDS FY 2013 Budget Justification at 5. Many other dismissals are obtained for even less.

¹⁴ *Id.*

¹⁵ *See* pp. 18-19.

budgets and one year with a reduced budget imposed by sequestration. This has forced PDS to leave positions unfilled in the Trial Division in order to meet other critical client and administrative needs¹⁶ and stay within funding limits.

One of these other critical needs is assisting the District of Columbia Court of Appeals in its continuing efforts to reduce the backlog of appeals, which also allows PDS to reduce the amount of time clients wait to have their appeals resolved. PDS is meeting this need with an increase in the Appellate Division staff. Given the performance of this division, PDS has no plan to reduce its size. PDS secures reversals at the appellate level at a rate eight times higher than that of the rest of the defense bar (33 percent versus four percent). Between FY 2010 and FY 2012, PDS reduced the amount of time between the court's issuance of the notice to file and the filing of a brief by 17 percent and has reduced the case backlog by 67 percent. Maintaining the Appellate Division's current size continues to bring down the backlog of appeals and the time to resolution without compromising quality – quality that is essential to protecting against inequities in the criminal justice system.¹⁷

Because the Trial Division is the largest division at PDS and has the highest turnover rate of the PDS legal divisions, it is the division that most easily allows PDS to absorb the financial impact of diminishing resources. At the same time, it requires the most complicated efforts to staff and train. To produce high quality trial representation requires training and intense supervision before a lawyer is able to competently handle complex criminal cases. To secure the best applicants, PDS must schedule its hiring process to coincide with the hiring by the private sector, the judiciary, and other high performing public defender offices. For PDS to be efficient, a class of new lawyers must be brought on at the same time to train together. The most cost-effective training requires that PDS train six or more lawyers at one time. To produce the high quality trial lawyers that are the foundation of PDS's reputation as the best public defender office in the country, (as Attorney General Holder has described PDS¹⁸), PDS produces a model initial training program¹⁹ and then continues with staged training for the next four years of a lawyer's development. This necessitates hiring at a single point in time and in sufficient numbers to

¹⁶ PDS filled administrative vacancies created by the departure of the Human Resources Director, the Chief Information Officer, the Chief Financial Officer, and the only accountant on staff. Leaving any of these positions vacant puts PDS at risk.

¹⁷ PDS's five-year target is to reduce the appellate backlog to zero and the time between notice of the brief of filing date and the filing of the brief by more than half to 40 days. The result will be a more efficient appellate court and timely resolution of matters that cause indigent clients to linger in prison.

¹⁸ Harvard School of Public Health conference, "Defending Childhood and Youth," <http://theforum.sph.harvard.edu/events/u-s-attorney-general-eric-holder-defending-childhood-and-youth/>, (May 2011).

¹⁹ PDS's training program has been held in high regard for decades. In the mid-1970s, the U.S. Department of Justice Law Enforcement Assistance Administration designated PDS as an "exemplary program" in part because of the high quality of PDS's training program. In a 2008 report of its assessment of PDS's overall program, the National Legal Aid and Defender Association commended PDS's training program. The NLADA concluded that PDS exceeded the American Bar Association's national standards for training public defender attorneys.

justify the time required of senior lawyers and judges to produce the initial and the staged trainings.

To address budget realities now and in the near future, PDS has creatively managed its hiring. It has hired experienced lawyers into those legal divisions suited for such hiring when vacancies occur. Some candidates have come from outside of PDS, and some have come from the ranks of the Trial Division seeking to use their considerable skills in the Appellate Division, the Mental Health Division, the Parole Division, or the Community Defender Division. These lawyers – both seasoned PDS trial lawyers and attorneys hired from law firms and clerkships – can be brought on board in these legal divisions with relatively little additional training other than direct supervision. After several years of having no more than six new attorneys hired for the Trial Division, PDS recently hired a relatively large Trial Division class so that PDS can train efficiently and effectively while making plans to delay further hiring until its budget permits. PDS will divide this group of nine new lawyers into two over the course of two years to handle cases in the courts traditionally covered by PDS, effectively creating a class of five and four without compromising training or applicant quality. But even with this influx, the Trial Division will be eight lawyers short of its 2009 staffing level of 60 lawyers. Several years of hiring only six new Trial Division lawyers and now most recently effectively hiring a class of five and four, while fiscally prudent, has not kept up with attrition. Without additional funding, PDS’s Trial Division will remain understaffed.²⁰

The direct impact of understaffing the Trial Division has been a 50 percent reduction in the number of general felony cases handled by PDS. Presently there are 250 Criminal Justice Act (CJA) attorneys available through a panel system to handle these cases but at a cost to the District of Columbia Superior Court’s CJA budget.²¹ More importantly, the indirect effect of limited hiring is a reduction in the cadre of lawyers at PDS who are being prepared to handle the most serious cases for which there is a dearth of qualified and adequately resourced lawyers outside of PDS. PDS’s Trial Division has maintained its ability to handle every homicide case it is permitted to under the ethical rules,²² but it has lost some of its capacity to handle the majority of the other charges for which life in prison is the maximum sentence. PDS should be handling close to 70 percent of those offenses just as it has historically handled 70 percent of the homicide cases. Instead, PDS representation of individuals charged with “life offenses” has declined in recent years from 62 percent in FY 2006 to just 39 percent for FY 2013.

This decline in the number of attorneys trained to handle complex cases and in the number of cases PDS handles at the trial level comes at a significant cost to the criminal justice system in

²⁰ With the recent enactment of PDS’s FY 2014 budget, PDS has initiated the hiring process for new Trial Division attorneys. PDS’s ability to hire to fulfill its needs depends on the quality of the applicant pool, so PDS may not be able to reach its target level of hiring until FY 2015.

²¹ CJA lawyers are compensated at \$90 per hour. PDS Trial Division lawyers’ average salary with benefits is approximately \$50 per hour.

²² PDS cannot provide representation in 100 percent of the homicide cases, as many involve multiple co-defendants, and the conflict-of-interest rules prohibit joint representation of co-defendants; some cases involve government witnesses who are current PDS clients in other criminal matters, and the same rules prohibit simultaneous representation of individuals with adverse interests. See D.C. Rule of Professional Conduct 1.7.

the District of Columbia. PDS secured acquittals in more than 50 percent of the cases it took to trial in FY 2012 and FY 2013.²³ But more than just creating good outcomes for clients, the quality of representation PDS provides at the trial level is the foundation from which almost all of PDS's accomplishments stem, irrespective of the type of case. PDS's Appellate Division's reversal rate of 33 percent compared with the rest of the defense bar's reversal rate of four percent starts with the quality of the lawyering at the trial level. The three wrongful convictions brought to light by PDS's Special Litigation Division during the last four years were grounded in the knowledge base within PDS's Trial Division about faulty forensic science and about new methods to test the reliability and accuracy of dated forensic methods. PDS is currently challenging two more wrongful convictions, and once again, the work in those cases is based on investigative efforts and legal skills that take years to develop and the capacity to draw upon multiple areas of expertise within PDS. PDS cases that have been dismissed by the government after an arrest and indictment but short of trial have often been dismissed because of the investigation and litigation done by the Trial Division lawyers and their investigators.²⁴

PDS has detailed examples of case dismissals in past budget submissions. One example from this fiscal year involved a client who is a permanent resident seeking citizenship. She is also a small business person with a beauty shop in the District of Columbia. This client was charged with assault. This charge could have precluded her from gaining citizenship, impacted her ability to secure the licenses necessary to grow her business, and put her at risk for deportation. After a thorough investigation, PDS's trial lawyer presented the results of the investigation to the prosecutor assigned to the case. After reviewing PDS's investigation, the government agreed not only to dismiss the criminal case but not to oppose a motion to seal the client's arrest record based on her actual innocence. The court subsequently granted the motion. While the charge in this case was not nearly as serious as those in other case dismissals PDS has previously reported on, the case was one that would have been life-altering for this client, her family, their small business, and their community. In this example, as it is in so many cases, PDS was critical to preventing an injustice of the very sort that those working in the criminal justice system are

²³ This is based on data from FY 2012 and FY 2013. PDS has only recently been able to efficiently collect this performance data and is using a longer period than the current fiscal year to present its performance figures to more accurately report its performance. Because the number of trials conducted is not that large, small changes in outcomes could affect the percentages in a manner that may not fairly reflect performance. As PDS collects more data, it will be able to better assess current and historical performance. While PDS cannot compare its trial performance with that of the CJA attorneys because PDS lacks access to the necessary data, studies of similar defender institutions have shown that the outcomes are substantially better in serious cases when the institutional defender provides representation, and that the institutional defender is more cost efficient. *See* Measuring the Effect of Defense Counsel on Homicide Case Outcomes, Award number 2009-IJ-CX-0013, Anderson & Heaton, December 2012; <https://www.ncjrs.gov/pdffiles1/nij/grants/241159.pdf>; and *see* Statement of Michael S. Nachmanoff, Federal Public Defender for the Eastern District of Virginia on Behalf of the Federal Public and Community Defenders Before the Judiciary Committee Subcommittee on Bankruptcy and the Courts; Sequestering Justice: How the Budget Crisis is Undermining Our Courts; July 23, 2013; (Attachments One and Two); <http://www.judiciary.senate.gov/pdf/7-23-13NachmanoffTestimony.pdf>.

²⁴ In FY 2013, PDS secured pretrial dismissals in 46 cases.

challenged to prevent. Though this was a minor charge that most under-funded public defense systems would have failed to investigate and where in most jurisdictions a plea would have been encouraged, PDS spent a combined 20 hours of lawyer and investigator time ferreting out the truth – the client was innocent.²⁵

In its everyday work, the Trial Division is the front-line protection against unequal justice and wrongful convictions that cost the government millions of dollars, cause irreparable harm to clients, and undermine the public's confidence in the criminal justice system. PDS's request of \$462,000 will bring the Trial Division back to full strength, ensuring PDS's ability to continue its vital role in the criminal justice system.

Community Defender Division

Institutional Services Program – One new position – \$92,000

PDS requests funds for one Institutional Services Program attorney position to represent individuals serving District of Columbia Code-based sentences in Federal Bureau of Prisons (BOP) facilities at parole release hearings. Because the vast majority of these individuals do not currently have representation, this position will provide a service in high demand and help reduce over-incarceration in the BOP.

PDS requests funds for one position to provide representation to individuals serving sentences imposed pursuant to the District of Columbia Code in Federal Bureau of Prisons (BOP) institutions. These inmates, who have been placed in various facilities throughout the country, often far from the District, receive little to no legal representation for hearings before the U.S. Parole Commission (USPC) that could result in their release from prison.²⁶ PDS would use the funding to increase the number of Institutional Services Program (ISP) attorneys from two to three in order to increase the number of BOP inmates serving District of Columbia Code parole-based sentences whom PDS can assist.

In FY 2012, the USPC held 255 parole release hearings²⁷ for BOP inmates who were sentenced in the District of Columbia Superior Court. Depending upon the availability of staff resources,

²⁵ Notably, PDS did not need to pay for outside translator services for this case because it has hired a significant number of bilingual employees and has nine languages represented on staff with many staff who are bilingual in English and Spanish.

²⁶ One District of Columbia non-profit civil legal services group, the Prisoners' Rights Project of the Washington Lawyers' Committee for Civil Rights and Urban Affairs, has trained a small number of pro bono lawyers from local law firms to represent individuals at parole release hearings. For the first eight months of 2013, the Committee, which does not itself provide this representation, received 42 requests for assistance and found attorneys to fulfill 17.

²⁷ The District of Columbia changed its sentencing structure in 2000. Individuals convicted of offenses committed before then still receive sentences that make them eligible for release on parole. Individuals convicted of offenses committed after 2000 receive a determinate prison sentence followed by a term of supervised release. The reported number of hearings includes subsequent hearings for those whose initial efforts to obtain release on parole may have been unsuccessful. In addition, inmates who are incarcerated with indeterminate sentences under the

the ISP attorneys in PDS's Community Defender Division have represented as few as one and as many as ten residents in parole release hearings in any given year over the past five years. PDS provided representation in only one parole release hearing during FY 2013 because the two ISP attorneys' regular workload left little time for this time-consuming representation, which usually involves out-of-town travel. Nevertheless, the demand for legal representation in parole release hearings is great.

When PDS began providing this representation on a limited basis and the inmates became aware of this service, the number of requests began to grow and continued growing. PDS could not – and cannot – accommodate all the requests because of staffing and geographical limitations. Of the nearly 8,000 individuals serving District of Columbia Code sentences in BOP institutions across the country,²⁸ hundreds of them could benefit from PDS's assistance. Currently, because ISP has only two attorneys, both of whom provide other core legal services to the District of Columbia population in the BOP (for example, consultation on sentence computation issues, representation at disciplinary hearings, advice on access to services, counsel on pre-release preparation, and other issues related to the conditions of their confinement), PDS geographically limits the parole release representation it provides to those who are housed in ten of the 34 states in which those serving District sentences are located. Most of these facilities are within a 500-mile radius of the city.

For individuals serving District of Columbia Code parole-based sentences and housed in BOP facilities all across the nation, the first step in the release process involves a parole determination hearing. These hearings provide the individual with the opportunity to persuade a USPC hearing examiner to make a recommendation of release to community supervision. Having the assistance of an attorney will allow the inmates to make the most persuasive case and increase the chances of obtaining a favorable recommendation. Where PDS has provided representation, the hearing examiner has recommended release in approximately 80 percent of cases, and more often than not, the USPC has followed the hearing examiner's recommendation. In other cases, the hearing examiner has recommended an advance or reduction of the time before the individual's next parole eligibility date – another advantageous outcome. Many of the people PDS represented had been before a hearing examiner multiple times without success; PDS's involvement, however, changed the result.

These inmates need more access to representation, and PDS is the optimal organization to provide it. Funding for one additional attorney position would not only enhance PDS's ability to achieve the goal of improving access to legal services for these individuals whose liberty is at stake and who cannot afford an attorney; significantly, it would also reduce unproductive and unnecessary incarceration while maintaining public safety.

former sentencing structure can file motions for a “reduction in minimum sentence”; these pleadings can also result in hearings before the Commission.

²⁸ This number reflects the population in FY 2012. See *Evaluation of the Short-Term Intervention for Success (SIS) Policy for Technical Violators*, U.S. Parole Commission, Austin & Johnson, May 2013.

Relocations of Two Satellite Offices with Expiring Leases (\$1,150,000)

PDS's FY 2014 appropriation included \$1,150,000 in relocation expenses for two satellite offices. PDS is still engaged in long-standing negotiations for leases for these offices. The likelihood of successfully concluding the negotiations in time to use the funds for either relocation in FY 2014 is very low. PDS has therefore included the \$1,150,000 in the FY 2015 Budget Justification.

PDS houses three divisions in one satellite office for which the lease expired at the end of September 2013. PDS's Office of Rehabilitation and Development, Civil Legal Services Division, Information Technology Division, and Moot Courtroom/training facility are located in this satellite office. PDS regularly uses the training facility for meetings, for staff training, and for training programs offered to the CJA attorneys, who have continuing legal education requirements. Working with GSA, PDS is negotiating with the current leaseholder (the successful bidder), to negotiate terms for a new lease.

PDS's Mental Health Division began occupying 600 E Street, N.W., in October 2012, in a building under a federal lease. PDS is currently negotiating renewal of this lease, as the space provides MHD attorneys ready access to the Mental Health and Habilitation Branch of the District of Columbia Superior Court, where they represent clients, and it provides easier overall access to clients placed at the various mental health care facilities located throughout the city.

In preparing for these relocations, PDS is not seeking to increase the amount of space used by the organization as a whole.

PROGRAM DESCRIPTION

Legal Services

PDS and private attorneys, both appointed by the District of Columbia courts pursuant to the Plan for Furnishing Representation to Indigents under the District of Columbia Criminal Justice Act (CJA),²⁹ provide constitutionally mandated legal representation to indigent people facing a loss of liberty in the District of Columbia. PDS handles a majority of the most difficult, complex, time-consuming, and resource-intensive criminal cases, while private attorneys (CJA lawyers) handle the majority of the less serious felony, misdemeanor, and regulatory offenses. PDS is a model program applying a holistic approach to representation. PDS uses both general litigation skills and specialty practices to provide complete, quality representation in complex cases. While PDS is a single program, PDS divides its attorneys and professionals into specific functions to promote overall representation in individual cases. PDS staff attorneys are divided into seven practice groups: the Trial Division, the Appellate Division, the Mental Health Division, the Special Litigation Division, the Parole Division, the Civil Legal Services Division, and the Community Defender Division. On a day-to-day basis, the attorneys in the various divisions provide advice and training to each other, and they often form small teams to handle particularly complex cases.

²⁹ D.C. Code §§ 11-2601 – 2608 (2001). D.C. Code § 11-2601 mandates the creation of a plan to furnish representation to indigent defendants that includes provisions for private attorneys, attorneys furnished by PDS, and qualified students participating in clinical programs.

Using this team approach, PDS undertook 13,500 legal matters in FY 2013. As described below, these matters encompassed a wide range of legal representation, including in homicide trials, special education proceedings, parole revocation hearings, disciplinary hearings for detained children and adults, a class action suit on behalf of children in the custody of the District of Columbia, involuntary civil commitment proceedings, and groundbreaking appellate representation.

Trial Division

Staff attorneys in the Trial Division zealously represent adults in criminal proceedings in the District of Columbia Superior Court or provide zealous legal representation to children in delinquency matters. Attorneys are assigned to specific levels of cases based on experience and performance. As a result of intensive supervision and ongoing training, attorneys generally transition over the course of several years from litigating juvenile delinquency matters to litigating the most serious adult offenses. The most seasoned attorneys in the Trial Division handle the most complex and resource-intensive adult cases. For example, senior PDS attorneys routinely handle cases involving DNA evidence, expert testimony, multiple-count indictments, and novel or complex legal matters. This group of highly trained litigators provides representation in the majority of the most serious adult felony cases filed in the District of Columbia Superior Court each year.³⁰

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

Appellate Division

The attorneys in the Appellate Division are primarily responsible for handling the appellate litigation generated in PDS cases, providing legal advice to CJA attorneys in appellate matters, and responding to requests from the District of Columbia Court of Appeals for briefs in non-PDS cases involving novel or complex legal issues. Another important function of the Appellate Division is to provide a wide range of technical assistance and training to other PDS divisions. The Appellate Division attorneys' knowledge and experience allow them to assist in complex cases without having to perform long hours of original research each time difficult legal issues arise. The reliance on this division by the District of Columbia Court of Appeals is demonstrated

³⁰ PDS was assigned to 68 percent of the Felony One cases and to 39 percent of the Accelerated Felony Trial cases in FY 2013. Felony One cases include all homicides, and Accelerated Felony Trial cases include all "while armed" offenses that carry potential life sentences and are to be tried within 100 days after the initial court appearance.

³¹ PDS provides representation in misdemeanor cases on a limited basis. PDS's authorizing statute permits PDS to represent "[p]ersons charged with an offense punishable by imprisonment for a term of 6 months, or more." D.C. Code § 2-1602(a)(1)(A) (1981). Sentences for most misdemeanors in the District of Columbia are for lesser terms.

by the Court's emphatic and repeated requests that PDS expand its staff of appellate specialists to assist the Court in reducing its backlog without compromising on quality.

Mental Health Division

Attorneys in the Mental Health Division (MHD), which was previously located on the grounds of St. Elizabeths Hospital in the District of Columbia, handle, on average, half of the involuntary civil commitment cases that arise in the District of Columbia Superior Court.³² PDS is initially appointed when a person is detained in a mental hospital upon allegations that the person is a danger to himself or others as a result of mental illness. MHD lawyers also represent persons in post-commitment proceedings, including commitment reviews and outpatient revocation hearings; in involuntary commitment proceedings of persons found incompetent to stand trial because of mental illness or mental retardation; and in matters relating to persons found not guilty by reason of insanity in District of Columbia Superior Court or in United States District Court cases. The lawyers in this division also provide information to the District of Columbia Council on proposed mental health and mental retardation legislation, conduct training sessions on the rights of persons with mental illness involved in civil commitment actions, and provide legal assistance to CJA lawyers appointed by the court to handle involuntary civil commitment cases.

Special Litigation Division

The Special Litigation Division (SLD) handles a wide variety of litigation that seeks to vindicate the constitutional rights of PDS clients, to ensure equal justice to all in the District of Columbia courts, and to change unfair systemic criminal justice practices. Examples of such litigation are the *Jerry M.* lawsuit brought on behalf of the children committed to the care of the District of Columbia following delinquency proceedings and the *Brown v. District of Columbia, et al.* lawsuit filed in FY 2013 on behalf of all those who have had cars seized by the police without being provided due process. SLD attorneys also support PDS trial lawyers in the litigation of systemic criminal justice issues, including eyewitness identification issues, forensic science issues, and issues pertaining to the suppression of exculpatory information by the government, as well as handle post-conviction innocence cases. SLD attorneys have appeared before all the major courts in the District of Columbia – the Superior Court and the Court of Appeals in the local system, and the District Court for the District of Columbia, the Court of Appeals for the District of Columbia Circuit, and the Supreme Court in the federal system.

Parole Division

The Parole Division provides legal representation to individuals who are facing the revocation of their parole or supervised release. PDS represents more than 95 percent of the individuals facing revocation proceedings. The attorneys represent clients at revocation hearings before the U.S. Parole Commission pursuant to local and federal laws. The majority of the revocation hearings are held at local detention facilities; however, through the development of diversion programs, some of the hearings take place at locations in the community. Parole Division attorneys are

³² In FY 2013, PDS was appointed to 42 percent of the involuntary commitment cases filed in the District of Columbia.

available daily for in-person, telephone, or written inquiries, offering assistance and referrals when appropriate.

In addition, the division provides training to members of the District of Columbia Bar, members of the Federal Bar, and law students from throughout the United States on parole and supervised release matters. The division also works in collaboration with community organizations; local, state, and federal paroling authorities; and experts who serve as advocates for incentive-based sanctions that are fair and designed to yield successful outcomes for individuals on parole and supervised release.

Civil Legal Services Division

The Civil Legal Services Division (CLS) provides services to address issues facing children in the delinquency system that often hinder their successful reintegration into the community. CLS has a team of special education attorneys expert in advocacy under the federal Individuals with Disabilities Education Improvement Act (IDEIA), which mandates special accommodations in public schools for children who cannot be adequately educated in a traditional classroom setting due to learning disabilities or other physical or intellectual challenges. In addition, CLS includes attorneys who address other rehabilitative needs of these children and the needs of adult clients by providing representation in civil matters arising out of their criminal charges – civil matters such as those related to housing, child support, and other family court matters. CLS also provides expert consultation for attorneys with clients in the criminal justice system who face immigration consequences as a result of their contact with the criminal justice system.³³

Community Defender Division

The Community Defender Division provides services through three programs: 1) the Juvenile Services Program represents children at institutional disciplinary hearings at the District's youth detention centers and works with community organizations to develop reentry programs that address the special needs of children; 2) the Institutional Services Program serves as the PDS liaison to individuals convicted of District of Columbia Code offenses and serving sentences in Federal Bureau of Prisons facilities, to provide information to assist these individuals, monitor their conditions of incarceration, and assist them on parole and other release-related matters; and 3) the Community Reentry Program responds to the legal and social services needs of newly released individuals, assisting them in making a successful transition back into the community; the program gives special consideration to returning individuals who are not served by the Court Services and Offender Supervision Agency.

³³ Locally in the District of Columbia, defense attorneys have long had an obligation to advise their clients of the possible immigration consequences of their decisions concerning plea offers. See *Goodall v. United States*, 759 A.2d 1077, 1083 (D.C. 2000). In FY 2010, the U.S. Supreme Court in *Padilla v. Kentucky*, 559 U.S. 356 (2010), applied for the first time the ineffective assistance of counsel standard in *Strickland v. Washington*, 466 U.S. 668 (1984), to a lawyer's failure to advise a client about a consequence of a conviction where the consequence is not part of the sentence imposed by the court. PDS's model approach to criminal defense and its previously developed expertise in collateral consequences of criminal convictions have made PDS staff much sought-after speakers, and PDS materials on this subject have been widely distributed.

Legal Support Services

Legal Support Services is composed of various professionals within PDS who work closely with attorneys on individual cases: the Investigations Division, the Office of Rehabilitation and Development (ORD), and the Defender Services Office (DSO). Investigators ensure that each case is carefully investigated prior to a client's decision to accept a plea offer or proceed to trial.³⁴ ORD's forensic social workers provide presentencing assistance to address mitigation issues and to provide program alternatives for appropriate clients.³⁵ Other legal support services include a multi-lingual language specialist to facilitate communication with non-English speaking clients without the need to hire outside translators, a librarian to manage PDS's specialized collection and electronic access to research, a forensic scientist whose work and expertise often allow PDS to avoid hiring expensive outside experts or reduce their cost by narrowing the scope of their work, and two paralegals who work on cases and projects.³⁶

Investigations Division

The Investigations Division supports all the legal divisions of PDS, in particular the Trial Division, by providing thorough and professional investigative work, which includes locating witnesses, conducting field interviews, taking written statements, collecting and assessing digital evidence (e.g., security camera footage, cellphone records, Global Positioning System records, "Shot Spotter" (gunshots) technology), serving subpoenas, collecting police reports, copying court and administrative files, and preparing exhibits for trials and other hearings. In addition to producing exceptional investigation in PDS cases, the staff conducts initial and ongoing training to court-certified CJA investigators who provide investigation services to the CJA attorneys.

Office of Rehabilitation and Development

The Office of Rehabilitation and Development (ORD) is composed of experienced licensed forensic social workers and professional counselors who assist in recommending appropriate sentences to the District of Columbia Superior Court. The ORD staff are skilled "mitigation specialists" who often directly address the court at sentencing to provide the court with information about viable alternatives to incarceration such as community-based, rehabilitative treatment. Because the ORD staff are well-versed in all of the District of Columbia area rehabilitative programs (e.g., drug treatment, job training, education programs, and parenting classes), the forensic social workers are frequently asked to provide consultation for judges, CJA lawyers, and others in the criminal justice system. In addition to their invaluable advocacy work,

³⁴ See e.g., *Kimmelman v. Morrison*, 477 U.S. 365 (1986) (failure to investigate and present Fourth Amendment claim was constitutionally ineffective assistance of counsel).

³⁵ See *Wiggins v. Smith*, 539 U.S. 510 (2003) (decision of counsel not to expand their investigation of petitioner's life history for mitigating evidence beyond presentence investigation report and department of social services records fell short of prevailing professional standards).

³⁶ As stated above, PDS operates as a single program, allowing it to shift resources between specialties as needed. In addition to the five legal support staff noted, PDS has 11 forensic social workers and 32 investigators supporting the lawyers in their casework and 15 administrative assistants supporting the 157 lawyers and professional staff who provide direct client services.

the staff of ORD prepare a comprehensive annual *Directory of Adult Services: Community and Confinement Access Guide* and a biennial *Directory of Youth & Families Resource Guide: Community and Confinement Access Guide* that list a wide range of services available to adults and children in the criminal justice system. These directories, available on the PDS website,³⁷ are used by the Court Services and Offender Supervision Agency, the Federal Bureau of Prisons and its contract prisons, the District of Columbia Superior Court, and many other agencies and organizations working with clients in the criminal justice system. The District's Criminal Justice Coordinating Council (CJCC) has used the adult manual to create and post on the CJCC's website an interactive, electronic map with a "pop-up" feature that allows website visitors to see the location of all the services described in the manual.³⁸

Defender Services Office

The Defender Services Office (DSO) supports the court appointment of counsel system by determining the eligibility for court-appointed counsel of virtually every child and adult arrested in the District of Columbia and coordinating the availability of CJA attorneys, law school clinic students, pro bono attorneys, and PDS attorneys for appointment to new cases on a daily basis.³⁹ The DSO operates six days a week, including holidays. PDS attorneys work a similar schedule to be available for client representation and other needs of the court system.

Administrative Support

PDS has a number of divisions that provide technical assistance to PDS staff. Though small, these divisions support the overall effective functioning of PDS using both internal expertise and outside contracts for short-term selective expertise. These divisions include Budget and Finance, Human Resources, Information Technology, and Administrative Services.⁴⁰ In concert with individual attorneys and the PDS executive staff, these divisions provide such services as: procurement of expert services for individual cases, financial accountability,⁴¹ strategies for developing PDS's human capital and wellness, recruitment, development of an electronic case management system, maintenance of PDS's IT infrastructure, and copying and supply services.

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

³⁷ <http://www.pdsdc.org/Publications/Publications.aspx>. PDS's website can be found at www.pdsdc.org.

³⁸ <http://www.cjccresourcelocator.net/ResourceLocator/ResourceLocatorHome.aspx>.

³⁹ This office is currently staffed with 12 professionals who in FY 2013, conducted eligibility interviews and assisted in the appointment process for nearly 28,000 cases.

⁴⁰ These four divisions are currently staffed with 27 professionals.

⁴¹ While a clean audit is an expectation and not an accomplishment for PDS's Budget and Finance Division, it is worthy of note that PDS continues to receive clean financial audits.

PDS ACCOMPLISHMENTS

PDS continues to maintain its longstanding tradition of providing exceptional representation to clients and helping to ensure that case outcomes are not driven by an individual's ability to pay for an attorney. Most recently, the exceptional quality of the advocacy of PDS's staff was recognized in several instances:

- by the National Legal Aid and Defender Association's selection of PDS's Special Litigation Chief as one of the two 2013 recipients of the Kutak-Dodds Prize. This prestigious national award is made annually to honor the accomplishments of public defenders, civil legal aid attorneys, assigned counsel, or public interest lawyers who, through the practice of law have contributed in a significant way to the enhancement of human dignity and the quality of life of those persons who are unable to afford legal representation;
- by the appointment of a former PDS attorney and then-judge on the U.S. District Court for the District of Columbia for elevation to the U.S. District Court of Appeals for the District of Columbia Circuit, widely regarded as the second most powerful court in the United States. This marks the first time a former PDS attorney has ever served on a federal court of appeals; and
- by an unprecedented 13 former PDS attorneys who were appointed as judicial officers during FY 2011 and FY 2012.

PDS's skills have also been recognized over time

- by requests from the public defender organizations in California, Kentucky, Mississippi, Missouri, Virginia, and New York for PDS attorneys to present training involving forensic science;
- by reliance of every court in the District of Columbia, including the U.S. Supreme Court, on PDS *amicus* filings;
- by a request from the U.S. Supreme Court for a PDS attorney to brief and argue one of its matters;
- by requests from defender offices around the country for assistance and for pleadings, training guides, and other materials developed by PDS's specialty practice groups;
- by the hundreds of applications PDS receives each year from talented individuals seeking to become PDS staff attorneys, law clerks, and interns;
- by awards received by both PDS and its staff from various bar and defense organizations; and
- by the consistently high ratings District of Columbia trial and appellate judges gave PDS when surveyed about the quality of legal representation PDS provides.

Performance

PDS has steadily improved its capacity to collect, analyze, and report performance data over the years. PDS expects to have even more capacity for these tasks now that its upgraded case management system, "Atticus," has "gone live." With supportive funding, PDS has invested

significant staff and financial resources into re-constructing Atticus, which now also functions as a data warehouse.⁴²

PDS believes it is also important to obtain performance data beyond what the upgraded Atticus system will provide. Such data offers PDS information not otherwise obtainable that will help PDS identify more targeted areas for improved performance. PDS has therefore taken surveys of District of Columbia Court of Appeals and Superior Court judges, of CJA attorneys, of PDS staff, and of PDS clients. PDS has also pressed the District of Columbia Superior Court to provide electronic access to its case data for two purposes: so that PDS can make use of PDS case data for PDS's upgraded case management system does not maintain and so that PDS can make comparisons of its performance with that of the CJA Bar. While the Court has permitted limited access for PDS's own cases, the Court has to date resisted making public, non-PDS case data available.

Because of the former Atticus's limitations, PDS has previously reported or tracked only certain measures of the performance of its Trial, Appellate, Parole, and Mental Health Divisions, choosing specific measures that inform PDS about key aspects of the divisions' performance. Now that the upgraded version of Atticus is available, PDS will be able to expand the number and type of these measures for which data will be collected and provided in future budget submissions. For now, PDS reports the following outcomes and performance data.

Trial Division

In FY 2013, PDS conducted its third survey of the District of Columbia Superior Court judges who had criminal or juvenile delinquency assignments during the preceding year. The new survey results are consistent with – and even slightly better overall – than those of the first and second surveys, which were conducted in FY 2004 and FY 2008 and which showed that the judges find the Trial Division to be engaging in exceptional advocacy.⁴³ In the FY 2013 survey, 100 percent of those responding agreed that PDS staff “are well prepared to defend their clients.” One hundred percent also agreed that PDS staff “are skillful in oral and written advocacy,” an improvement over the 97.7 percent recorded in FY 2004. Comments from responding judges include, “I have a very high regard for PDS and its lawyers,” “overall, the quality is extremely high,” “they provide high-quality legal presentation,” and “many of your attorneys are exceptional.”

⁴² See Leveraging Technology below at 27.

⁴³ The results reflect primarily, but not only, the performance of the Trial Division, since the survey asks for the judges' views on PDS staff, not just on PDS attorneys. The judges can observe the performance of PDS investigators and social workers, who occasionally appear in court and whose written materials the judges sometimes review.

PDS FY 2008 and FY 2013 Judicial Surveys – Superior Court for the District of Columbia

Statement	Percentage of Responding Superior Court Judges Who Agree With Statement	
	FY 2008	FY 2013
PDS staff provide and promote quality legal representation to indigent adults and children facing a loss of liberty.	100%	100%
PDS staff are zealous advocates for their clients.	100%	100%
PDS staff are well prepared to defend their clients.	100%	100%
PDS staff adhere to ethical standards when representing their clients.	89.3%	100%
PDS staff are timely in following court/administrative procedures.	93.1%	100%
PDS staff are current with the latest legal principles.	100%	100%
PDS staff are skillful in dealing with witnesses.	100%	94.1%
PDS staff are skillful in oral advocacy.	100%	100%
PDS staff are skillful in their written advocacy.	100%	100%
PDS’s working relationship with us is professional and respectful.	89.7%	100%

More specific to case outcomes, PDS won acquittals on all charges in 51 percent of the cases that have proceeded to trial in FY 2012 and FY 2013, and defeated the most serious charges in another four percent.⁴⁴ PDS has not been given access to the Court’s data that would allow PDS to compare its performance against that of the rest of the defense bar. However, a recent study of a similarly situated defender office revealed that “[c]ompared to private appointed counsel, public defenders reduce the murder conviction rate by 19%.⁴⁵ Of equal significance, the study revealed that the institutional defender “reduced overall expected time served in prison by 24%.⁴⁶ PDS was the first institutional defender organization in the United States to employ full-time mitigation specialists. If and when it can secure access to the required data, PDS is confident it can demonstrate that the work of the Trial Division combined with the expertise of

⁴⁴ The recently upgraded Atticus case management system enables PDS to collect more data about case outcomes more accurately and more efficiently. As the case data set grows, PDS will be able to identify and describe significant trends rather than report outcome measures that may vary greatly from year to year because of the small annual number of events analyzed.

⁴⁵ See Measuring the Effect of Defense Counsel on Homicide Case Outcomes, Award number 2009-IJ-CX-0013, Anderson & Heaton, December 2012; <https://www.ncjrs.gov/pdffiles1/nij/grants/241159.pdf>.

⁴⁶ *Id.*

the forensic social workers in PDS’s Office of Rehabilitation and Development substantially reduces the expected time served in prison by District of Columbia defendants, saving considerable taxpayer resources and easing overcrowding in the prisons.

In addition to surveys and case outcome data, PDS has tracked an annual measure of the percentage of clients visited within 48 hours of appointment. While PDS’s performance has declined slightly during the last two fiscal years, PDS still strives to meet the goal of 100 percent. PDS’s actual performance and fiscal year targets are as follows:

Percentage of Cases in Which Attorney Consulted with Client within 48 Hours

	Target	Actual
FY 2010	93%	92%
FY 2011	100%	95.5%
FY 2012	100%	94.34%
FY 2013	100%	93.90%
FY 2014	100%	N/A

After FY 2004, when PDS established a baseline for the pretrial restraint measure reflected in the chart below, the numbers of individuals represented by PDS who are charged with detainable offenses increased due to a change in the law;⁴⁷ many of those individuals are typically held in detention pending trial due to the seriousness of the charged offense. Notwithstanding that increase, PDS achieved a reduction in some form of pretrial restraint in 48 percent of its cases. Although PDS consistently misses its 99 percent target, with FY 2013 being no exception, the goal nonetheless remains seeking release for any client who wants it. PDS’s actual performance and fiscal year targets are as follows:

⁴⁷ The District of Columbia Council lowered the standard the government must meet to justify pretrial detention without bond of those charged with certain offenses (lowering it from substantial probability to probable cause – i.e., more likely than not – that the person has committed the charged offense), making it easier for prosecutors to persuade the court to order such detention.

Percentage of Cases in Which Reduction in Pretrial Restraint Was Obtained

	Target⁴⁸	Actual
FY 2010	67%	59% 66.5% within first 21 days after initial hearing
FY 2011	99%	53.2% 60% within first 21 days after initial hearing
FY 2012	99%	53% 60% within first 21 days after initial hearing
FY2013	99%	48% 59.1% within first 21 days after initial hearing
FY2014	99%	N/A

While PDS is pleased to provide the above data to demonstrate the performance of the Trial Division, so many aspects of this division’s work cannot be fully captured by performance data alone. PDS has provided many examples over the years where the work of the Trial Division has led to systemic reform, exonerations, and legislative reform. An example from FY 2013 is a homicide case in which an eighteen-year-old PDS client was charged with second degree murder. If not for PDS, the case would have proceeded to trial with a high probability of conviction because the government had multiple witnesses who identified PDS’s client as the perpetrator of the offense. Instead, after hours of investigation located critical videotapes, additional witnesses, and telling phone and Instagram records, and after careful consultations with outside experts, PDS presented all the evidence its lawyers, experts, and investigators had uncovered to the government. Although PDS and the United States Attorney’s Office for the District of Columbia (USAO) are usually vigorous opponents in the adversary system, in this instance the parties met and shared information, and PDS ultimately convinced the USAO to dismiss the case, setting free an innocent man and saving taxpayers the cost of a lengthy trial. In FY 2013, PDS had an additional 45 cases dismissed.

Appellate Division

PDS’s third judicial survey also sought the views of the District of Columbia Court of Appeals judges. The survey results for the Appellate Division attorneys mirror those for the Trial

⁴⁸ Starting in FY 2011, PDS revised its performance targets for both measures to reflect that PDS’s goal is to visit all clients within 48 hours of appointment and that virtually all clients desire to be released. Achieving the first target is less subject to third-party influence, but the combination of prosecutorial charging decisions and release arguments, detention laws, and the disproportionate number of serious cases PDS handles makes the second target essentially unattainable. PDS’s ultimate goal for the second target, reduction in pretrial restraint, is to seek its clients’ objectives (usually pretrial release), even when the likelihood of achieving them is small.

Division: the appellate judges find the Appellate Division to be a high performing group. As one judge commented, “the general quality of the PDS attorneys appearing before the Court of Appeals is very high indeed.”

PDS FY 2008 and FY 2013 Judicial Surveys – District of Columbia Court of Appeals

Statement	Percentage of Responding Court of Appeals Judges Who Agree With Statement	
	FY 2008	FY 2013
PDS staff provide and promote quality legal representation to indigent adults and children facing a loss of liberty.	100%	100%
PDS staff are zealous advocates for their clients.	100%	100%
PDS staff are well prepared to defend their clients.	100%	100%
PDS staff adhere to ethical standards when representing their clients.	100%	100%
PDS staff are timely in following court/administrative procedures.	100%	85.7%
PDS staff are current with the latest legal principles.	69.2%	100%
PDS staff are skillful in dealing with witnesses.	100%	100%
PDS staff are skillful in oral advocacy.	100%	100%
PDS staff are skillful in their written advocacy.	100%	100%
PDS’s working relationship with us is professional and respectful.	100%	100%

PDS secures reversals at the appellate level at a rate eight times higher than that of the rest of the defense bar (33 percent versus four percent).⁴⁹ Between FY 2010 and FY 2012, PDS reduced the amount of time between the Court’s issuance of the notice to file and the filing of a brief by 17 percent and has reduced the case backlog by 67 percent. PDS’s goal is to eliminate the backlog and reduce the time between the Court’s issuance of the notice to file and the filing of a brief by more than half to just 40 days over the next five years without adversely impacting quality.

A sample of PDS victories underlying the data in FY 2013 demonstrate how PDS’s Appellate Division is essential to the goals of ensuring fair trials and equal justice, and avoiding wrongful convictions and over-incarceration.

In *Kittle v. United States*,⁵⁰ the Court reversed the client’s conviction because, notwithstanding the common-law rule that jurors may not impeach their verdicts, the fundamental importance of the right to an impartial jury requires that judges have discretion to inquire into a juror’s post-

⁴⁹ These figures reflect results in published opinions from calendar years 2005 through 2013.

⁵⁰ www.dccourts.gov/internet/documents/09-CF-1586.pdf.

verdict allegation of racial or ethnic bias expressed during deliberations. In *Fortune v. United States*,⁵¹ the Court reversed a client's conviction because the trial court improperly coerced a verdict by telling the jurors they would be deliberating indefinitely in response to their note saying they could not reach a unanimous verdict. In *Dorsey v. United States*,⁵² the Court reversed the client's conviction because the trial court erroneously admitted a statement from the client after he had been badgered repeatedly by District of Columbia police detectives despite invoking his right to remain silent until he had consulted with counsel in violation of *Edwards v. Arizona*.⁵³ And in *Young v. United States*,⁵⁴ the Court reversed the client's conviction leading to a 27-year sentence for drug distribution on the grounds that the non-PDS trial attorney provided ineffective assistance of counsel in failing to consult with a narcotics expert before trial and present expert testimony at trial that would have discredited the government's key witness.

The Appellate Division continues at the vanguard of criminal justice in the District of Columbia by providing exemplary representation of individual clients, advancing the development of the law, and training the bench and bar.

Parole Division

The Parole Division consistently obtains parole revocation sanctions for clients that are below the U.S. Parole Commission (USPC) guidelines. The Parole Division is the sole source of representation for more than 95 percent of parolees and supervised releasees facing revocation proceedings. The division's lawyers practice before the USPC, which continues to use guidelines to determine the period of incarceration in the event of a revocation – guidelines that its own experts have identified as outdated and likely to result in over-incarceration. As the Short-term Intervention for Success (SIS) pilot program described below has demonstrated, far shorter sentences can be employed in the face of violations without impacting public safety and at considerable cost savings. PDS represents approximately 1,500 clients annually who are facing revocation. Of those clients, approximately 30 percent proceed to a final revocation hearing. The other 70 percent accept either expedited plea offers or incarceration combined with drug treatment, are selected to participate in the SIS program, or are convicted of a new offense and therefore have their cases handled in another jurisdiction, according to USPC rules. Revocation hearings are conducted before hearing examiners employed by the USPC, and their decisions are reviewed by U.S. Parole Commissioners. In FY 2013, PDS won reinstatement and release in 35 percent of these contested hearings and secured reduced sentences (sentences below the guidelines) in another 29 percent of these cases. Thus, PDS advocacy reduced the over-incarceration of its clients in 64 percent of the contested hearings.

One of the Parole Division's FY 2013 cases illustrates how effective representation produces just results for clients and cost-saving outcomes by reducing over-incarceration and promoting reentry. Mr. F. is a client with a hearing impairment whose Court Services and Offender Supervision Agency (CSOSA) court supervision officer (CSO) requested a warrant for his arrest less than a month after he was placed on supervised release. The CSO requested the warrant

⁵¹ www.dccourts.gov/internet/documents/09-CF-780.pdf.

⁵² www.dccourts.gov/internet/documents/06-CF-1099_mtd.pdf.

⁵³ 451 U.S. 477 (1981).

⁵⁴ www.dccourts.gov/internet/documents/10-CF-1001.pdf.

based on the sole allegation that Mr. F. failed to report for supervision because she could not find him at the shelter where he was supposed to be staying. At the time she requested the warrant, the CSO knew that Mr. F. was hearing impaired and had no family in the area. Mr. F. was arrested several months after the warrant was issued, and PDS entered its appearance on his behalf and obtained an interpreter for him. Although the USPC found after a hearing that Mr. F. had violated his release conditions, PDS successfully argued that CSOSA had failed to make the appropriate accommodations for him, and the USPC decided not to revoke his supervised release status. Upon Mr. F.'s release, PDS's Office of Rehabilitation and Development staff, with the help of PDS interns who also have hearing impairments, accompanied Mr. F. to meet his new CSO, gave the CSO notice of Mr. F.'s need for a certified interpreter for his scheduled office visits and for any communication about the conditions and terms of his supervision, escorted Mr. F. to a new shelter and informed the counselors there of Mr. F.'s hearing impairment, and introduced him to service providers in his community who support people with hearing impairments.

Mental Health Division

PDS's Mental Health Division wins 39 percent of the contested probable cause hearings, or the first hearing in a proceeding to involuntarily commit a person to the District's psychiatric hospital.⁵⁵ These hearings are presided over by an associate judge of the District of Columbia Superior Court. These initial hearings simply determine whether the government meets the low standard of probable cause before it can proceed to the next stage of the civil commitment process. When PDS prevails at these hearings, clients who would otherwise be tying up hospital resources are released, saving taxpayer funds and making the hospital resources available to those most in need. For cases that proceed past the probable cause hearing, the proceeding to determine whether a client is to be involuntarily committed is a commission hearing. These hearings are presided over by a magistrate judge of the District of Columbia Superior Court and two doctors employed by the Court. PDS wins 50 percent of the contested commission hearings. For those clients who are civilly committed, the presumptive release date is one year from the initial commitment. If the District of Columbia Department of Mental Health wants to continue the commitment for an additional year, it must prevail at a recommitment hearing. Like the commission hearings, this hearing is presided over by a magistrate judge of the District of Columbia Superior Court and two doctors employed by the Court. PDS wins 20 percent of the recommitment hearings and mitigates the outcome in 33 percent of these cases by securing outpatient status where the government is seeking inpatient status. The cost of treatment in the community is considerably less expensive than inpatient treatment.

Just as performance data cannot tell the entire story for the Trial Division, it also cannot do so for the Mental Health Division. An example of a cost-saving result short of a contested hearing is Mr. L.'s case. Mr. L.'s mother is a recovering drug addict. Mr. L. had been placed in foster care

⁵⁵ These results are based on data collected from FY 2013. In FY 2012, PDS changed its practice with respect to these initial hearings. This change has led to both a higher percentage of successful outcomes and a higher percentage of cases in which the government discharges the client prior to the hearing. While PDS must now take a slightly smaller case load to accommodate the new practice, the outcomes are much better for clients and provide a cost savings to the system. PDS will be working with the CJA attorneys to promote this change in practice across all cases.

when his mother was unable to care for him. But eventually, Mr. L. went to live with his mother and grandmother. While Mr. L. was living with them, his mother filed a petition for civil commitment against him. The case was headed for a very unpleasant and costly trial. Instead of proceeding to trial, PDS was able to convince the court that this case should be resolved through mediation. Mediation, while commonplace in most civil arenas, was unprecedented in mental health matters in the District. But PDS, consulting with all the parties, persuaded the judge to meet with all the parties to work through a fair settlement. As a result, the case was dismissed short of a lengthy and costly trial, with the family reunited and receiving services in the community identified by the MHD lawyer.

All of the above-described results demonstrate that PDS adds value where it provides representation to clients and illustrate why PDS's performance is respected throughout the District of Columbia justice system.

Leveraging Technology

PDS's Case Management System

Beginning in FY 2009, PDS embarked on a multi-year project to update its case management system, Atticus, to provide greater utility to users, managers, and the executive staff. An internal project management team and an experienced outside consultant engaged by PDS generated the data set of requirements and the recommendation of an updated operating platform; they were reviewed and approved by senior management and used for the contract award process in FY 2010. During FY 2011, PDS completed the design phase of the project on schedule and converted the software platform the system operates on from a no-longer-supported software product to the more current .Net platform. In FY 2012, PDS substantially completed construction of the front-end software system; in FY 2013, PDS completed the balance of construction and conducted system testing; and in January 2014, Atticus became fully and successfully operational. When PDS embarked on Atticus's creation thirteen years ago, PDS did not have the resources to design Atticus to serve as a data warehouse. The upgrade will allow PDS to track, analyze, and evaluate division-specific information and use that information to identify the most effective practices and train and assign staff accordingly. PDS also will use aggregate outcome data from each of its practice areas to more accurately track performance and to compare PDS's performance over time with that of other defender institutions and other defender systems to identify best practices.⁵⁶

System Reform

Although widely known for zealously participating in the adversarial process of the criminal justice system, PDS also works closely with criminal justice agencies and the courts to make the

⁵⁶ PDS cannot yet compare outcomes in its cases to those of the CJA attorneys in the District of Columbia Superior Court because the Court will not provide electronic access to its case processing data. PDS was able to compare outcomes in appellate cases (and did so manually) because the cases are fewer in number, and all the District of Columbia Court of Appeals published and unpublished decisions have been made available through the Court's website since 2005.

justice system function more efficiently and fairly using its experience in individual cases and evidence based approaches.

Short-term Intervention for Success (SIS)

In January 2012, the U.S. Parole Commission (USPC) began a pilot project implementing the cost-effective approach to public safety identified in a 2007 report commissioned by the District's Criminal Justice Coordinating Council. A JFA Institute study assessed the current guidelines structure used by the USPC when determining the period of incarceration a person on parole or supervised release should receive if the person was determined to have violated the conditions of release. The study concluded that the guidelines being used by the USPC had not been validated for the target population and resulted in over-incarceration. The study also concluded that the USPC could use a three-month or shorter period of incarceration and achieve the same public safety benefits as a twelve-month period of incarceration. PDS's Parole Division has been at the forefront advocating that the USPC reform its guidelines consistent with the available research. The USPC instituted the Short-term Intervention for Success (SIS) project, with PDS's Parole Division providing the sole source of representation at these proceedings. As PDS predicted, a study of the pilot program revealed no increase in the number of technical violations by those in the SIS program as compared with a control group, and showed a reduction in the rate of recidivism – 38 percent for the control group and only 27 percent for those participating in SIS.⁵⁷ Fully implemented, it is estimated that this program could save taxpayers more than \$7.5 million.⁵⁸ Simply put, shorter periods of incarceration can be used without increasing the risk to the public and at considerable savings.

Mental Health Sanctions Docket

In FY 2013, the U.S. Parole Commission (USPC) expanded the Mental Health Sanctions Hearing Docket (Mental Health Docket) that began as a pilot project in March 2012. Based on PDS's experience with the District of Columbia Superior Court's Mental Health Court, PDS advocated for a new approach by the USPC, arguing that failing to attend all of the required meetings, mental health treatment, and drug treatment is not indicative of a public safety threat but instead is caused by difficulties faced by people with mental illness in making and remembering appointments. In response, the USPC created the Mental Health Docket. The goal of the Mental Health Docket is to target a specific population whose non-compliant conduct is likely caused by a mental illness. Rather than issue an arrest warrant for a supervisee, the USPC summons the supervisee to a Mental Health Sanction Hearing in the community. At the hearings, an individualized supervision plan is created with the input of the Court Services and Offender Supervision Agency, the District of Columbia Department of Mental Health, and the PDS advocate and approved by the USPC. Results have shown that with this kind of collaborative approach and commitment to helping people who suffer from mental illness comply with supervision, they can be successful in the community. The project has now moved beyond the pilot stage, and the USPC has expanded the hearing calendars to bring in more cases

⁵⁷ See *Evaluation of the Short-Term Intervention for Success (SIS) Policy for Technical Violators*, U.S. Parole Commission, Austin & Johnson, May 2013.

⁵⁸ *Id.*

on each docket. PDS continues to be the sole provider of all the legal representation required to support the Mental Health Docket.

Drug Court Improvements

In FY 2012, PDS, the District of Columbia Pretrial Services Agency, the District of Columbia Superior Court, the United States Attorney's Office for the District of Columbia, and attorneys from the Criminal Justice Act panel worked together to identify and implement changes based on research to improve the District of Columbia Superior Court Drug Intervention Program (SCDIP). Research has demonstrated that Drug Court programs can be effective in reducing criminal recidivism, improving the psycho-social functioning of offenders, and reducing taxpayer costs if the courts employ specific programs targeted to specific populations.

An assessment of SCDIP was completed to determine whether or not the program was employing evidence-based practices. During the fall of 2011, representatives from all of the agencies attended a week of training assessing the current state of the research on Drug Courts. As a result, many changes to the District's program were approved.

A subcommittee that included PDS was formed to implement these changes. These changes are designed to target populations most likely to re-offend without intervention and implement a combination of treatment and sanctions that research has shown produces positive outcomes for this population. As a result, a smaller but more targeted group is now the focus of Drug Court and is a population in which all of the participating agencies will invest more time and resources. PDS continues to aid in the implementation of changes to the program that will increase the likelihood of success for participants and ensure that their due process rights are being upheld. The changes have reduced the number of cases PDS handles in Drug Court but have increased the workload of each case. To manage these workload changes and be more efficient, PDS switched from rotating attorneys to Drug Court and assigned Drug Court duties to a single PDS attorney who handles all Drug Court representation.

The full complement of changed sanctions and incentives is scheduled to be in place in late 2014. The Drug Court program has been collecting data for future research to determine the cost-effectiveness of the program as implemented in the District in the long- and short-term, but the available research suggests this targeted investment will produce both savings and improved results.

Criminal Record Sealing

In response to a request by the District of Columbia Council, PDS worked with the U.S. Attorney's Office for the District of Columbia (USAO) and the District of Columbia Office of the Attorney General (OAG) to draft legislation to expand the District's criminal records sealing law. The first comprehensive record sealing statutory scheme, passed in 2006, contained a number of procedural hurdles and substantive bars to getting before a judge to request discretionary records sealing. PDS worked with the USAO and the OAG to lower the procedural hurdles and eliminate the absolute bars to judicial consideration. Now, more people will be able to request that the court seal records of their arrests that did not result in convictions. After the compromise bill passed the Council unanimously, PDS drafted proposed orders for use by the

judges and trained staff at the USAO and at the District of Columbia Metropolitan Police Department on the changes in the law.

Compassionate Release

PDS assists inmates who are terminally ill but unable to apply to the court for compassionate release. Most terminally ill individuals serving District of Columbia Code-based prison sentences can seek compassionate release from either the District of Columbia Superior Court or the Federal Bureau of Prisons. No statute, however, allowed a terminally ill person serving a determinate misdemeanor sentence to apply for a reduction in sentence. PDS drafted language to close this gap in the law. PDS worked with the USAO and the District of Columbia Department of Corrections to refine the language of the bill to ensure that the interests of clients were protected as the needs of all affected agencies were addressed. The resulting bill was unanimously approved by the District of Columbia Council and signed by the Mayor, and the Act became law in June 2013. The law will not only allow sentenced individuals to die with dignity and in the company of their families but will save taxpayers the unnecessary costs associated with guarding incapacitated inmates in hospital settings.

Systemic Litigation

As a comparatively small institutional defender, PDS has traditionally handled those cases in which it can have the most impact. Historically, that has included the most serious and costly criminal and delinquency cases. But PDS also used those cases to help it identify litigation that can have a larger impact beyond cases handled by individual PDS lawyers. This year, PDS used highly skilled lawyers to target cases involving constitutional violations that affect large numbers of persons and cause both unfairness and inefficiencies in the criminal justice system.

Civil Forfeiture

In FY 2012, PDS's Special Litigation Division (SLD) successfully challenged the constitutionality of the District of Columbia's civil forfeiture scheme in the U.S. District Court for the District of Columbia. PDS won a preliminary injunction declaring aspects of the District's civil forfeiture scheme as likely unconstitutional because the city was seizing and retaining individuals' cars indefinitely without ever providing them a prompt post-seizure hearing at which the person could contest the validity of the seizure and the validity of the continued police retention of the vehicle. The case resulted in the return of the client's car.

In early FY 2013, through informal negotiations with the Office of the Attorney General (OAG), PDS secured the release of approximately fifty vehicles, often to people who needed their cars to get to and from work, school, and medical appointments, and to take care of urgent tasks. However, the practice of civil forfeiture did not change, and the city continued to seize cars in violation of the principles set forth in the U.S. District Court's FY 2012 ruling. As a result, PDS filed a class action lawsuit in May 2013, on behalf of all owners whose vehicles are being unconstitutionally held by the District. At the same time, PDS consulted on legislative efforts to reform the civil forfeiture statute, working with a District of Columbia Councilmember's office on her bill to eliminate the unconstitutional aspects of the District's forfeiture practices.

In the wake of both the class action lawsuit and the proposed legislation, the District of Columbia Council asked PDS to chair a working group to draft consensus comprehensive reform legislation, and the District agreed to work with PDS and other stakeholders to draft legislation that overhauls the civil forfeiture scheme for all types of seized property, including cars, money, and homes. As a result of this process and agreements made in litigating the class action lawsuit, PDS helped to immediately mitigate some of the worst hardships experienced by indigent people whose property was seized, and the city has agreed to return more than 200 cars to their owners. The District has also agreed to a wide variety of temporary reforms that dramatically reduce the number of forfeitures and that make the process fairer; it is likely that new legislation will make permanent a number of reforms that will help thousands of people each year.

Training

In FY 2013, PDS continued its commitment to advancing high quality defense for those who cannot afford to hire their own attorneys. As it has in the past, PDS produced a “Summer Series” on specialty topics over the course of two months for local attorneys;⁵⁹ produced local training for certified CJA investigators; and produced the 49th Annual Deborah T. Creek Criminal Practice Institute Conference.⁶⁰ Annually, PDS lawyers from each of its legal divisions provide more than fifty hours of training for hundreds of non-PDS attorneys representing indigent clients in the District of Columbia.⁶¹

CONCLUSION

The core work of PDS is the representation of individual clients facing a loss of liberty. The examples above all flow from the work done every day by PDS lawyers, investigators, and social workers, and other staff in thousands of matters. The systems for involuntary commitments, parole revocation proceedings, and criminal and juvenile delinquency proceedings are adversarial in nature, and PDS has able adversaries in the District’s Attorney General’s Office and the United States Attorney’s Office for the District of Columbia. A fair justice system depends on having all components (judges, prosecution, and defense) fulfill their respective roles. PDS plays a pivotal 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, in FY 2013, PDS won many trials, fought a forceful fight in others, and found resolution prior to trial for many clients. Whatever the outcome or type of case, PDS’s goal for each client was competent, quality representation. Adequate financial

⁵⁹ In FY 2013, the Summer Series received an average rating of 4.6 on a five-point scale. The lowest rating for a single session was 4.4, and the highest was 5.

⁶⁰ Due to budget constraints PDS did not present its annual forensic science conference and instead covered the critical topics in this arena at this year’s Deborah T. Creek Criminal Practice Institute Conference.

⁶¹ In addition, PDS staff attorneys, forensic social workers, and investigators are routinely asked to be presenters at training sponsored by the District of Columbia courts, the District of Columbia Bar, and various defender organizations locally and nationally. Through these programs, PDS provides assistance to local counsel and to defender offices around the country, most recently in Mississippi, Missouri, Virginia, New York, and Florida.

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, and to avoid costly wrongful convictions.

BUDGET DISPLAYS

PUBLIC DEFENDER SERVICE FOR THE DISTRICT OF COLUMBIA

FY 2015 Summary of Changes

	FTE	Amount (\$ in 000s)
FY 2014 Enacted	218	40,607
Adjustments to Base:		
Less Non-Recurring Expense.....	-	
Moving Expenses.....	-	(1,150)
Add - New Positions	6	554
Pay Raises	-	221
General Pricing Level Adjustments.....	-	104
Efficiency Savings.....	-	(255)
Total, Adjustments.....		(526)
FY 2015 BASE.....	224	40,081
PROGRAM CHANGES:		
Non-Recurring Expenses		
Moving Expenses	-	1,150
TOTAL, Program Changes	-	1,150
FY 2015 REQUEST.....	224	41,231

FY 2015 Salaries and Expenses
Summary of Requirements by Grade and Object Class
(\$ in 000s)

Grades:	2013 Sequestration level		2014 Enacted		FY 2015 Budget Request	
	FTE	Amount	FTE	Amount	FTE	Amount
ES	3	466	3	473	3	473
AD-15	16	2,317	16	2,310	16	2,369
AD-14	67	8,258	75	9,291	67	8,342
AD-13	31	3,128	36	4,152	32	3,530
AD-12	27	2,177	27	2,198	27	2,504
AD-11	20	1,342	19	1,506	35	2,505
AD-10	1	57	2	120	1	59
AD-09	14	812	16	978	14	833
AD-08	4	189	4	211	4	194
AD-07	20	907	16	728	19	931
AD-06	3	129	2	91	3	131
AD-05	3	118	2	78	3	121
AD-04	-	-	-	-	-	-
Total Appropriated Positions	209	19,900	218	22,136	224	21,992
EX/ES FTE		3		3		3
GS FTE		206		215		221
Average EX/ES Salary		155		158		158
Average AD Salary		94		100		97
Average AD Grade		13		13		13
Object Class						
11.1 Full Time Permanent	209	19,900	218	22,136	224	21,992
11.5 Other Pers.Comp.		270		270		280
11.8 Special Pers. Services		460		900		900
12.0 Benefits		5,833		6,339		6,993
13.0 Unemployment Comp.		100		100		100
Personnel Costs	209	26,563	218	29,745	224	30,265
21.0 Travel & Training		247		368		297
22.0 Transportation of Things		8		10		10
23.1 Rental Payments to GSA		2,652		2,773		2,837
23.2 Rental Pmts.to Others, & Misc.		970		917		969
23.3 Comm., Utilities & Misc.		405		468		480
24.0 Printing and Reproduction		51		102		98
25.1 Consulting Services		791		953		980
25.2 Other Services		1,675		1,476		1,528
25.3 Purch.from Gov't Accts.		982		1,075		1,099
25.4 Maintenance of Facilities		50		124		115
25.7 Maint. of Equipment		275		325		323
26.0 Supplies and Materials		444		533		548
31.0 Furniture and Equipment		180		588		532
32.0 Buildout		-		-		-
Non-Personnel Costs		8,730		9,712		9,816
TOTAL						
31.0 Non recurring Expense - Moving Expenses	209	35,293	218	39,457	224	40,081
		-		1,150		1,150
Grand Total		35,293		40,607		41,231
OUTLAYS		31,764		36,546		37,108

APPROPRIATION LANGUAGE

Public Defender Service for the District of Columbia

Appropriation Language Fiscal Year 2015

For salaries and expenses, including the transfer and hire of motor vehicles, of the District of Columbia Public Defender Service, as authorized by the National Capital Revitalization and Self-Government Improvement Act of 1997, [\$40,607,000] **\$41,231,000: Provided**, That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of Federal agencies.

[Authority to Accept Voluntary and Uncompensated Services]

Provided further, That notwithstanding section 1342 of title 31, United States Code, for this and successive years, and in addition to the authority provided by District of Columbia Code Section 2-1607(b) upon approval of the Board of Trustees, the District of Columbia Public Defender Service may accept and use voluntary and uncompensated (gratuitous) services for the purpose of aiding or facilitating the work of the District of Columbia Public Defender Service.

[Change Board of Trustees Members' Status to Employees]

Provided further, That notwithstanding District of Columbia Code Section 2-1603(d), for this and successive years, for the purposes of any action brought against the Board of Trustees of the District of Columbia Public Defender Service, the trustees shall be deemed to be employees of the District of Columbia Public Defender Service.

ORGANIZATION CHART

