



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

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

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PUBLIC DEFENDER CORPORATION  
FOR THE ELEVENTH JUDICIAL CIRCUIT  
A COMPONENT UNIT OF THE STATE OF WEST VIRGINIA

FINANCIAL STATEMENTS  
WITH ADDITIONAL INFORMATION

For the Years Ended June 30, 2011 and 2010  
Fiscal Years Audited Under GAGAS: 2011 and 2010

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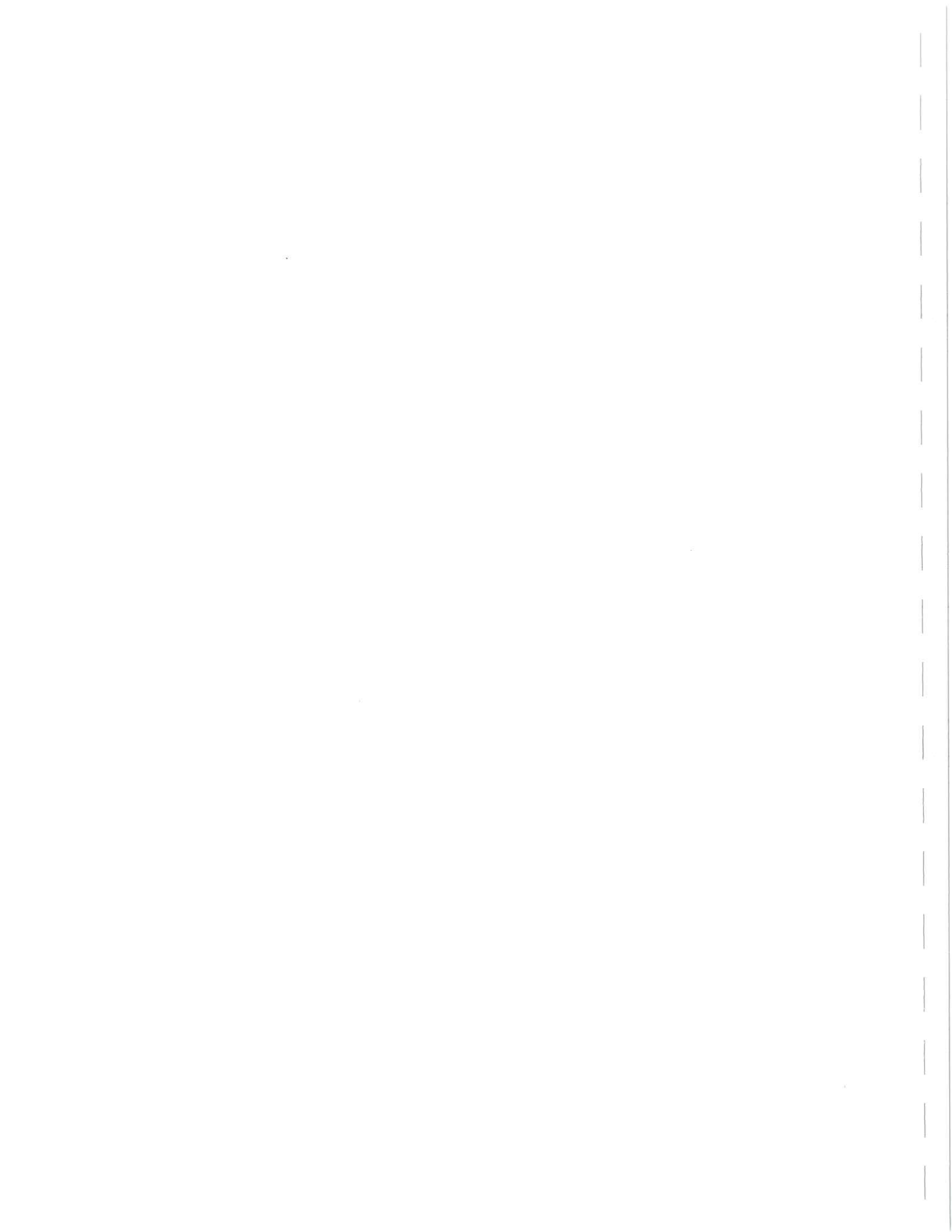
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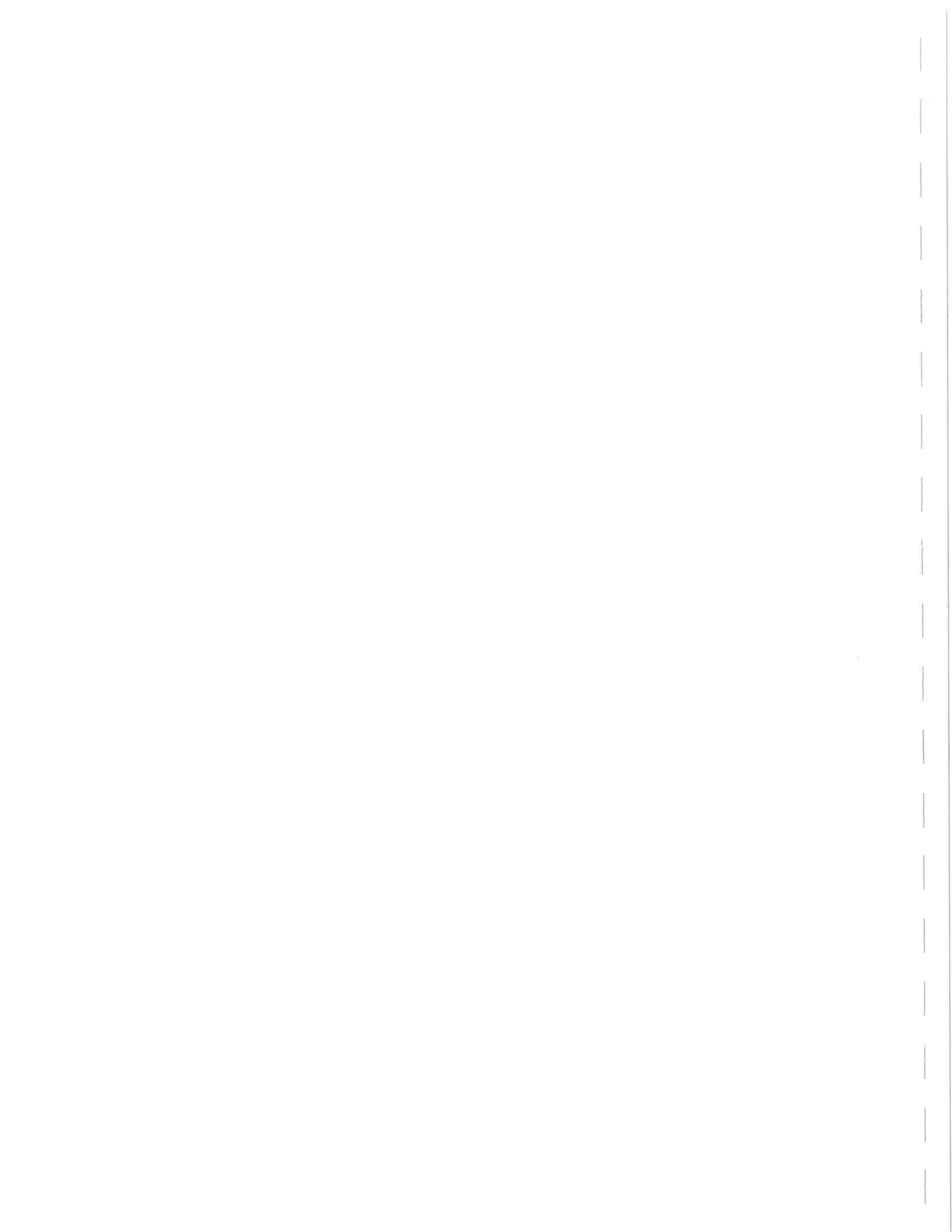


PUBLIC DEFENDER CORPORATION  
FOR THE ELEVENTH JUDICIAL CIRCUIT  
YEARS ENDED JUNE 30, 2011 AND 2010

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# Balestra, Harr & Scherer, CPAs, Inc.

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## Independent Auditor's Report

Honorable Members of the Board  
Public Defender Corporation  
Eleventh Judicial Circuit  
Lewisburg, WV 24901

We have audited the basic financial statements of Public Defender Corporation for the Eleventh Judicial Circuit, (the Corporation), a component unit of the State of West Virginia, as of and for the year ended June 30, 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 audit. The financial statements of the Corporation as of June 30, 2010 were audited by other auditors whose report dated September 27, 2010 expressed an unqualified opinion on these statements.

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*. 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 significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the Public Defender Corporation for the Eleventh Judicial Circuit as of June 30, 2011, and the change in financial position and cash flow, thereof for the year 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 September 9, 2011, 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.

Honorable Members of the Board  
Public Defender Corporation for the Eleventh Judicial Circuit  
Independent Auditor's Report

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.

As discussed in Note 9 to the financial statements, certain errors and irregularities resulting in the over statement of reported other operating expenses were discovered by management of the corporation during the current year. Accordingly, our adjustment has been made to other operating expenses and accounts receivable, to correct the error.

As discussed in Note 11 to the financial statements, the Chief Defender resigned from his position on August 29, 2011. Additional errors and irregularities were noted after June 30, 2011 and the Board of Directors decided to make a claim with their bonding company.



Balestra, Harr & Scherer, CPAs, Inc.  
September 9, 2011

PUBLIC DEFENDER CORPORATION  
FOR THE ELEVENTH JUDICIAL CIRCUIT  
MANAGEMENT'S DISCUSSION & ANALYSIS  
YEARS ENDED JUNE 30, 2011 and 2010  
(Unaudited)

This discussion and analysis of the Public Defender Corporation of the Eleventh 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, 2011 and 2010, 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>2011</u>	<u>2010</u>	<u>2009</u>
Assets			
Capital assets	\$ 256,382	\$ 261,724	\$ 265,479
Other assets	256,484	194,556	173,588
Total assets	<u>\$ 512,866</u>	<u>\$ 456,280</u>	<u>\$ 439,067</u>
Liabilities			
Long-term liabilities	\$ 180,820	\$ 178,892	\$ 126,833
Short-term liabilities	89,891	75,771	58,752
Total liabilities	<u>270,711</u>	<u>254,663</u>	<u>185,585</u>
Net Assets			
Invested in capital assets, net of related debt	177,847	166,345	154,389
Unrestricted	64,308	35,272	99,093
Total liabilities and net assets	<u>\$ 512,866</u>	<u>\$ 456,280</u>	<u>\$ 439,067</u>

PUBLIC DEFENDER CORPORATION  
FOR THE ELEVENTH JUDICIAL CIRCUIT  
MANAGEMENT'S DISCUSSION & ANALYSIS  
YEARS ENDED JUNE 30, 2011 and 2010  
(Unaudited)

The Corporation's revenues are derived from funding from West Virginia Public Defender Services (WVPDS) and accordingly 100% of the Corporation's operating revenues were derived from this funding for the years ended June 30, 2011, 2010 and 2009.

	<u>2011</u>	<u>2010</u>	<u>2009</u>
Operating revenue	\$ 665,145	\$ 553,526	\$ 585,394
Operating expenses	<u>618,833</u>	<u>598,404</u>	<u>564,721</u>
Operating income (loss)	<u>\$ 46,312</u>	<u>\$ (44,878)</u>	<u>\$ 20,673</u>
Nonoperating revenue	\$ 360	\$ 281	\$ 632
Nonoperating expense	<u>\$ 6,134</u>	<u>\$ 7,268</u>	<u>\$ 8,326</u>
Change in net assets	<u>40,538</u>	<u>(51,865)</u>	<u>12,979</u>
Net assets at beginning of year	<u>201,617</u>	<u>253,482</u>	<u>240,503</u>
Net assets at end of year	<u>\$ 242,155</u>	<u>\$ 201,617</u>	<u>\$ 253,482</u>

#### Detailed Financial Analysis of the Corporation

Cash held by the Corporation increased by approximately \$50,000 due to being under budget in most expense line-items.

Operating revenue for the fiscal year increased by approximately \$112,000, due to increased funding from the WVPDS.

Operating expenses for the fiscal year increased by approximately \$20,000. This increase is mostly attributable to an increase in personal services. All other expenditures remained consistent to the prior fiscal year.

#### Capital Asset and Debt Activity

As of June 30, 2011, 2010, and 2009, the Corporation had capital assets amounting to approximately \$315,000, \$315,000, and \$313,000 respectively. The Corporation's capital assets include land, buildings, furniture and fixtures, and computer equipment. The assets were being depreciated over useful lives of three to thirty-nine years. The accumulated depreciation on the assets amounted to approximately \$58,000, \$53,000, and \$48,000 respectively.

Purchases of capital assets for the years ended June 30, 2011, 2010, and 2009 totaled approximately \$-0-, \$1,800, and \$-0- respectively.

In 2004 the Corporation borrowed \$53,000 to build the Marlinton Office, with subsequent repayment of the note completed in June 2006.

During 2005 the Corporation borrowed \$165,000 at 6.99% to purchase land and a building to house the Lewisburg office. Repayment is to occur over 120 months beginning July 2005 at \$1,915 per month including interest, to be paid in full June 2015 with a penalty for prepayment. Total payments including interest in 2011, 2010 and 2009 amounted to approximately \$23,000 per year.

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



PUBLIC DEFENDER CORPORATION  
FOR THE ELEVENTH JUDICIAL CIRCUIT  
MANAGEMENT'S DISCUSSION & ANALYSIS  
YEARS ENDED JUNE 30, 2011 and 2010  
(Unaudited)

**Cash Management**

The Corporation's funds are deposited into a checking account at a national banking institution. The account earns interest at the bank's going market rate. At June 30, 2011, 2010 and 2009 that rate was approximately 20%. The Corporation's funds are transferred to an operating account and payroll account as needed. Interest earned on the account for the years ended June 30, 2011, 2010, and 2009 was approximately, \$360, \$280, and \$630, 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, 2012. 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, 2012, the Corporation had an approved budget of \$625,384. This represents a budget decrease of approximately \$40,000 from the prior year. This decrease is attributable to employee benefit decrease. All other 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 207 North Court Street, Lewisburg, WV 24901.

PUBLIC DEFENDER CORPORATION  
FOR THE ELEVENTH JUDICIAL CIRCUIT  
STATEMENTS OF NET ASSETS  
JUNE 30, 2011 AND 2010

	<u>2011</u>	<u>2010</u>
<b>ASSETS</b>		
Current assets		
Cash and cash equivalents	\$ 242,872	\$ 193,275
Accounts Receivable	\$ 12,331	\$ -
Other assets	1,281	1,281
Total current assets	<u>256,484</u>	<u>194,556</u>
Capital assets		
Land	97,196	97,196
Building	187,208	187,208
Furniture and fixtures	9,784	9,784
Computer equipment	20,641	20,641
	<u>314,829</u>	<u>314,829</u>
Less accumulated depreciation	<u>(58,447)</u>	<u>(53,105)</u>
Capital assets, net	<u>256,382</u>	<u>261,724</u>
Total assets	<u>\$ 512,866</u>	<u>\$ 456,280</u>
<b>LIABILITIES</b>		
Current liabilities		
Current portion of long term debt	\$ 18,061	\$ 16,845
Accounts payable	1,505	1,505
Accrued expenses	26,479	21,761
Compensated absences	43,846	35,660
Total current liabilities	<u>89,891</u>	<u>75,771</u>
Long term liabilities		
Long term debt, net of current portion	60,474	78,535
Other post employment benefit liability	120,346	100,357
Total long term liabilities	<u>180,820</u>	<u>178,892</u>
Total liabilities	<u>270,711</u>	<u>254,663</u>
<b>NET ASSETS</b>		
Invested in capital assets, net of related debt	177,847	166,345
Unrestricted	64,308	35,272
Total net assets	<u>\$ 242,155</u>	<u>\$ 201,617</u>

The Accompanying Notes Are An Integral Part of These Financial Statements

PUBLIC DEFENDER CORPORATION  
FOR THE ELEVENTH JUDICIAL CIRCUIT  
STATEMENTS OF REVENUES, EXPENSES, AND CHANGES IN NET ASSETS  
YEARS ENDED JUNE 30, 2011 AND 2010

	<u>2011</u>	<u>2010</u>
Operating revenues		
West Virginia Public Defender Services Grant Revenue	\$ 665,145	\$ 553,526
Total operating revenues	<u>665,145</u>	<u>553,526</u>
Operating expenses		
Personal services	368,465	346,745
Employee benefits	196,660	197,068
Support services	7,255	6,324
Administrative support	5,610	6,031
Office	26,899	27,757
Other	4,162	3,800
Acquisition	4,440	5,124
Depreciation	5,342	5,555
Total operating expenses	<u>618,833</u>	<u>598,404</u>
Operating income (loss)	46,312	(44,878)
Nonoperating revenues (expenses)		
Interest income	360	281
Interest expense	(6,134)	(7,268)
Total nonoperating revenues (expenses)	<u>(5,774)</u>	<u>(6,987)</u>
CHANGE IN NET ASSETS	40,538	(51,865)
Net assets, beginning of year	<u>201,617</u>	<u>253,482</u>
Net assets, end of year	<u>\$ 242,155</u>	<u>\$ 201,617</u>

The Accompanying Notes Are An Integral Part of These Financial Statements

PUBLIC DEFENDER CORPORATION  
FOR THE ELEVENTH JUDICIAL CIRCUIT  
STATEMENTS OF CASH FLOWS  
YEARS ENDED JUNE 30, 2011 AND 2010

	<u>2011</u>	<u>2010</u>
Cash flows from operating activities		
Cash received from grants	\$ 665,145	\$ 553,526
Cash paid for expenses	<u>(592,929)</u>	<u>(505,054)</u>
Net cash provided by operating activities	<u>72,216</u>	<u>48,472</u>
Cash flows from investing activities		
Cash received as interest	360	281
Cash paid as interest	(6,134)	(7,268)
Cash purchases of property and equipment	-	<u>(1,800)</u>
Net cash provided (used) by investing activities	<u>(5,774)</u>	<u>(8,787)</u>
Cash flows from financing activities		
Cash payments on long term debt	<u>(16,845)</u>	<u>(15,711)</u>
Net cash used by financing activities	<u>(16,845)</u>	<u>(15,711)</u>
NET INCREASE IN CASH AND CASH EQUIVALENTS	49,597	23,974
Cash and cash equivalents, beginning of year	<u>193,275</u>	<u>169,301</u>
Cash and cash equivalents, end of year	<u>\$ 242,872</u>	<u>\$ 193,275</u>
Reconciliation of operating income (loss) to net cash provided (used) by operating activities:		
Operating income (loss)	\$ 46,312	\$ (44,878)
Adjustments:		
Depreciation	5,342	5,555
Decrease (increase) in operating assets		
Accounts receivable	(12,331)	-
Other assets	-	3,006
Increase (decrease) in operating liability		
Accounts payable	-	(1,358)
Accrued expenses	4,718	6,721
Compensated absences	8,186	10,522
Other post employment benefit liability	<u>19,989</u>	<u>68,904</u>
Total adjustments	<u>25,904</u>	<u>93,350</u>
Net cash provided by operating activities	<u>\$ 72,216</u>	<u>\$ 48,472</u>

The Accompanying Notes Are An Integral Part of These Financial Statements

PUBLIC DEFENDER CORPORATION  
FOR THE ELEVENTH JUDICIAL CIRCUIT  
NOTES TO THE FINANCIAL STATEMENTS  
YEARS ENDED JUNE 30, 2011 AND 2010

NOTE 1 - ORGANIZATION

The Public Defender Corporation for the Eleventh 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 90% of the Corporation's revenues are utilized for program related purposes and 10% 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.

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:

PUBLIC DEFENDER CORPORATION  
FOR THE ELEVENTH JUDICIAL CIRCUIT  
NOTES TO THE FINANCIAL STATEMENTS  
YEARS ENDED JUNE 30, 2011 AND 2010

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Invested in capital assets, net of related debt

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.

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 ELEVENTH JUDICIAL CIRCUIT  
NOTES TO THE FINANCIAL STATEMENTS  
YEARS ENDED JUNE 30, 2011 AND 2010

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 3 to 39 years. The Corporation's capitalization threshold is \$1,000. Depreciation expense for the years ended June 30, 2011 and 2010 was \$5,342 and \$5,555, respectively.

Compensated Absences and Other Post Employment Benefits (OPEB)

Effective July 1, 2007, 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 10 years of full-time employment during any continuous 10-year period, earn 20 days per year. Employees with 10 years, but less than 15 years of full-time employment during any continuous 10 year period, earn 25 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 ELEVENTH JUDICIAL CIRCUIT  
NOTES TO THE FINANCIAL STATEMENTS  
YEARS ENDED JUNE 30, 2011 AND 2010

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Also, the Corporation grants sick leave based on time worked. Full-time employees earn 20 sick leave days per year, but can carryover 60 days. 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, 2011 and 2010, the noncurrent liability related to OPEB cost was \$120,346 and \$100,357. The total OPEB expense incurred was \$19,989 and \$81,615, which is included as a component of employee benefit expense. As of the years ended June 30, 2011 and 2010, there were no retirees receiving these benefits.

Risk Management

The State's Board of Risk and Insurance Management ("BRIM") provides general, property and casualty, and liability coverage to the Corporation and its employees. Such coverage may be provided to the Corporation by BRIM through self-insurance programs maintained by BRIM or policies underwritten by BRIM that may involve experience-related premiums or adjustments to BRIM.

BRIM engages an independent actuary to assist in the determination of its premiums so as to minimize the likelihood of premium adjustments to the Corporation or other participants in BRIM's insurance programs. As a result, management does not expect significant differences between the premiums the Corporation is currently charged by BRIM and the ultimate cost of that insurance based on the Corporation's actual loss experience. In the event such differences arise between estimated premiums currently charged by BRIM to the Corporation and the Corporation's ultimate actual loss experience, the difference will be recorded, as the change in estimate becomes known.

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



PUBLIC DEFENDER CORPORATION  
FOR THE ELEVENTH JUDICIAL CIRCUIT  
NOTES TO THE FINANCIAL STATEMENTS  
YEARS ENDED JUNE 30, 2011 AND 2010

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

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.

Revenue

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 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 ELEVENTH JUDICIAL CIRCUIT  
NOTES TO THE FINANCIAL STATEMENTS  
YEARS ENDED JUNE 30, 2011 AND 2010

NOTE 3 - CAPITAL ASSETS

The following is a summary of capital asset transactions for the Corporation for the year ended June 30, 2011 and 2010:

	2011			Ending Balance
	Beginning Balance	Additions	Deletions	
Capital assets not being depreciated:				
Land	\$ 97,196	\$ -	\$ -	\$ 97,196
Capital assets being depreciated:				
Computer equipment	20,641	-	-	20,641
Building	187,208	-	-	187,208
Furniture and fixtures	9,784	-	-	9,784
Total capital assets	<u>314,829</u>	<u>-</u>	<u>-</u>	<u>314,829</u>
Less accumulated depreciation for:				
Computer equipment	(18,567)	(542)	-	(19,109)
Building	(24,754)	(4,800)	-	(29,554)
Furniture and fixtures	(9,784)	-	-	(9,784)
Total accumulated depreciation	<u>(53,105)</u>	<u>(5,342)</u>	<u>-</u>	<u>(58,447)</u>
Capital assets, net	<u>261,724</u>	<u>(5,342)</u>	<u>-</u>	<u>256,382</u>
	2010			
	Beginning Balance	Additions	Deletions	Ending Balance
Capital assets not being depreciated:				
Land	\$ 97,196	\$ -	\$ -	\$ 97,196
Capital assets being depreciated:				
Computer equipment	18,841	1,800	-	20,641
Building	187,208	-	-	187,208
Furniture and fixtures	9,784	-	-	9,784
Total capital assets	<u>313,029</u>	<u>1,800</u>	<u>-</u>	<u>314,829</u>
Less accumulated depreciation for:				
Computer equipment	(17,813)	(754)	-	(18,567)
Building	(19,953)	(4,801)	-	(24,754)
Furniture and fixtures	(9,784)	-	-	(9,784)
Total accumulated depreciation	<u>(47,550)</u>	<u>(5,555)</u>	<u>-</u>	<u>(53,105)</u>
Capital assets, net	<u>265,479</u>	<u>(3,755)</u>	<u>-</u>	<u>261,724</u>

PUBLIC DEFENDER CORPORATION  
FOR THE ELEVENTH JUDICIAL CIRCUIT  
NOTES TO THE FINANCIAL STATEMENTS  
YEARS ENDED JUNE 30, 2011 AND 2010

NOTE 4 - DEFINED BENEFIT RETIREMENT PLAN

The Corporation contributes to the West Virginia Public Employees' Retirement System (PERS), a cost-sharing multiple-employer defined 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 17% of annual covered payroll, including the Corporation's contribution of 12.5% which is established by PERS. Effective July 1, 2011, an increase in the contribution rate of 2% will raise the Corporation's contribution rate to 14.5%. Total contributions to PERS for the years ended June 30, 2011, 2010, and 2009 were \$61,247, \$54,195 and \$54,263, respectively, which consisted of \$45,035, \$38,461 and \$37,984 from the Corporation and \$16,212, \$15,734 and \$16,279 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, 2011 and 2010, the Corporation did not authorize the employer portion of any buy-backs for Plan participants.

PUBLIC DEFENDER CORPORATION  
FOR THE ELEVENTH JUDICIAL CIRCUIT  
NOTES TO THE FINANCIAL STATEMENTS  
YEARS ENDED JUNE 30, 2011 AND 2010

NOTE 5 - CONCENTRATIONS

The Corporation maintains its account balances in a national financial institution. The accounts are insured by the Federal Deposit Insurance Corporation up to \$250,000. The Corporation's bank balance at June 30, 2011 and 2010 was \$242,954 and \$197,282, 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, 2011 and 2010:

	Beginning Balance	Additions	2011 Reductions	Ending Balance	Current Portion
Long term liabilities:					
Note Payable to Lawrence J. Ickes, due in 120 installments of \$1,915, including interest at an annual rate of 6.99%, secured by land and building.	\$ 95,380	\$ -	\$ 16,845	\$ 78,535	\$ 18,061
Other post employment benefits liability	100,357	19,989	-	120,346	-
Compensated absences	35,660	8,186	-	43,846	43,846
	<u>\$ 231,397</u>	<u>\$ 28,175</u>	<u>\$ 16,845</u>	<u>\$ 242,727</u>	<u>\$ 61,907</u>
Total capital assets					
			2010		
	Beginning Balance	Additions	Reductions	Ending Balance	Current Portion
Long term liabilities:					
Long term liabilities:					
Note Payable to Lawrence J. Ickes, due in 120 installments of \$1,915, including interest at an annual rate of 6.99%, secured by land and building.	\$ 111,091	\$ -	\$ 15,711	\$ 95,380	\$ 16,845
Other post employment benefits liability	31,453	81,615	12,711	100,357	-
Compensated absences	25,138	10,522	-	35,660	35,660
	<u>\$ 167,682</u>	<u>\$ 92,137</u>	<u>\$ 28,422</u>	<u>\$ 231,397</u>	<u>\$ 52,505</u>
Total capital assets					

PUBLIC DEFENDER CORPORATION  
 FOR THE ELEVENTH JUDICIAL CIRCUIT  
 NOTES TO THE FINANCIAL STATEMENTS  
 YEARS ENDED JUNE 30, 2011 AND 2010

NOTE 6- LONG TERM LIABILITIES (Continued)

The Corporation's maturities of notes payable for the next four years are as follows:

<u>Year ending June 30</u>	<u>Amount</u>
2012	\$ 18,061
2013	\$ 19,364
2014	\$ 20,763
2015	<u>\$ 20,347</u>
Total	<u>\$ 78,535</u>

NOTE 7 - 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 8 - CASH HELD AT FISCAL YEAR END

At June 30, 2011 and 2010, the Corporation held cash and cash equivalents of \$242,872 and \$193,275, respectively, consisting of unexpended West Virginia Public Defender Service grant funds. West Virginia Public Defender Services considered this amount in determining the succeeding fiscal year necessary to fund the Corporation's normal operating activities.

PUBLIC DEFENDER CORPORATION  
FOR THE ELEVENTH JUDICIAL CIRCUIT  
NOTES TO THE FINANCIAL STATEMENTS  
YEARS ENDED JUNE 30, 2011 AND 2010

NOTE 9 - Errors and Irregularities

In January, 2009, the Chief Defender opened a credit card account with First Citizens Bank. This account was not authorized by the Board of Directors. Also, a total of \$26,801 in charges were found not for the benefit or purpose of the corporation and for the personal use of the Chief Defender. This was from the inception of the credit card account through August 31, 2011.

NOTE 10 - Account Receivable

The accounts receivable in the financial statements represents money owed to the corporation at June 30, 2011 from the Chief Defender for personal use of a credit card in the corporation's name.

Total charged through August 31, 2011	\$26,801
Charges repaid in prior years	(2,249)
Charges repaid in 2011	(7,096)
Charges made after June 30, 2011	<u>(5,125)</u>
Accounts Receivable at June 30, 2011	\$12,331

The Chief Defender has pledged to repay the amount owed.

NOTE 11 - Subsequent Events

The Chief Defender made \$5,125 in charges for personal use on a credit card in the corporation's name after June 30, 2011.

The Chief Defender resigned from his position on August 29, 2011.

The Board of Directors voted to make a claim with their bonding company to recover the misused funds.



## 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 Eleventh Judicial Circuit  
Lewisburg, West Virginia 24901

Our report on our audit of the basic financial statements of the Public Defender Corporation for the Eleventh Judicial Circuit for the year ended June 30, 2011 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 is presented for purposes of additional analysis and is not a required part of the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basis financial statements taken as a whole.

*Balestra, Harr & Scherer*

Balestra, Harr & Scherer, CPAs, Inc.  
September 9, 2011

PUBLIC DEFENDER CORPORATION  
 FOR THE ELEVENTH JUDICIAL CIRCUIT  
 SCHEDULE OF BUDGET TO ACTUAL EXPENSES - CASH BASIS  
 YEAR ENDED JUNE 30, 2011

	<u>Budget</u>	<u>Actual</u>	Under/(Over) Budget to <u>Actual</u>
Personal services	\$ 379,450	\$ 360,789	\$ 18,661
Employee benefits	190,043	176,671	13,372
Support services	10,752	7,255	3,497
Administrative services	11,950	5,610	6,340
Office	28,900	26,899	2,001
Other	8,700	2,879	5,821
Acquisitions	<u>35,350</u>	<u>26,658</u>	<u>8,692</u>
 Total	 <u>\$ 665,145</u>	 <u>\$ 606,761</u>	 <u>\$ 58,384</u>





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

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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 Eleventh Judicial Circuit  
Lewisburg, WV 24901

We have audited the basic financial statements of the Public Defender Corporation for the Eleventh Judicial Circuit, (the Corporation), a component unit of the State of West Virginia, as of and for the year ended June 30, 2011, and have issued our report thereon dated September 9, 2011, wherein we noted there were errors and irregularities adjusted in the financial statements, additional errors and irregularities were noted after June 30, 2011, the Chief Defender resigned from his position, and the Board of Directors voted to make a claim with their bonding company. 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 *Government Auditing Standards*, issued by the Comptroller General of the United States.

#### 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 audit 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.

Our consideration of internal control over financial reporting was for the limited purpose described in the first preceding paragraph and was not designed to identify all deficiencies in internal control over financial reporting that might be significant deficiencies or material weaknesses. Therefore, we cannot assure that we have identified all deficiencies, significant deficiencies or material weaknesses. However, as described in the accompanying schedule of findings we identified a certain deficiency in internal control over financial reporting, that we consider a material weakness.

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 a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the Corporation's financial statements will not be prevented, or detected and timely corrected. We consider finding 2011-001 described in the accompanying schedule of findings to be a material weakness.


Honorable Members of the Board  
Public Defender Corporation for the Eleventh Judicial Circuit  
Report on Internal Control over Financial Reporting and on Compliance  
and Other Matters Required by *Government Auditing Standards*

### Compliance and Other Matters

As part of reasonably assuring whether the Corporation's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on 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 that are required to be reported 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 Eleventh Judicial Circuit Board of Directors, management of the Corporation, West Virginia Public Defender Service, and state awarding agencies. We intend it for no one other than these specified parties.



Balestra, Harr & Scherer, CPAs, Inc.  
September 9, 2011

PUBLIC DEFENDER CORPORATION  
FOR THE ELEVENTH JUDICIAL CIRCUIT  
SCHEDULE OF FINDINGS  
YEARS ENDED JUNE 30, 2011 AND 2010

**FINDINGS RELATED TO THE FINANCIAL STATEMENTS  
REQUIRED TO BE REPORTED IN ACCORDANCE WITH GAGAS**

**FINDING NUMBER 2011-001**

**Material Weakness/Significant Deficiency**

There is no policy and procedure requiring the board approval for opening credit card accounts and for their subsequent use.

This resulted in a credit card account being opened by the Chief Defender with no documentation of board approval authorizing the establishment of this credit card account. Also, \$26,801.68 was charged by the Chief Defender for personal items or items that were not for the benefit or purpose of the Corporation.

The Board should establish a policy for opening any account in the Corporation's name. This policy should, at a minimum, identify who is authorized to open the account, identify authorized users, guidelines for allowable use/purchases, method of reimbursement (if personal use is allowed), specific unallowable uses, reporting, monitoring of use by appropriate levels of management, and other guidelines Board deems appropriate.

**Clients Response:**

The Board of Directors has disallowed the use of a company credit card and closed the account.

