

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

**FINANCIAL STATEMENTS  
WITH ADDITIONAL INFORMATION**

**YEAR ENDED JUNE 30, 2008  
WITH  
INDEPENDENT AUDITORS' REPORT**

PUBLIC DEFENDER CORPORATION  
FOR THE FIFTH JUDICIAL CIRCUIT  
YEAR ENDED JUNE 30, 2008

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## INDEPENDENT AUDITORS' REPORT

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

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 June 30, 2008, and for the year then ended, which collectively comprise the Corporation's basic financial statements 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 the respective financial statements based on our audit.

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 Controller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Corporation's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and the significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that 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 financial position of the business-type activities of the Corporation as of June 30, 2008, and the changes in net assets and cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America.

As discussed in Note 2 to the financial statements, during the year ended June 30, 2008, the Corporation adopted a new financial reporting model and changed from following the Financial Accounting Standards Board to the Governmental Accounting Standards Board. Furthermore, the Corporation adopted Governmental Accounting Standards Board Statement No. 45, *Accounting and Financial Reporting by Employers for Post Employment Benefits Other Than Pensions*.

The management's discussion and analysis on pages 5 through 7 is not a required part of the basic financial statements, but is supplementary information required by accounting principles generally accepted in the United States of America. This supplementary information is the responsibility of the Corporation's management. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the supplementary information. However, we did not audit such information and we do not express an opinion on it.

In accordance with *Government Auditing Standards*, we have also issued our report dated November 12, 2008, 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. The purpose of that report is to describe the scope of our testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be read in conjunction with this report in considering the results of our audit.

A handwritten signature in cursive script that reads "Seattle & Stalnak, PLLC".

Charleston, West Virginia  
November 12, 2008

PUBLIC DEFENDER CORPORATION  
FOR THE FIFTH JUDICIAL CIRCUIT  
MANAGEMENT'S DISCUSSION & ANALYSIS  
YEAR ENDED JUNE 30, 2008

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 year ended June 30, 2008, 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 *statement of net assets*, the *statement of revenues, expenses and changes in net assets*, the *statement of cash flows* and 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 obligated. 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>2008</u>	<u>2007</u>
Assets		
Capital assets	\$ 7,846	\$ 13,634
Other assets	<u>106,103</u>	<u>137,386</u>
Total assets	<u>\$ 113,949</u>	<u>\$ 151,020</u>
Liabilities		
Long-term liabilities	\$ 10,403	\$ -
Short-term liabilities	<u>27,818</u>	<u>24,768</u>
Total liabilities	<u>38,221</u>	<u>24,768</u>
Net Assets		
Invested in capital assets net of related debt	7,846	-
Unrestricted	<u>67,882</u>	<u>126,252</u>
Total liabilities and net assets	<u>\$ 113,949</u>	<u>\$ 151,020</u>

PUBLIC DEFENDER CORPORATION  
FOR THE FIFTH JUDICIAL CIRCUIT  
MANAGEMENT'S DISCUSSION & ANALYSIS  
YEAR ENDED JUNE 30, 2008

The Corporation's revenues are derived from funding from West Virginia Public Defender Services and accordingly 99% of the Corporation's revenues were derived from this funding for the years ended June 30, 2008 and 2007.

	<u>2008</u>	<u>2007</u>
Operating revenue	\$ 529,900	\$ 567,288
Operating expenses	<u>589,106</u>	<u>532,656</u>
Operating loss/gain	(59,206)	34,632
Nonoperating revenue	8,682	-
Nonoperating expense	<u>-</u>	<u>-</u>
Change in net assets	(50,524)	34,632
Net assets at beginning of year	<u>126,252</u>	<u>91,620</u>
Net assets at end of year	<u>\$ 75,728</u>	<u>\$ 126,252</u>

### Detailed Financial Analysis of the Corporation

Cash held by the Corporation decreased by \$31,279 as a result of decreased grant funding. All other assets and liabilities remained within reason between the two periods.

Operating expenses for the fiscal year increased by \$56,450. This increase is attributable to normal budget increases related to line item expenses. Personal Services attributed to \$24,238 of the increase in Operating Expenses. This increase is due to employee raises. All other expenditures remained within reason to the prior fiscal year.

Revenue for the fiscal year decreased by \$37,388 as a result of decreased funding by the West Virginia Public Defender Services.

### Capital Asset and Debt Activity

As of June 30, 2008 and 2007, the Corporation had capital assets amounting to \$68,321 and \$68,321, respectively. The Corporation's capital assets include furniture and 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 \$60,475 and \$54,687, respectively. There were disposals amounting to \$-0- during the current year

Purchases of fixed assets for the years ended June 30, 2008 and 2007 totaled \$-0- and \$-0-, respectively.

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

PUBLIC DEFENDER CORPORATION  
FOR THE FIFTH JUDICIAL CIRCUIT  
MANAGEMENT'S DISCUSSION & ANALYSIS  
YEAR ENDED JUNE 30, 2008

**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 state oversight agency, looked at various factors when approving the budget for the year ending June 30, 2009. 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, 2009, the Corporation has an approved budget of \$691,259. This represents a budget increase of \$80,069 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 P.O. Box 797, 214 Main Street, Ripley, WV 25271.

PUBLIC DEFENDER CORPORATION  
FOR THE FIFTH JUDICIAL CIRCUIT  
STATEMENT OF NET ASSETS  
JUNE 30, 2008

ASSETS

Current assets

Cash	\$ 105,539
Other assets	564
Total current assets	<u>106,103</u>

Capital assets

Furniture and fixtures	39,946
Computer equipment	28,375
	<u>68,321</u>
Less accumulated depreciation	<u>(60,475)</u>

Capital assets, net	<u>7,846</u>
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Total assets	<u>113,949</u>
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LIABILITIES

Current liabilities

Accrued expenses	13,067
Compensated absences	14,751
Total current liabilities	<u>27,818</u>

Non-current liabilities

Other postemployment benefit liability	<u>10,403</u>
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Total liabilities	38,221
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NET ASSETS

Invested in capital assets, net of related debt	7,846
Unrestricted	67,882
Total net assets	<u>\$ 75,728</u>



PUBLIC DEFENDER CORPORATION  
FOR THE FIFTH JUDICIAL CIRCUIT  
STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN NET ASSETS  
YEAR ENDED JUNE 30, 2008

Operating revenues	
West Virginia Public Defender Services Grant Revenue	\$ 529,900
Total operating revenues	529,900
Operating expenses	
Personal services	379,409
Employee benefits	127,637
Support services	5,372
Administrative support	13,161
Office	50,064
Other	2,760
Acquisition	4,915
Depreciation	5,788
Total operating expenses	589,106
Operating gain (loss)	(59,206)
Non-operating revenues (expenses)	
Payments made on behalf of the entity	8,682
CHANGE IN NET ASSETS	(50,524)
Net assets, beginning of year	126,252
Net assets, end of year	\$ 75,728

PUBLIC DEFENDER CORPORATION  
FOR THE FIFTH JUDICIAL CIRCUIT  
STATEMENT OF CASH FLOWS  
YEAR ENDED JUNE 30, 2008

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Cash flows from operating activities	
Cash received from grants	\$ 529,900
Cash paid for expenses	(561,179)
Net cash provided (used) by operating activities	<u>(31,279)</u>
NET INCREASE (DECREASE) IN CASH	(31,279)
Cash balance, beginning of year	<u>136,818</u>
Cash balance, end of year	<u><u>\$ 105,539</u></u>
Reconciliation of operating gain/(loss) to net cash provided/(used) by operating activities:	
Operating gain/(loss)	<u>\$ (59,206)</u>
Adjustments:	
Depreciation and amortization	5,788
Expenses paid on behalf of the entity	8,682
Decrease (increase) in operating assets	
Other assets	4
Increase (decrease) in operating liabilities	
Accrued expenses	7,030
Compensated absences	(3,980)
Other postemployment benefit liability	<u>10,403</u>
Total adjustments	<u>27,927</u>
Net cash provided (used) by operating activities	<u><u>\$ (31,279)</u></u>
Supplemental Schedule of Non-Cash Financing Activities	
Payments received on behalf of entity	<u><u>\$ 8,682</u></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  
YEAR ENDED JUNE 30, 2008

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 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, liabilities, net 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 a 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.

Effective July 1, 2007, the Corporation determined that it had been applying the wrong financial reporting model and converted from following Financial Accounting Standards Board to the Governmental Accounting Standards Board. This change required significant change in the financial reporting presentation and disclosures.

PUBLIC DEFENDER CORPORATION  
FOR THE FIFTH JUDICIAL CIRCUIT  
NOTES TO THE FINANCIAL STATEMENTS  
YEAR ENDED JUNE 30, 2008

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, 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 relating 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 purposes.

Basis of Accounting

For financial reporting 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 FIFTH JUDICIAL CIRCUIT  
NOTES TO THE FINANCIAL STATEMENTS  
YEAR ENDED JUNE 30, 2008

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 10 years. The Corporation's capitalization threshold is \$1,000. Depreciation expense for the year ended June 30, 2008 was \$5,788.

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 provided 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.

PUBLIC DEFENDER CORPORATION  
FOR THE FIFTH JUDICIAL CIRCUIT  
NOTES TO THE FINANCIAL STATEMENTS  
YEAR ENDED JUNE 30, 2008

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Estimated obligations arise for vacation leave at the current rate of employee pay. Employees vest in a maximum of 35 days of unused vacation leave which is paid at the time of separation from employment. The estimated expense incurred for the vacation leave or OPEB benefits are recorded as a component of benefits expense on the statement of revenues, expenses and changes in net assets. Also, the Corporation grants sick leave based on time worked and employees with less than 5 years of service earn 10 hours per month, employees with 5 to 12 years of service earn 12 hours per month and employees with over 12 years of service earn 14 hours per month with no limit on the amount that can be carried over. 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. For the year ended June 30, 2008, with the adoption of GASB Statement No. 45, OPEB costs are accrued based upon invoices received from PEIA based upon actuarial determined amounts. At June 30, 2008, the noncurrent liability related to OPEB cost was \$10,403. The total OPEB expense incurred was \$33,196 and there was no OPEB expense directly related to retirees during 2008. As of the year ended June 30, 2008, there were no retirees receiving these benefits.

Risk Management

The Corporation has obtained general, property and casualty and liability coverage for itself and its employees through third party insurance companies. Any loss in excess of the \$500,000 policy limits would 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 has a single private insurance company, BrickStreet Insurance, which provides 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 to government employers beginning July 1, 2012. 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  
YEAR ENDED JUNE 30, 2008

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

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.

Recent Statements Issued By GASB

The GASB has issued Statement No. 49, *Accounting and Financial Reporting for Pollution Remediation Obligations*, effective for fiscal years beginning after December 15, 2008. This statement addresses the obligations of existing pollution events. It provides guidance on whether any components of a remediation should be recognized as a liability. The Corporation has not yet determined the effect that the adoption of GASB Statement No. 49 may have on the financial statements.

PUBLIC DEFENDER CORPORATION  
FOR THE FIFTH JUDICIAL CIRCUIT  
NOTES TO THE FINANCIAL STATEMENTS  
YEAR ENDED JUNE 30, 2008

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

The GASB has issued Statement No. 51, *Accounting and Financial Reporting for Intangible Assets*, effective for fiscal years beginning after June 15, 2009. This statement provides guidance regarding whether and when intangible assets should be considered capital assets for financial reporting purposes. The Corporation has not yet determined the effect that the adoption of GASB Statement No. 51 may have on the financial statements.

The GASB has issued Statement No. 53, *Accounting and Financial Reporting for Derivative Instruments*, effective for fiscal years beginning July 1, 2009. This statement addresses recognition, measurement and disclosure of information regarding derivative instruments entered into by state and local governments. The Corporation has not yet determined the effect that the adoption of GASB Statement No. 53 may have on its financial statements.

NOTE 3 - CAPITAL ASSETS

The following is a summary of capital asset transactions for the Corporation for the year ended June 30, 2008:

	Beginning <u>Balance</u>	<u>Additions</u>	<u>Reductions</u>	Ending <u>Balance</u>
Capital assets being depreciated:				
Computer property	\$ 28,375	\$ -	\$ -	\$ 28,375
Furniture and fixtures	<u>39,946</u>	<u>-</u>	<u>-</u>	<u>39,946</u>
Total capital assets	<u>68,321</u>	<u>-</u>	<u>-</u>	<u>68,321</u>
Less accumulated depreciation for:				
Computer property	(21,726)	(3,570)	-	(25,296)
Furniture and fixtures	<u>(32,961)</u>	<u>(2,218)</u>	<u>-</u>	<u>(35,179)</u>
Total accumulated depreciation	<u>(54,687)</u>	<u>(5,788)</u>	<u>-</u>	<u>(60,475)</u>
Capital assets, net	<u>\$ 13,634</u>	<u>\$ (5,788)</u>	<u>\$ -</u>	<u>\$ 7,846</u>



PUBLIC DEFENDER CORPORATION  
FOR THE FIFTH JUDICIAL CIRCUIT  
NOTES TO THE FINANCIAL STATEMENTS  
YEAR ENDED JUNE 30, 2008

NOTE 4 - DEFINED CONTRIBUTION 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 15% of annual covered payroll, including the Corporation's contribution of 10.5% which is established by PERS. Total contributions to PERS for the years ended June 30, 2008, 2007 and 2006 were \$58,819, \$52,594, and \$50,883, respectively, which consisted of \$41,173, \$36,816 and \$35,618 from the Corporation, and \$17,646, \$15,778 and \$15,265 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 year ended June 30, 2008, 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  
YEAR ENDED JUNE 30, 2008

NOTE 5 - CONCENTRATIONS

The Corporation maintains its account balances in an account at a local financial institution. The account is insured by the Federal Deposit Insurance Corporation up to \$100,000. The Corporation's bank balance at June 30, 2008 was \$105,539.

The Corporation receives approximately 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 year ended June 30, 2008:

	<u>Beginning Balance</u>	<u>Additions</u>	<u>Reductions</u>	<u>Ending Balance</u>	<u>Current Portion</u>
Other postemployment benefit liability	\$ -	\$ 10,403	\$ -	\$ 10,403	\$ -
Compensated absences	<u>18,731</u>	<u>-</u>	<u>3,980</u>	<u>14,751</u>	<u>14,751</u>
Total long-term liabilities	<u>\$ 18,731</u>	<u>\$ 10,403</u>	<u>\$ 3,980</u>	<u>\$ 25,154</u>	<u>\$ 14,751</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; now, 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.

PUBLIC DEFENDER CORPORATION  
FOR THE FIFTH JUDICIAL CIRCUIT  
NOTES TO THE FINANCIAL STATEMENTS  
YEAR ENDED JUNE 30, 2008

NOTE 8 - CASH HELD AT FISCAL YEAR END

At June 30, 2008, the Corporation held cash and cash equivalents of \$105,539 consisting of unexpended 2007/2008 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.



INDEPENDENT AUDITORS' REPORT ON INTERNAL CONTROL OVER FINANCIAL  
REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT  
OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH  
*GOVERNMENT AUDITING STANDARDS*

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

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, 2008, and have issued our report thereon dated November 12, 2008, which contained a matter of emphasis paragraph that the Corporation during the year ended June 30, 2008 adopted a new financial reporting model and changed from following the Financial Accounting Standards Board to the Governmental Accounting Standards Board. Furthermore, the Corporation adopted Governmental Accounting Standards Board Statement No. 45, *Accounting and Financial Reporting by Employers for Post Employment Benefits Other Than Pensions*. 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 auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Corporation's internal control over financial reporting. Accordingly, we do not express an opinion 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 preceding paragraph and would not necessarily identify all deficiencies in internal control over financial reporting that might be significant deficiencies or material weaknesses. However, as discussed below, we identified a deficiency in internal control over financial reporting that we consider to be a significant deficiency.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with accounting principles generally accepted in the United States of America such that there is more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected by the entity's internal control. We consider the deficiency described in the accompanying schedule of findings and responses as item 2008-01 to be a significant deficiency in internal control over financial reporting.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected by the entity's internal control.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. However, we believe that the significant deficiency described above to be a material weakness.


#### Compliance and Other Matters

As part of obtaining reasonable assurance about 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 such 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 and responses. We did not audit the Corporation's response and, accordingly, we express no opinion on it.

We noted certain matters that we have reported to management of the Corporation in a separate letter dated November 12, 2008.

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, federal and state awarding agencies, and pass-through entities and is not intended to be and should not be used by anyone other than those specified parties.

  
Charleston, West Virginia  
November 12, 2008

PUBLIC DEFENDER CORPORATION  
FOR THE FIFTH JUDICIAL CIRCUIT  
SCHEDULE OF FINDINGS AND RESPONSES  
YEAR ENDED JUNE 30, 2008

**2008-01****Financial Reporting****Criteria:**

The Corporation's financial reporting process should be designed to ensure that financial statements prepared by management are fairly presented in accordance with accounting principles generally accepted in the United States of America (GAAP) as prescribed by Governmental Accounting Standards Board (GASB).

**Condition:**

The Corporation's general ledger required numerous adjustments identified during the audit process to ensure that the financial statements were prepared in accordance with GAAP. Furthermore, the Corporation determined that it had been following the wrong financial reporting model and changed from following the Financial Accounting Standards Board (FASB) reporting model to the GASB reporting model as required.

**Context:**

The adjustments made to the Corporation's financial statements included adjustments to other post employment benefit liability and accrued expenses. These adjustments had the effect on the Corporation's financial statements of increasing expenses by approximately \$22 thousand and increasing revenue by approximately \$9 thousand, and increasing total liabilities by approximately \$13 thousand. The total assets, liabilities, unrestricted revenues and expenses of the Corporation as of June 30, 2008 were approximately \$114 thousand, \$38 thousand, \$539 thousand and \$589 thousand, respectively. The financial statements and footnotes required numerous changes and additional note disclosures to be in compliance with the GASB financial reporting model.

**Cause:**

The Corporation does not have established financial reporting processes and procedures to accumulate and record information necessary to report the financial statements in accordance with GAAP as prescribed by GASB.

**Effect:**

Management's financial statements are not being maintained in accordance with GAAP as prescribed by GASB.

**Recommendation:**

Management should develop policies and procedures to prepare GAAP basis financial statements in accordance with the GASB reporting model. In addition to preparing GAAP basis financial statements as prescribed by GASB at year-end, GAAP basis statements should then be prepared throughout the year to provide management with additional information for decision-making purposes.

**Management's  
Response/Views of  
Responsible Officials:**

*Management plans to develop policies and procedures to prepare GAAP basis financial statements in accordance with the GASB reporting model. Management plans to see that GAAP basis statements are prepared throughout the year.*

## ADDITIONAL INFORMATION



INDEPENDENT AUDITORS' REPORT  
ON ADDITIONAL INFORMATION

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

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, 2008 appears on pages 3 and 4. 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 basic financial statements taken as a whole.

A handwritten signature in cursive script that reads 'Suttle &amp; Stalnaker, PLLC'.

Charleston, West Virginia  
November 12, 2008

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PUBLIC DEFENDER CORPORATION  
 FOR THE FIFTH JUDICIAL CIRCUIT  
 SCHEDULE OF BUDGET TO ACTUAL - EXPENSES - CASH BASIS  
 YEAR ENDED JUNE 30, 2008

	<u>Budget</u>	<u>Actual</u>	Under/(Over) Budget to <u>Actual</u>
Personal services	\$ 380,971	\$ 383,389	\$ (2,418)
Employee benefits	109,889	101,518	8,371
Support services	24,400	5,372	19,028
Administrative services	20,330	13,161	7,169
Office	63,600	50,064	13,536
Other	5,500	2,760	2,740
Acquisitions	6,500	4,915	1,585
	<hr/>	<hr/>	<hr/>
Total	<u>\$ 611,190</u>	<u>\$ 561,179</u>	<u>\$ 50,011</u>