



# Balestra, Harr & Scherer, CPAs, Inc.

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PUBLIC DEFENDER CORPORATION  
FOR THE TWENTY-THIRD JUDICIAL CIRCUIT  
A COMPONENT UNIT OF THE STATE OF WEST VIRGINIA

FINANCIAL STATEMENTS  
WITH ADDITIONAL INFORMATION

For the Years Ended June 30, 2012 and 2011  
Fiscal Years Audited Under GAGAS: 2012 and 2011

PUBLIC DEFENDER CORPORATION  
FOR THE TWENTY-THIRD JUDICIAL CIRCUIT  
YEARS ENDED JUNE 30, 2012 AND 2011

TABLE OF CONTENTS

<u>TITLE</u>	<u>PAGE</u>
Independent Auditor’s Report .....	1-2
Management’s Discussion and Analysis .....	3-5
Financial Statements:	
Statements of Net Assets .....	6
Statements of Revenues, Expenses, and Changes in Net Assets .....	7
Statements of Cash Flows .....	8
Notes to the Financial Statements .....	9 – 17
 ADDITIONAL INFORMATION	
Independent Auditor’s Report on Additional Information.....	18
Schedule of Budget to Actual Expenses – Cash Basis.....	19
Report on Internal Control over Financial Reporting and on Compliance and Other Matters Required by <i>Government Auditing Standards</i> .....	20 – 21
Schedule of Findings .....	22
Schedule of Prior Audit Findings .....	23



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## INDEPENDENT AUDITOR'S REPORT

Honorable Members of the Board  
Public Defender Corporation  
Twenty-Third Judicial Circuit  
Martinsburg, West Virginia

We have audited the basic financial statements of the Public Defender Corporation for the Twenty-Third Judicial Circuit (the "Corporation"), a component unit of the State of West Virginia as of and for the years ended June 30, 2012 and 2011, as listed in the table of contents. These financial statements are the responsibility of the Corporation's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in the Comptroller General of the United States' *Government Auditing Standards*. Those standards require that we plan and perform the audit to reasonably assure whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and the significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Corporation as of June 30, 2012 and 2011, and the respective changes in financial position and cash flows thereof for the years then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued our report dated October 8, 2012, on our consideration of the Corporation's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts, grant agreements and other matters. While we did not opine on the internal control over financial reporting or on compliance, that report describes the scope of our testing of internal control over financial reporting and compliance and the results of that testing. That report is an integral part of an audit performed in accordance with *Government Auditing Standards*. You should read it in conjunction with this report in assessing the results of our audit.

Accounting principles generally accepted in the United States of America require this presentation to include *Management's discussion and analysis*, as listed in the table of contents, to supplement the basic financial statements. Although this information is not part of the basic financial statements, the Governmental Accounting Standards Board considers it essential for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any other assurance.

*Balestra, Harr & Scherer, CPAs*

Balestra, Harr & Scherer, CPAs, Inc.  
October 8, 2012

PUBLIC DEFENDER CORPORATION  
FOR THE TWENTY-THIRD JUDICIAL CIRCUIT  
MANAGEMENT'S DISCUSSION & ANALYSIS  
YEARS ENDED JUNE 30, 2012 and 2011  
(unaudited)

This discussion and analysis of the Public Defender Corporation of the Twenty-Third Judicial Circuit of the State of West Virginia financial performance provides an overview of the Corporation's financial activities for the fiscal years ended June 30, 2012 and 2011, and identifies changes in the Corporation's financial position.

**Overview of Basic Financial Statements**

These statements are in two parts – *management's discussion and analysis* (this section) and the *basic financial statements*. The Corporation's financial statements are prepared on the accrual basis of accounting and are reported in accordance with accounting principles generally accepted in the United States of America. These statements include the *statements of net assets*, the *statements of revenues, expenses and changes in net assets*, the *statements of cash flows* and the notes to the financial statements.

The *statement of net assets* presents the Corporation's assets, liabilities and net assets as of the financial statements date. Through this presentation one can decipher the health of the Corporation by taking the difference between the assets and liabilities. An increase or decrease in the Corporation's net assets from one year to the next is an indicator of whether its financial health is improving or deteriorating.

The *statement of revenues, expenses, and changes in net assets* reports revenues and expenses when earned or incurred. This means that all of the current year's revenues and expenses are included regardless of when cash is paid or received, thus providing a view of financial position that is similar to that presented by most private-sector companies. This statement summarizes the cost of providing legal defense services to those individuals charged with a violation of the law but who cannot afford an attorney to defend themselves or to represent indigent persons or juveniles and mental hygiene cases as appointed by the court.

**Financial Analysis of the Corporation**

	<u>2012</u>	<u>2011</u>	<u>2010</u>
Assets			
Capital assets	\$ 12,423	\$ 18,507	\$ 26,407
Other assets	1,421,621	783,927	532,178
Total assets	<u>\$ 1,434,044</u>	<u>\$ 802,434</u>	<u>\$ 558,585</u>
Liabilities			
Long-term liabilities	\$ 685,127	\$ 432,160	\$ 244,615
Short-term liabilities	196,087	176,760	165,623
Total liabilities	<u>881,214</u>	<u>608,920</u>	<u>410,238</u>
Net Assets			
Invested in capital assets	12,423	18,507	26,407
Unrestricted	540,407	175,007	121,940
Total liabilities and net assets	<u>\$ 1,434,044</u>	<u>\$ 802,434</u>	<u>\$ 558,585</u>

PUBLIC DEFENDER CORPORATION  
FOR THE TWENTY-THIRD JUDICIAL CIRCUIT  
MANAGEMENT'S DISCUSSION & ANALYSIS  
YEARS ENDED JUNE 30, 2012 and 2011  
(unaudited)

The Corporation's revenues are derived from funding from West Virginia Public Defender Services (WVPDS) and accordingly 99% of the Corporation's operating revenues were derived from this funding for the years ended June 30, 2012, 2011 and 2010.

	<u>2012</u>	<u>2011</u>	<u>2010</u>
Operating revenue	\$ 3,306,898	\$ 2,836,546	\$ 2,587,446
Operating expenses	<u>2,949,634</u>	<u>2,792,069</u>	<u>2,716,912</u>
Operating income (loss)	<u>\$ 357,264</u>	<u>\$ 44,477</u>	<u>\$ (129,466)</u>
Nonoperating revenue	<u>\$ 2,052</u>	<u>\$ 690</u>	<u>\$ 552</u>
Change in net assets	<u>359,316</u>	<u>45,167</u>	<u>(128,914)</u>
Net assets at beginning of year	<u>193,514</u>	<u>148,347</u>	<u>277,261</u>
Net assets at end of year	<u>\$ 552,830</u>	<u>\$ 193,514</u>	<u>\$ 148,347</u>

#### Detailed Financial Analysis of the Corporation

Cash held by the Corporation increased due to unexpended funds not used to pay the other post employment benefit liability. Total capital assets decreased slightly due to depreciation. Other post employment benefit liability, included in long term post employment benefit liabilities, increased by \$252,967 due to an increase in the rate charged by the Retiree Health Benefit Trust (RHBT) fund. All other assets and liabilities remained consistent with the two periods.

Operating revenue for the fiscal year increased by \$470,352, due to increased funding from WVPDS.

Operating expenses for the fiscal year increased by \$157,565. This increase is attributable to an increase in personal services of \$40,019 due to salary increases given throughout the Corporation. The increase in operating expenses is also due to an increase in employee benefits of \$141,789, which is due to an increase in OPEB Liability. All other expenses had slight decreases from the prior fiscal year.

#### Capital Asset and Debt Activity

As of June 30, 2012, 2011 and 2010, the Corporation had capital assets amounting to approximately \$258,700. The Corporation's capital assets include furniture, fixtures and computer equipment. The assets were being depreciated over useful lives of three to ten years. The accumulated depreciation on the assets amounted to approximately \$246,200, \$240,200 and \$232,300, respectively. There were no disposals during the current year.

There were no purchases of capital assets for the years ended June 30, 2012, 2011, and 2010.

The Corporation has no long term debt obligations other than the other post employment benefit liability.

More detailed information is presented in the notes to the financial statements.

PUBLIC DEFENDER CORPORATION  
FOR THE TWENTY-THIRD JUDICIAL CIRCUIT  
MANAGEMENT'S DISCUSSION & ANALYSIS  
YEARS ENDED JUNE 30, 2012 and 2011  
(unaudited)

**Cash Management**

The Corporation's funds are deposited into a savings account at a national banking institution. This account earns interest at a rate of approximately .10%. Interest earned on the account for the years ended June 30, 2012, 2011 and 2010 amounted to approximately \$2,050, \$700, and \$550, respectively.

**Economic Factors and Next Year's Budget**

The West Virginia Public Defender Services, the Corporation's oversight agency, looked at various factors when approving the budget for the year ending June 30, 2013. Such factors considered include: the Corporation's case load in comparison to the number of professional and nonprofessional staff, the type, amount and rate of employee benefits, the anticipation of large or unusual cases which require additional resources, capital needs, as well as the operating environment and its operation needs.

For the year ending June 30, 2013, the Corporation had an approved budget of \$2,778,297. This represents a budget increase of \$17,574 from the prior year. All budgeted items are within a reasonable amount to the prior year.

**Requests for Information**

The financial report is designed to provide an overview of the finances of the Corporation for those with an interest in the organization. Questions concerning any of the information provided in this report or request for additional financial information should be addressed to the Corporation at 313 Monroe Street, Martinsburg, WV, 25404.

PUBLIC DEFENDER CORPORATION  
FOR THE TWENTY-THIRD JUDICIAL CIRCUIT  
STATEMENTS OF NET ASSETS  
JUNE 30, 2012 AND 2011

	<u>2012</u>	<u>2011</u>
<b>ASSETS</b>		
Current assets		
Cash and cash equivalents	\$ 1,406,906	\$ 769,212
Other assets	14,715	14,715
Total current assets	<u>1,421,621</u>	<u>783,927</u>
Capital assets		
Leasehold Improvements	11,550	11,550
Furniture and fixtures	12,059	12,059
Computer Equipment	235,097	235,097
	<u>258,706</u>	<u>258,706</u>
Less accumulated depreciation	<u>(246,283)</u>	<u>(240,199)</u>
Capital assets, net	<u>12,423</u>	<u>18,507</u>
Total assets	<u>\$ 1,434,044</u>	<u>\$ 802,434</u>
<b>LIABILITIES</b>		
Current liabilities		
Accounts payable	\$ 6,349	\$ 6,349
Accrued expenses	63,897	36,699
Compensated absences	125,841	133,712
Total current liabilities	<u>196,087</u>	<u>176,760</u>
Long term liabilities		
Other post employment benefit liability	<u>685,127</u>	<u>432,160</u>
Total long term liabilities	<u>685,127</u>	<u>432,160</u>
Total liabilities	<u>881,214</u>	<u>608,920</u>
<b>NET ASSETS</b>		
Invested in capital assets	12,423	18,507
Unrestricted	<u>540,407</u>	<u>175,007</u>
Total net assets	<u>\$ 552,830</u>	<u>\$ 193,514</u>

The Accompanying Notes Are An Integral Part Of These Financial Statements

PUBLIC DEFENDER CORPORATION  
FOR THE TWENTY-THIRD JUDICIAL CIRCUIT  
STATEMENTS OF REVENUES, EXPENSES, AND CHANGES IN NET ASSETS  
YEARS ENDED JUNE 30, 2012 AND 2011

	<u>2012</u>	<u>2011</u>
Operating revenues		
West Virginia Public Defender Services Grant Revenue	\$ 3,260,723	\$ 2,836,546
Other Grant Income	<u>46,175</u>	<u>-</u>
Total operating revenues	<u>3,306,898</u>	<u>2,836,546</u>
Operating expenses		
Personal services	1,646,751	1,606,732
Employee benefits	879,560	737,771
Support services	134,073	125,503
Administrative support	45,973	42,486
Office	196,777	205,181
Other	5,572	6,022
Acquisition	34,844	60,474
Depreciation	<u>6,084</u>	<u>7,900</u>
Total operating expenses	<u>2,949,634</u>	<u>2,792,069</u>
Operating income (loss)	357,264	44,477
Nonoperating revenues		
Interest income	<u>2,052</u>	<u>690</u>
Total nonoperating revenues	<u>2,052</u>	<u>690</u>
CHANGE IN NET ASSETS	359,316	45,167
Net assets, beginning of year	<u>193,514</u>	<u>148,347</u>
Net assets, end of year	<u>\$ 552,830</u>	<u>\$ 193,514</u>

The Accompanying Notes Are An Integral Part Of These Financial Statements

PUBLIC DEFENDER CORPORATION  
FOR THE TWENTY-THIRD JUDICIAL CIRCUIT  
STATEMENTS OF CASH FLOWS  
YEARS ENDED JUNE 30, 2012 AND 2011

	<u>2012</u>	<u>2011</u>
Cash flows from operating activities		
Cash received from grants	\$ 3,260,723	\$ 2,836,546
Cash paid to suppliers for goods and services	(417,239)	(439,666)
Cash paid for employees	(2,254,017)	(2,145,821)
Other Income	46,175	-
Net cash provided by operating activities	<u>635,642</u>	<u>251,059</u>
Cash flows from investing activities		
Cash received as interest	<u>2,052</u>	<u>690</u>
Net cash provided by investing activities	2,052	690
 NET INCREASE IN CASH AND CASH EQUIVALENTS	 637,694	 251,749
Cash and cash equivalents, beginning of year	<u>769,212</u>	<u>517,463</u>
Cash and cash equivalents, end of year	<u>\$ 1,406,906</u>	<u>\$ 769,212</u>
Reconciliation of operating income (loss) to net cash provided by operating activities:		
Operating income (loss)	\$ 357,264	\$ 44,477
Adjustments:		
Depreciation	6,084	7,900
Increase (decrease) in operating liability		
Accrued expenses	27,198	3,266
Compensated absences	(7,871)	7,871
Other post employment benefit liability	<u>252,967</u>	<u>187,545</u>
Total adjustments	<u>278,378</u>	<u>206,582</u>
Net cash provided by operating activities	<u>\$ 635,642</u>	<u>\$ 251,059</u>

The Accompanying Notes Are An Integral Part Of These Financial Statements

PUBLIC DEFENDER CORPORATION  
FOR THE TWENTY-THIRD JUDICIAL CIRCUIT  
NOTES TO THE FINANCIAL STATEMENTS  
YEARS ENDED JUNE 30, 2012 and 2011

NOTE 1 - ORGANIZATION

The Public Defender Corporation for the Twenty-Third Judicial Circuit (the 'Corporation') is a not-for-profit Corporation created under authority of Article 21, Chapter 29 of the West Virginia State Code. The Corporation is a discretely presented component unit of the State of West Virginia and is funded by West Virginia Public Defender Services. The purpose of the Corporation is to provide high quality legal assistance to indigent persons, at no cost, who would be otherwise unable to afford adequate legal counsel.

Approximately 86% of the Corporation's revenues are utilized for program related purposes and 14% are for management and general purposes.

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The financial statements of the Corporation have been prepared in accordance with accounting principles generally accepted in the United States of America as prescribed by the Governmental Accounting Standards Board ("GASB"), including Statement No. 34, *Basic Financial Statements – and Management's Discussion and Analysis – for State and Local Governments*. The financial statement presentation required by GASB Statements No. 34 provides a comprehensive, entity-wide perspective of the Corporation's assets, revenues, expenses, changes in net assets and cash flows.

The Corporation follows all GASB pronouncements as well as Financial Accounting Standards Board ("FASB") Statements and Interpretations, Accounting Principles Board Opinions and Accounting Research Bulletins issued on or before November 30, 1989, and has elected not to apply the FASB Statements and Interpretations issued after November 30, 1989, to its financial statements.

Reporting Entity

The Corporation is a component unit of the State of West Virginia and is funded by West Virginia Public Defender Services. The West Virginia Public Defender Services is part of the general fund of the state's comprehensive annual financial report. The Corporation is a separate entity and is considered a discretely presented component unit of the State of West Virginia.

PUBLIC DEFENDER CORPORATION  
FOR THE TWENTY-THIRD JUDICIAL CIRCUIT  
NOTES TO THE FINANCIAL STATEMENTS  
YEARS ENDED JUNE 30, 2012 and 2011

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Financial Statement Presentation

As required by GASB 34, the Corporation displays net assets in three components, if applicable: invested in capital assets, net of related debt; restricted, and unrestricted:

Invested in capital assets

This represents the Corporation's total investment in capital assets, net of outstanding debt obligations related to those capital assets. To the extent debt has been incurred but not yet expended for capital assets, such amounts are not included as a component of invested in capital assets, net of related debt. As of June 30, 2012, the Corporation had no outstanding debt.

Restricted net assets

Restricted net assets are assets whose use or availability has been restricted and the restrictions limit the Corporation's ability to use the resources to pay current liabilities. When both restricted and unrestricted resources are available for use, it is the Corporation's policy to use restricted resources first, then unrestricted resources as needed.

Unrestricted net assets

Unrestricted net assets represent resources derived from state appropriations. These resources are used for transactions related to the providing of legal assistance to indigent persons, at no cost, who would otherwise be unable to afford adequate legal counsel, and may be used at the discretion of the board of directors to meet current expenses for any purpose.

Basis of Accounting

For financial accounting purposes, the Corporation is considered a special-purpose government engaged only in business-type activities. Accordingly, the Corporation's financial statements have been prepared on the accrual basis of accounting with a flow of economic resources measurement focus. Revenues are reported when earned and expenses when materials or services are received.

Cash and Cash Equivalents

For purposes of the statement of net assets, the Corporation considers all highly liquid investments with an original maturity of three months or less to be cash equivalents.

PUBLIC DEFENDER CORPORATION  
FOR THE TWENTY-THIRD JUDICIAL CIRCUIT  
NOTES TO THE FINANCIAL STATEMENTS  
YEARS ENDED JUNE 30, 2012 and 2011

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Capital Assets

Capital assets include property, plant, and equipment. Capital assets are stated at cost at the date of acquisition or construction, or fair market value at the date of donation in the case of gifts. Depreciation is computed using the straight-line method over the estimated useful lives of the assets, generally three to ten years. The Corporation's capitalization threshold is \$1,000. Depreciation expense for the years ended June 30, 2012 and 2011 was \$6,084 and \$7,900, respectively.

Compensated Absences and Other Post-Employment Benefits (OPEB)

Effective July 1, 2008, the Corporation adopted GASB Statement No. 45, *Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions*. This statement provides standards for the measurement, recognition, and display of other postemployment benefit ("OPEB") expenditures, assets, and liabilities, including applicable note disclosures and required supplementary information. During fiscal year 2006, House Bill No. 4654 was established to create a trust fund for postemployment benefits for the State of West Virginia (the "State"). Effective July 1, 2007, the Corporation was required to participate in this multiple employer cost-sharing plan, the West Virginia Retiree Health Benefit Trust Fund, sponsored by the State of West Virginia. The Plan provides the following retiree group insurance coverage to participants: medical and prescription drug coverage through a self-insured preferred provider benefit (PPB) plan and through external managed care organizations (MCOs), basic group life, accidental death, and prescription drug coverage for retired employees of the State and various related State and non-State agencies and their dependents. Details regarding this plan can be obtained by contacting Public Employees Insurance Agency ("PEIA"), State Capitol Complex, Building 5, Room 1001, 1900 Kanawha Boulevard, East, Charleston WV 25305-0710 or <http://www.wvpeia.com>.

This statement requires entities to accrue for employees' rights to receive compensation for vacation leave, or payments in lieu of accrued vacation or sick leave, as such benefits are earned and payment becomes probable.

Estimated obligations arise for vacation leave at the current rate of employee pay. Employees earn vacation leave based on years of service. Employees with less than 5 years of continuous full-time employment during any period earn 15 days per year. Employees with 5 years, but less than 12 years of full-time employment during any continuous 10-year period, earn 18 days per year, and employees with more than 12 years of full-time employment during any continuous period of 10 years or more, earn 21 days per year. Employees vest in a maximum of 35 days of unused vacation leave which is paid at the time of separation of employment.

PUBLIC DEFENDER CORPORATION  
FOR THE TWENTY-THIRD JUDICIAL CIRCUIT  
NOTES TO THE FINANCIAL STATEMENTS  
YEARS ENDED JUNE 30, 2012 and 2011

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Also, the Corporation grants sick leave based on time worked. Full-time employees earn 18 sick leave days for each year of service with no maximum accumulation. The Corporation does not accrue any liability for sick leave because no amount is paid at the time of separation of employment. The liability is now provided for under the multiple employer cost-sharing plan sponsored by the State.

The estimated expense and expense incurred for the vacation leave and OPEB benefits are recorded as a component of employee benefits on the statement of revenues, expenses and changes in net assets. OPEB costs are accrued based upon invoices received from RHBT Trust Fund based upon actuarial determined amounts. At June 30, 2012 and 2011, the noncurrent liability related to OPEB cost was \$685,127 and \$432,160, respectively. The total OPEB expense incurred was \$252,967 and \$264,751, respectively which is included as a component of employee benefit expense. As of the years ended June 30, 2012 and 2011, there were no retirees receiving these benefits.

Risk Management

The Corporation has obtained general, property, casualty and liability coverage for itself and its employees through third party insurance companies. Any loss in excess of the \$2,000,000 policy limit will be the responsibility of the Corporation.

In addition, through its participation in the West Virginia Public Employees Insurance Agency (PEIA) and a third-party insurer, the Corporation has obtained health, life, prescription drug coverage, and coverage for job related injuries for its employees. In exchange for payment of premiums to PEIA and the third-party insurer, the Corporation has transferred its risks related to health, life, prescription drug coverage, and job related injuries.

West Virginia had a single private insurance company, BrickStreet Insurance, which provided workers' compensation coverage to all employers in the state. Other private insurance companies began to offer coverage to private-sector employers July 1, 2008 and began to offer coverage to government employers beginning July 1, 2010. Nearly every employer in the State, who has a payroll, must have coverage. The cost of all coverage is paid by the employers. BrickStreet retains the risk related to the compensation of injured employees under the program.

PUBLIC DEFENDER CORPORATION  
FOR THE TWENTY-THIRD JUDICIAL CIRCUIT  
NOTES TO THE FINANCIAL STATEMENTS  
YEARS ENDED JUNE 30, 2012 and 2011

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Revenues

The Corporation has classified its revenues according to the following criteria:

- Operating revenues – Operating revenues include activities that have the characteristics of exchange transactions, such as most federal, state, local, and nongovernmental grants and contracts.
- Nonoperating revenues – Nonoperating revenues include activities that have the characteristics of non-exchange transactions, such as gifts and contributions, and other revenues that are defined as nonoperating revenues by GASB Statement No. 9, Reporting Cash Flows of Proprietary and Nonexpendable Trust Funds and Governmental Entities That Use Proprietary Fund Accounting and GASB Statement No. 34, such as state appropriations and investment income.

Income Taxes

The Corporation is exempt from income taxes under Section 501(c)(3) of the Internal Revenue Code. The Corporation is classified by the Internal Revenue Service as an other than a private foundation.

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenditures during the reporting period. Actual results could differ from those estimates.

PUBLIC DEFENDER CORPORATION  
FOR THE TWENTY-THIRD JUDICIAL CIRCUIT  
NOTES TO THE FINANCIAL STATEMENTS  
YEARS ENDED JUNE 30, 2012 and 2011

NOTE 3 - CAPITAL ASSETS

The following is a summary of capital asset transactions for the Corporation for the year ended June 30, 2012 and 2011:

	2012			
	Beginning Balance	Additions	Deletions	Ending Balance
Capital assets being depreciated:				
Computer equipment	235,097	-	-	235,097
Furniture and Fixtures	12,059	-	-	12,059
Leasehold improvements	11,550	-	-	11,550
Total capital assets	<u>258,706</u>	<u>-</u>	<u>-</u>	<u>258,706</u>
Less accumulated depreciation for:				
Computer equipment	(225,571)	(4,530)	-	(230,101)
Furniture and Fixtures	(12,059)	(270)	-	(12,329)
Leasehold improvements	(2,569)	(1,284)	-	(3,853)
Total accumulated depreciation	<u>(240,199)</u>	<u>(6,084)</u>	<u>-</u>	<u>(246,283)</u>
Capital assets, net	<u>18,507</u>	<u>(6,084)</u>	<u>-</u>	<u>12,423</u>
	2011			
	Beginning Balance	Additions	Deletions	Ending Balance
Capital assets being depreciated:				
Computer equipment	235,097	-	-	235,097
Furniture and Fixtures	12,059	-	-	12,059
Leasehold improvements	11,550	-	-	11,550
Total capital assets	<u>258,706</u>	<u>-</u>	<u>-</u>	<u>258,706</u>
Less accumulated depreciation for:				
Computer equipment	(219,320)	(6,251)	-	(225,571)
Furniture and Fixtures	(11,695)	(364)	-	(12,059)
Leasehold improvements	(1,284)	(1,285)	-	(2,569)
Total accumulated depreciation	<u>(232,299)</u>	<u>(7,900)</u>	<u>-</u>	<u>(240,199)</u>
Capital assets, net	<u>26,407</u>	<u>(7,900)</u>	<u>-</u>	<u>18,507</u>

PUBLIC DEFENDER CORPORATION  
FOR THE TWENTY-THIRD JUDICIAL CIRCUIT  
NOTES TO THE FINANCIAL STATEMENTS  
YEARS ENDED JUNE 30, 2012 and 2011

NOTE 4 - DEFINED CONTRIBUTION RETIREMENT PLAN

The Corporation contributes to the West Virginia Public Employees' Retirement System (PERS), a cost-sharing multiple-employer benefit pension plan administered by the West Virginia Consolidated Public Retirement Board. Chapter 5, Article 10 of the West Virginia State Code assigns the authority to establish and amend benefits provisions to the PERS Board of Trustees. Employees who retire at or after age 60 with five or more years of contributory service or who retire at or after age 55 and have completed 25 years of credited service are eligible for retirement benefits as established by State statute. Retirement benefits are payable monthly for life, in the form of a straight-line annuity equal to two percent of the employee's final average salary multiplied by the number of years of the employee's credited service at the time of retirement. PERS also provides deferred retirement, early retirement, death and disability benefits to plan members and beneficiaries. The West Virginia Consolidated Public Retirement Board issues a publicly available financial report that includes financial statements and required supplementary information for PERS. That report may be obtained by writing to the West Virginia Consolidated Public Retirement Board, 1900 Kanawha Boulevard East, Building Five, Charleston, West Virginia 25305 or by calling (304) 558-3570.

FUNDING POLICY – The PERS funding policy has been established by action of the State Legislature. State statute requires that plan participants contribute 4.5% of compensation. The current combined contribution rate is 19% of annual covered payroll, including the Corporation's contribution of 14.5% which is established by PERS. Effective July 1, 2012, a decrease in the contribution rate of .5% will lower the Corporation's contribution rate to 14%. Total contributions to PERS for the years ended June 30, 2012, 2011, and 2010 were \$295,740, \$264,751 and \$234,012, respectively, which consisted of \$225,696, \$193,251 and \$166,073 from the Corporation and \$70,044, \$71,500 and \$67,939 from the covered employees, respectively.

Under the Plan guidelines, if an employee is hired by the Corporation and joins the Plan after they have been previously employed by another state agency, this employee has the ability to make a retroactive purchase of prior service time or "buy-back". Under the current contract with the West Virginia Public Defender Services office of the State of West Virginia, the Corporation will only fund the employer portion of such buy-backs on a case by case scenario after consideration by the West Virginia Public Defender Services. West Virginia Public Defender Services expressly declines to purchase retroactive service credit. For the years ended June 30, 2012 and 2011, the Corporation did not authorize the employer portion of any buy-backs for Plan participants.

PUBLIC DEFENDER CORPORATION  
FOR THE TWENTY-THIRD JUDICIAL CIRCUIT  
NOTES TO THE FINANCIAL STATEMENTS  
YEARS ENDED JUNE 30, 2012 and 2011

NOTE 5 - CONCENTRATIONS

The Corporation maintains its account balances in a local financial institution. The account is insured by the Federal Deposit Insurance Corporation up to \$250,000. Additionally, the financial institution has provided collateral in the form of government securities with a par value of \$1,441,326. The Corporation's bank balance at June 30, 2012 and 2011 was \$1,501,837 and \$862,638, respectively.

The Corporation receives virtually all of its funding from West Virginia Public Defender Services. A significant reduction in this level of support would have a significant adverse effect on the Corporation.

NOTE 6 - LONG TERM LIABILITIES

The following is a summary of long term obligation transactions for the Corporation for the years ended June 30, 2012 and 2011:

2012					
	Beginning Balance	Additions	Reductions	Ending Balance	Current Portion
Long term liabilities:					
Other post-employment benefit liability	\$432,160	\$252,967	\$0	\$685,127	\$ 0
Compensated absences	<u>133,712</u>	<u>1,592</u>	<u>9,463</u>	<u>125,841</u>	<u>125,841</u>
Total long term liabilities	<u>\$565,872</u>	<u>\$254,559</u>	<u>\$9,463</u>	<u>\$810,968</u>	<u>\$125,841</u>
2011					
	Beginning Balance	Additions	Reductions	Ending Balance	Current Portion
Long term liabilities:					
Other post-employment benefit liability	\$244,615	\$262,821	\$75,276	\$432,160	\$ 0
Compensated absences	<u>125,841</u>	<u>7,871</u>	<u>0</u>	<u>133,712</u>	<u>133,712</u>
Total long term liabilities	<u>\$370,456</u>	<u>\$270,692</u>	<u>\$75,276</u>	<u>\$565,872</u>	<u>\$133,712</u>

PUBLIC DEFENDER CORPORATION  
 FOR THE TWENTY-THIRD JUDICIAL CIRCUIT  
 NOTES TO THE FINANCIAL STATEMENTS  
 YEARS ENDED JUNE 30, 2012 and 2011

NOTE 7 - OPERATING LEASE OBLIGATIONS

The Corporation leases facilities under operating lease agreements. Aggregate payments under these agreements were \$124,900 for the years ended June 30, 2012 and 2011. Future minimum rental commitments are as follows:

	<u>Charles Town Office</u>
<u>Year ended June 30,</u>	<u>Amount</u>
2013	38,400
2014	38,400
2015	38,400
2016	38,400
2017	38,400
Thereafter	<u>51,200</u>
	<u>\$243,200</u>

The lease for the Martinsburg Office expired June 30, 2012. Terms of a new lease have not been determined at this time.

NOTE 8 - CONTINGENCIES

The Corporation is on a reimbursement plan with the State of West Virginia, Workforce WV, Unemployment Compensation Division, (Workforce) whereby they no longer pay quarterly premiums. When a liability arises regarding the payment of unemployment, the Corporation will be assessed 100% of the awarded claim filed and payment to Workforce would be made at that time. Any liability arising from the dismissal of employment is uncertain at this time; however, management believes such amounts if any to be immaterial.

The Corporation's programs are funded from state sources, principal of which is programs of the West Virginia Public Defender Services. State grants received for specific purposes are subject to audit and review by grantor agencies. Such audits and reviews could result in requests for reimbursements to grantor agencies for expenditures disallowed under the terms of the grants. The amount, if any, of expenditures which may be disallowed by grantor agencies cannot be determined at this time, although management believes such amounts, if any, to be immaterial.

NOTE 9 - CASH HELD AT FISCAL YEAR END

At June 30, 2012 and 2011, the Corporation held cash and cash equivalents of \$1,406,906 and \$769,212, respectively, consisting of unexpended West Virginia Public Defender Service grant funds. West Virginia Public Defender Services considered this amount in determining the appropriate level of disbursements in the succeeding fiscal year necessary to fund the Corporation's normal operating activities.



## Balestra, Harr & Scherer, CPAs, Inc.

Accounting, Auditing and Consulting Services for Federal, State and Local Governments

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### INDEPENDENT AUDITOR'S REPORT ON ADDITIONAL INFORMATION

Honorable Members of the Board  
Public Defender Corporation  
for the Twenty-Third Judicial Circuit  
Martinsburg, West Virginia

Our report on our audit of the basic financial statements of the Public Defender Corporation for the Twenty-Third Judicial Circuit for the year ended June 30, 2012 appears on pages 1 and 2. That audit was conducted for the purpose of forming an opinion on the basic financial statements taken as a whole. The schedule of budget to actual expenses – cash basis provides additional analysis and is not a required part of the basic financial statements. The schedule is management's responsibility, and was derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. This schedule was subject to auditing procedures we applied to the basic financial statements. We also applied certain additional procedures, including comparing and reconciling this information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, in accordance with auditing standards generally accepted in the United States of America. In our opinion, this information is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

*Balestra, Harr & Scherer, CPAs*

Balestra, Harr & Scherer, CPAs, Inc.  
October 8, 2012

PUBLIC DEFENDER CORPORATION  
 FOR THE TWENTY-THIRD JUDICIAL CIRCUIT  
 SCHEDULE OF BUDGET TO ACTUAL EXPENSES - CASH BASIS  
 YEAR ENDED JUNE 30, 2012

	<u>Budget</u>	<u>Actual</u>	Under/(Over) Budget to <u>Actual</u>
Personal services	\$ 1,654,631	\$ 1,646,751	\$ 7,880
Employee benefits	651,893	599,889	52,004
Support services	142,395	134,073	8,322
Administrative services	53,425	45,973	7,452
Office	209,049	196,777	12,272
Other	14,870	13,449	1,421
Acquisitions	<u>34,460</u>	<u>34,344</u>	<u>116</u>
 Total	 <u><u>\$ 2,760,723</u></u>	 <u><u>\$ 2,671,256</u></u>	 <u><u>\$ 89,467</u></u>



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## REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS REQUIRED BY GOVERNMENT AUDITING STANDARDS

Honorable Members of the Board  
Public Defender Corporation  
for the Twenty-Third Judicial Circuit  
Martinsburg, West Virginia

We have audited the basic financial statements of the Public Defender Corporation for the Twenty-Third Judicial Circuit (the "Corporation"), a component unit of the State of West Virginia, as of and for the year ended June 30, 2012, and have issued our report thereon dated October 8, 2012. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in the Comptroller General of the United States' *Government Auditing Standards*.

### Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Corporation's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of opining on the effectiveness of the Corporation's internal control over financial reporting. Accordingly, we have not opined on the effectiveness of the Corporation's internal control over financial reporting.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, when performing their assigned functions, to prevent, or detect and timely correct misstatements. A *material weakness* is a deficiency, or combination of internal control deficiencies, resulting in more than a reasonable possibility that a material misstatement of the Corporation's financial statements will not be prevented, or detected and timely corrected.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider material weaknesses, as defined above. However, we identified a certain deficiency in internal control over financial reporting, described in the accompanying Schedule of Findings that we consider a significant deficiency in internal control over financial reporting. We consider finding 2012-001 to be a significant deficiency. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Compliance and Other Matters

As part of reasonably assuring whether the Corporation's financial statements are free of material misstatement, we tested its compliance with certain provisions of laws, regulations, contracts and grant agreements, noncompliance with which could directly and materially affect the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express an opinion. The results of our tests disclosed no instances of noncompliance or other matters we must report under *Government Auditing Standards*.

The Corporation's response to the finding identified in our audit is described in the accompanying Schedule of Findings. We did not audit the Corporation's response and, accordingly, we express no opinion on it.

We intend this report solely for the information and use of the Public Defender Corporation for the Twenty-Third Judicial Circuit Board of Directors, management of the Corporation, West Virginia Public Defender Services, and state awarding agencies. We intend it for no one other than these specified parties.

*Balestra, Harr & Scherer, CPAs*

Balestra, Harr & Scherer, CPAs, Inc.  
October 8, 2012

PUBLIC DEFENDER CORPORATION  
FOR THE TWENTY-THIRD JUDICIAL CIRCUIT  
SCHEDULE OF FINDINGS  
YEARS ENDED JUNE 30, 2012 AND 2011

<b>FINDINGS RELATED TO THE FINANCIAL STATEMENTS REQUIRED TO BE REPORTED IN ACCORDANCE WITH GAGAS</b>
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**Finding 2012-001**

**Significant Deficiency – Reporting**

The Corporation failed to provide proper financial statements to the auditors for audit. The Corporation did not present an MD&A or footnotes. Adjustments were made to the financial statements which should have been prevented or detected by the Corporation's internal controls over financial reporting. The misstatements were identified in the following areas:

- Accrued OPEB Liability
- Capital Assets Depreciation

The accompanying financial statements were adjusted to reflect the correction of the misstatements. The Corporation should implement monitoring controls over financial reporting to ensure that all financial statement transactions are accurately and completely reported.

**Client Response:**

Adjusting entries to the financial statements and reclassification entries will be corrected. Every effort will be made to correct this deficiency in future reporting periods.

PUBLIC DEFENDER CORPORATION FOR THE  
 TWENTY-THIRD JUDICIAL CIRCUIT

**SCHEDULE OF PRIOR AUDIT FINDINGS  
 FOR THE YEAR ENDED JUNE 30, 2012**

Finding Number	Finding Summary	Fully Corrected?	Not Corrected, Partially Corrected; Significantly Different Corrective Action Taken; or Finding No Longer Valid; <b>Explain</b>
2011-01	The Corporation failed to provide proper financial statements. Adjustments were required to properly reflect the account balances.	No	Reissued as item 2012-001