



# Balestra, Harr & Scherer, CPAs, Inc.

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

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

FINANCIAL STATEMENTS  
WITH ADDITIONAL INFORMATION

For the Years Ended June 30, 2014 and 2013  
Fiscal Years Audited Under GAGAS: 2014 and 2013

PUBLIC DEFENDER CORPORATION  
FOR THE FIFTH JUDICIAL CIRCUIT  
YEARS ENDED JUNE 30, 2014 AND 2013

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## INDEPENDENT AUDITOR'S REPORT

Honorable Members of the Board  
Public Defender Corporation  
for the Fifth Judicial Circuit  
214 Main Street  
Ripley, West Virginia 25271

### Report on the Financial Statements

We have audited the accompanying financial statements of the business-type activities of the Public Defender Corporation for the Fifth Judicial Circuit (the "Corporation"), a component unit of the State of West Virginia as of and for the years ended June 30, 2014 and 2013, and the related notes to the financial statements, which collectively comprise the Corporation's basic financial statements as listed in the table of contents.

### Management's Responsibility for the Financial Statements

Management is responsible for preparing and fairly presenting these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes designing, implementing, and maintaining internal control relevant to preparing and fairly presenting financial statements that are free from material misstatement, whether due to fraud or error.

### Auditor's Responsibility

Our responsibility is to opine on these financial statements based on our audit. We audited in accordance with auditing standards generally accepted in the United States of America and the financial audit standards in the Comptroller General of the United States' *Government Auditing Standards*. Those standards require us to plan and perform the audit to reasonably assure the financial statements are free from material misstatement.

An audit requires obtaining evidence about financial statement amounts and disclosures. The procedures selected depend on our judgment, including assessing the risks of material financial statement misstatement, whether due to fraud or error. In assessing those risks, we consider internal control relevant to the Corporation's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not to the extent needed to opine on the effectiveness of the Corporation's internal control. Accordingly, we express no opinion. An audit also includes evaluating the appropriateness of management's accounting policies and the reasonableness of their significant accounting estimates, as well as our evaluation of the overall financial statement presentation

We believe the audit evidence we obtained is sufficient and appropriate to support our audit opinions.

## Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the business-type activities of the Public Defender Corporation for the Fifth Judicial Circuit, a component unit of the State of West Virginia as of June 30, 2014 and 2013, and the respective changes in financial position and cash flows thereof for the years then ended in accordance with the accounting principles generally accepted in the United States of America.

## Other Matters

### *Required Supplementary Information*

Accounting principles generally accepted in the United States of America require this presentation to include *Management's Discussion and Analysis*, 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 applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, consisting of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, to the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not opine or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to opine or provide any other assurance.

### **Other Reporting Required by Government Auditing Standards**

In accordance with *Government Auditing Standards*, we have also issued our report dated January 13, 2015, 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 and grant agreements and other matters. That report describes the scope of our internal control testing over financial reporting and compliance, and the results of that testing, and does not opine on internal control over financial or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Corporation's internal control over financial reporting and compliance.

*Balestra, Harr & Scherer, CPAs*

Balestra, Harr & Scherer, CPAs, Inc.  
Huntington, West Virginia  
January 13, 2015

PUBLIC DEFENDER CORPORATION  
FOR THE FIFTH JUDICIAL CIRCUIT  
MANAGEMENT'S DISCUSSION & ANALYSIS  
YEARS ENDED JUNE 30, 2014 and 2013  
(unaudited)

This discussion and analysis of the Public Defender Corporation of the Fifth 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, 2014 and 2013, 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 position*, the *statements of revenues, expenses and changes in net position*, the *statements of cash flows* and the notes to the financial statements.

The *statement of net position* presents the Corporation's assets, liabilities and net position 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 position 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 position* 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>2014</u>	<u>2013</u>	<u>2012</u>
Assets			
Capital assets	\$ 19,470	\$ 24,644	\$ 7,212
Other assets	94,355	104,479	239,900
Total assets	<u>\$ 113,825</u>	<u>\$ 129,123</u>	<u>\$ 247,112</u>
Liabilities			
Long-term liabilities	\$ 143,693	\$ 136,643	\$ 178,403
Short-term liabilities	53,297	54,800	44,930
Total liabilities	<u>196,990</u>	<u>191,443</u>	<u>223,333</u>
Net Position			
Net Investment in Capital Assets	19,470	24,644	7,212
Unrestricted	(102,635)	(86,964)	16,567
Total liabilities and net position	<u>\$ 113,825</u>	<u>\$ 129,123</u>	<u>\$ 247,112</u>

PUBLIC DEFENDER CORPORATION  
FOR THE FIFTH JUDICIAL CIRCUIT  
MANAGEMENT'S DISCUSSION & ANALYSIS  
YEARS ENDED JUNE 30, 2014 and 2013  
(unaudited)

The Corporation's revenues are derived from funding from West Virginia Public Defender Services (WVPDS) and accordingly 100%, 100% and 99% of the Corporation's revenues were derived from this funding for the years ended June 30, 2014, 2013 and 2012, respectively.

	<u>2014</u>	<u>2013</u>	<u>2012</u>
Operating revenue	\$ 782,648	\$ 671,528	\$ 884,033
Operating expenses	<u>803,493</u>	<u>757,627</u>	<u>889,945</u>
Operating gain (loss)	<u>\$ (20,845)</u>	<u>\$ (86,099)</u>	<u>\$ (5,912)</u>
Net position at beginning of year	<u>(63,320)</u>	<u>23,779</u>	<u>29,691</u>
Net position (deficit) at end of year	<u>\$ (84,165)</u>	<u>\$ (62,320)</u>	<u>\$ 23,779</u>

#### Detailed Financial Analysis of the Corporation

Cash held by the Corporation decreased due to an operating loss and paying the other post employment benefit liability. Other post employment benefit liability, included in long term post employment benefit liabilities, increased by approximately \$7,000 due to a increase in the rate charged by the Retiree Health Benefit Trust (RHBT) fund. All other assets and liabilities remained consistent between the two periods.

Operating revenue for the fiscal year increased by approximately \$111,120, due to increased funding from WVPDS.

Operating expenses for the fiscal year increased by approximately \$45,866. This increase is attributable to a increase in personal services of approximately \$28,118. This increase is due to an increase in expert witness expenses in conjunction with an extended trial during fiscal year 2013. All other expenses remained fairly consistent with the prior fiscal year.

#### Capital Asset and Debt Activity

As of June 30, 2014, 2013 and 2012, the Corporation had capital assets amounting to approximately \$100,000, \$100,000 and \$80,000, respectively. 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 \$81,000, \$76,000 and \$73,000, respectively. There were no disposals during the current year.

Purchases of capital assets for the years ended June 30, 2014, 2013, and 2012 totaled approximately \$0, \$20,100 and \$5,200, respectively.

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 FIFTH JUDICIAL CIRCUIT  
MANAGEMENT'S DISCUSSION & ANALYSIS  
YEARS ENDED JUNE 30, 2014 and 2013  
(unaudited)

**Cash Management**

The Corporation's funds are deposited into a checking account at a national banking institution. This account does not earn interest.

**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, 2014. 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, 2015, the Corporation had an approved budget of \$829,475, which is consistent with the original budget for the year ending June 30, 2014.

**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 P.O. Box 797, 214 Main Street, Ripley, WV, 25271.

PUBLIC DEFENDER CORPORATION  
FOR THE FIFTH JUDICIAL CIRCUIT  
STATEMENTS OF NET POSITION  
JUNE 30, 2014 AND 2013

	2014	2013
<b>ASSETS</b>		
Current assets		
Cash and cash equivalents	93,730	\$ 103,731
Other assets	625	748
Total current assets	94,355	104,479
Capital assets		
Furniture and fixtures	40,177	40,177
Computer Equipment	60,974	60,022
	101,151	100,199
Less accumulated depreciation	(81,681)	(75,555)
Capital assets, net	19,470	24,644
Total assets	\$ 113,825	\$ 129,123
 <b>LIABILITIES</b>		
Current liabilities		
Accrued expenses	\$ 16,847	\$ 17,954
Compensated absences	36,450	36,846
Total current liabilities	53,297	54,800
Long term liabilities		
Other post employment benefit liability	143,693	136,643
Total long term liabilities	143,693	136,643
Total liabilities	196,990	191,443
 <b>NET POSITION</b>		
Net investment in capital assets	19,470	24,644
Unrestricted	(102,635)	(86,964)
Total net position	\$ (83,165)	\$ (62,320)

The Accompanying Notes Are An Integral Part Of These Financial Statements

PUBLIC DEFENDER CORPORATION  
FOR THE FIFTH JUDICIAL CIRCUIT  
STATEMENTS OF REVENUES, EXPENSES, AND CHANGES IN NET POSITION  
YEARS ENDED JUNE 30, 2014 AND 2013

	2014	2013
Operating revenues		
West Virginia Public Defender Services Grant Revenue	\$ 782,648	\$ 671,528
Total operating revenues	782,648	671,528
Operating expenses		
Personal services	513,659	485,541
Employee benefits	193,197	175,390
Support services	8,356	8,186
Administrative support	12,473	17,739
Office	62,266	62,673
Other	3,529	1,998
Acquisition	3,887	3,451
Depreciation	6,126	2,649
Total operating expenses	803,493	757,627
CHANGE IN NET POSITION	(20,845)	(86,099)
Net position, beginning of year	(62,320)	23,779
Net position, end of year	\$ (83,165)	\$ (62,320)

The Accompanying Notes Are An Integral Part Of These Financial Statements

PUBLIC DEFENDER CORPORATION  
FOR THE FIFTH JUDICIAL CIRCUIT  
STATEMENTS OF CASH FLOWS  
YEARS ENDED JUNE 30, 2014 AND 2013

	<u>2014</u>	<u>2013</u>
Cash flows from operating activities		
Cash received from grants	\$ 782,648	\$ 671,528
Cash paid to suppliers for goods and services	(90,511)	(94,047)
Cash paid to employees	(701,186)	(692,923)
Net cash provided/(used) by operating activities	<u>(9,049)</u>	<u>(115,442)</u>
Cash flows from investing activities		
Cash purchases of property and equipment	(952)	(20,081)
Net cash provided/(used) by investing activities	<u>(952)</u>	<u>(20,081)</u>
 NET INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS	 (10,001)	 (135,523)
Cash and cash equivalents, beginning of year	<u>103,731</u>	<u>239,254</u>
Cash and cash equivalents, end of year	<u>\$ 93,730</u>	<u>\$ 103,731</u>
Reconciliation of operating (loss) to net cash provided/(used) by operating activities:		
Operating gain (loss)	\$ (20,845)	\$ (86,099)
Adjustments:		
Depreciation	6,126	2,649
Decrease (increase) in operating assets		
Other assets	123	(102)
Increase (decrease) in operating liability		
Accrued expenses	(1,107)	2,409
Compensated absences	(396)	7,461
Other post employment benefit liability	7,050	(41,760)
Total adjustments	<u>11,796</u>	<u>(29,343)</u>
Net cash provided/(used) by operating activities	<u>\$ (9,049)</u>	<u>\$ (115,442)</u>

The Accompanying Notes Are An Integral Part Of These Financial Statements

PUBLIC DEFENDER CORPORATION  
FOR THE FIFTH JUDICIAL CIRCUIT  
NOTES TO THE FINANCIAL STATEMENTS  
YEARS ENDED JUNE 30, 2014 and 2013

NOTE 1 - ORGANIZATION

The Public Defender Corporation for the Fifth 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 88% of the Corporation's revenues are utilized for program related purposes and 12% are for management and general purposes.

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The financial statements of the Corporation have been prepared in conformity with accounting principles generally accepted in the United States of America (GAAP) as applied to government units. The Governmental Accounting Standards Board (GASB) is the accepted standard-setting body for establishing governmental accounting and financial reporting principles. The more significant of the Corporation's accounting policies are described below.

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.

Net Position

Net Position represents the difference between assets and liabilities. Net investment in capital assets consists of capital assets, net of accumulated depreciation, reduced by the outstanding balances of any borrowings used for the acquisition, construction or improvement of those assets. The Corporation did not have any outstanding borrowings as noted above for the year ended June 30, 2014. Net Position is reported as restricted when there are limitations imposed on their use through external restrictions imposed by creditors, grantors or laws or regulations of other governments. The Corporation did not have any restricted net position for the year ended June 30, 2014.

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.

PUBLIC DEFENDER CORPORATION  
FOR THE FIFTH JUDICIAL CIRCUIT  
NOTES TO THE FINANCIAL STATEMENTS  
YEARS ENDED JUNE 30, 2014 and 2013

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Cash and Cash Equivalents

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

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 \$1,500. Depreciation expense for the years ended June 30, 2014 and 2013 was \$6,126 and \$2,649, 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 FIFTH JUDICIAL CIRCUIT  
NOTES TO THE FINANCIAL STATEMENTS  
YEARS ENDED JUNE 30, 2014 and 2013

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 position. OPEB costs are accrued based upon invoices received from RHBT Trust Fund based upon actuarial determined amounts. At June 30, 2014 and 2013, the noncurrent liability related to OPEB cost was \$143,693 and \$136,643, respectively. The total OPEB expense incurred was \$7,050 and \$7,768, respectively which is included as a component of employee benefit expense. As of the years ended June 30, 2014 and 2013, 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 \$500,000 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 FIFTH JUDICIAL CIRCUIT  
NOTES TO THE FINANCIAL STATEMENTS  
YEARS ENDED JUNE 30, 2014 and 2013

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 FIFTH JUDICIAL CIRCUIT  
NOTES TO THE FINANCIAL STATEMENTS  
YEARS ENDED JUNE 30, 2014 and 2013

NOTE 3 - CAPITAL ASSETS

The following is a summary of capital asset transactions for the Corporation for the year ended June 30, 2014 and 2013:

	<b>2014</b>			
	Beginning Balance	Additions	Reductions	Ending Balance
Capital assets being depreciated:				
Computer equipment	\$ 60,022	\$ 952	\$ -	\$ 60,974
Furniture and fixtures	40,177	-	-	\$ 40,177
Total capital assets	100,199	952	-	101,151
Less accumulated depreciation for:				
Computer equipment	(35,401)	(6,103)	-	(41,504)
Furniture and fixtures	(40,154)	(23)	-	(40,177)
Total accumulated depreciation	(75,555)	(6,126)	-	(81,681)
Capital assets, net	\$ 24,644	\$ (5,174)	\$ -	\$ 19,470

	<b>2013</b>			
	Beginning Balance	Additions	Reductions	Ending Balance
Capital assets being depreciated:				
Computer equipment	\$ 39,941	\$ 20,081	\$ -	\$ 60,022
Furniture and fixtures	40,177	-	-	40,177
Total capital assets	80,118	20,081	-	100,199
Less accumulated depreciation for:				
Computer equipment	(32,798)	(2,603)	-	(35,401)
Furniture and fixtures	(40,108)	(46)	-	(40,154)
Total accumulated depreciation	(72,906)	(2,649)	-	(75,555)
Capital assets, net	\$ 7,212	\$ 17,432	\$ -	\$ 24,644

PUBLIC DEFENDER CORPORATION  
FOR THE FIFTH JUDICIAL CIRCUIT  
NOTES TO THE FINANCIAL STATEMENTS  
YEARS ENDED JUNE 30, 2014 and 2013

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 18.5% of annual covered payroll, including the Corporation's contribution of 14% which is established by PERS.

Effective July 1, 2013, an increase in the contribution rate of 0.5% raised the Corporation's contribution rate to 14.5%. Total contributions to PERS for the years ended June 30, 2014, 2013, and 2012 were \$88,015, \$88,149, and \$87,285, respectively, which consisted of \$75,175, \$66,707 and \$66,427 from the Corporation and \$23,330, \$21,442 and \$20,858 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, 2014 and 2013, the Corporation did not authorize the employer portion of any buy-backs for Plan participants.

PUBLIC DEFENDER CORPORATION  
FOR THE FIFTH JUDICIAL CIRCUIT  
NOTES TO THE FINANCIAL STATEMENTS  
YEARS ENDED JUNE 30, 2014 and 2013

NOTE 5 - CONCENTRATIONS

The Corporation maintains its account balances in a local financial institution. The accounts are insured by the Federal Deposit Insurance Corporation up to \$250,000. The Corporation's bank balance at June 30, 2014 and 2013 was \$106,022 and \$112,338, 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, 2014 and 2013:

	2014				
	Beginning Balance	Additions	Reductions	Ending Balance	Current Portion
Long term liabilities:					
Other post employment benefit liability	\$ 136,643	\$ 7,050	\$ -	\$ 143,693	\$ -
Compensated absences	36,846	21,800	22,196	36,450	36,450
Total long term liabilities	<u>\$ 173,489</u>	<u>\$ 28,850</u>	<u>\$ 22,196</u>	<u>\$ 180,143</u>	<u>\$ 36,450</u>
	2013				
	Beginning Balance	Additions	Reductions	Ending Balance	Current Portion
Long term liabilities:					
Other post employment benefit liability	\$ 178,403	\$ 7,768	\$ 49,528	\$ 136,643	\$ -
Compensated absences	29,385	21,800	14,339	36,846	36,846
Total long term liabilities	<u>\$ 207,788</u>	<u>\$ 29,568</u>	<u>\$ 63,867</u>	<u>\$ 173,489</u>	<u>\$ 36,846</u>

PUBLIC DEFENDER CORPORATION  
FOR THE FIFTH JUDICIAL CIRCUIT  
NOTES TO THE FINANCIAL STATEMENTS  
YEARS ENDED JUNE 30, 2014 and 2013

NOTE 7 - OPERATING LEASE OBLIGATIONS

The Corporation leases facilities under operating lease agreements. Aggregate payments under these agreements were \$30,588 and \$30,561 for the years ended June 30, 2014 and 2013. Future minimum rental commitments are as follows:

<u>Year ending June 30</u>	<u>Amount</u>
2015	\$ 18,327
2016	18,785
2017	19,255
2018	19,736
2019	<u>20,229</u>
Total	<u>\$ 96,332</u>

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, 2014 and 2013, the Corporation held cash and cash equivalents of \$93,730 and \$103,731, 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 Fifth Judicial Circuit  
214 Main Street  
Ripley, West Virginia 25271

Our report on our audit of the basic financial statements of the Public Defender Corporation for the Fifth Judicial Circuit for the year ended June 30, 2014 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.  
Huntington, West Virginia  
January 13, 2015

PUBLIC DEFENDER CORPORATION  
FOR THE FIFTH JUDICIAL CIRCUIT  
SCHEDULE OF BUDGET TO ACTUAL EXPENSES - CASH BASIS  
YEAR ENDED JUNE 30, 2014

	<u>Budget</u>	<u>Actual</u>	<u>Under/(Over) Budget to Actual</u>
Personal services	\$ 523,015	\$ 513,659	\$ 9,356
Employee benefits	191,063	193,197	(2,134)
Support services	10,560	8,356	2,204
Administrative services	13,248	12,473	775
Office	71,206	62,266	8,940
Other	4,500	3,529	971
Acquisitions	<u>5,000</u>	<u>3,887</u>	<u>1,113</u>
 Total	 <u>\$ 818,592</u>	 <u>\$ 797,367</u>	 <u>\$ 21,225</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 Fifth Judicial Circuit  
214 Main Street  
Ripley, West Virginia 25271

We have audited, in accordance with auditing standards generally accepted in the United States and the Comptroller General of the United States' *Government Auditing Standards*, the financial statements of the business-type activities of the Public Defender Corporation for the Fifth Judicial Circuit (the "Corporation"), a component unit of the State of West Virginia, as of and for the years ended June 30, 2014 and 2013, and the related notes to the financial statements, which collectively comprise the Corporation's basic financial statements and have issued our report thereon dated January 13, 2014.

### Internal Control Over Financial Reporting

As part of our financial statement audit, we considered the Corporation's internal control over financial reporting (internal control) to determine the audit procedures appropriate in the circumstances to the extent necessary to support our opinion on the financial statements, but not to the extent necessary to opine on the effectiveness of the Corporation's internal control. Accordingly, we have not opined on it.

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 a reasonable possibility that internal control will not prevent or detect and timely correct a material misstatement of the Corporation's financial statements. 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.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all internal control deficiencies that might be material weaknesses or significant deficiencies. Given these limitations, we did not identify any deficiencies in internal control that we consider material weaknesses. However, unidentified material weaknesses may exist.

### 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, opining 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.

### **Purpose of this Report**

This report only describes the scope of our internal control and compliance testing and our testing results, and does not opine on the effectiveness of the Corporation's internal control or on compliance. This report is an integral part of an audit performed under Government Auditing Standards in considering the Corporation's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

*Balestra, Harr & Scherer, CPAs*

Balestra, Harr & Scherer, CPAs, Inc.  
Huntington, West Virginia  
January 13, 2015



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

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Honorable Members of the Board  
Public Defender Corporation  
for the Fifth Judicial Circuit  
214 Main Street  
Ripley, West Virginia 25271

In accordance with Government Auditing Standards, applicable to financial audits, we have audited the financial statements of the Public Defender Corporation for the Fifth Judicial Circuit (the Corporation) as of and for the year ended June 30, 2014, and have issued our report thereon dated January 13, 2015.

Government Auditing Standards also require that we describe the scope of our testing of compliance with laws and regulations and internal controls and report any irregularities, illegal acts, other material noncompliance and significant deficiencies in internal controls. We have issued the required report dated January 13, 2015 for the year ended June 30, 2014.

We are submitting for your consideration the following comments on the Corporation's compliance with applicable laws and regulations and on its internal controls. These comments reflect matters that, while in our opinion do not represent material instances of noncompliance or significant internal control deficiencies, we believe represent matters for which improvements in compliance or internal controls or operational efficiencies might be achieved. Due to the limited nature of our audit, we have not fully assessed the cost-benefit relationship of implementing the recommendations suggested below. However, these comments reflect our continuing desire to assist your corporation. If you have any questions or concerns regarding these comments, please do not hesitate to contact us.

### **Non Compliance**

1. According to WV Code Section 29-21-15 (b), the board of directors shall have at least four meetings a year. Due to the large distance some of the board members must travel to attend the meetings, and the busy schedules of the attorneys on the board, the Corporation only held two meetings during the audit period.

We recommend the Board of Directors establish a regular meeting schedule that includes at least four meetings annually and two alternate dates in order to comply with the West Virginia Code. If a scheduled meeting cannot be conducted due to lack of a quorum, a replacement meeting should be scheduled. In addition, the minutes from these meetings should be prepared in a timely manner to ensure that documentation is maintained for all meetings held.

**Recommendations**

1. The Chief Defender and the Office Manager are not bonded. While it is not a legal requirement, it is a protective measure for the Public Defender Corporation, the Chief Defender, and the Office Manager in the event that an act of fraud or theft occurs.

The Corporation should bond the Chief Defender and the Office Manager at an amount determined by the Board of Directors.

This report is intended solely for the information and use of the Public Defender Corporation for the Fifth Judicial Circuit Board of Directors, management of the Corporation, West Virginia Public Defender Corporation, and state awarding agencies. We intend it for no one other than these specified parties.

*Balestra, Harr & Scherer, CPAs*

Balestra, Harr & Scherer, CPAs, Inc.  
Huntington, West Virginia  
January 13, 2015