

TEXAS DEFENDER SERVICE  
(A Nonprofit Corporation)

INDEPENDENT AUDITORS' REPORT  
AND  
FINANCIAL STATEMENTS

December 31, 2014

TEXAS DEFENDER SERVICE  
(A Nonprofit Corporation)

INDEPENDENT AUDITORS' REPORT  
AND  
FINANCIAL STATEMENTS

December 31, 2014

INDEX TO FINANCIAL STATEMENTS

Independent Auditors' Report.....	1
Statement of Financial Position.....	2
Statement of Activities.....	3
Statement of Functional Expenses.....	4
Statement of Cash Flows.....	5
Notes to Financial Statements.....	6

# Allman & Associates, Inc.

CERTIFIED PUBLIC ACCOUNTANTS

9600 GREAT HILLS TRAIL  
SUITE 150W  
AUSTIN, TX 78759  
(512) 502-3077  
FAX: 888-512-7990  
WWW.ALLMANCPAS.COM

## INDEPENDENT AUDITORS' REPORT

To the Board of Directors  
Texas Defender Service

We have audited the accompanying financial statements of the Texas Defender Services (a nonprofit corporation), which comprise the statement of financial position as of December 31, 2014, and the related statement of activities, functional expenses and cash flows for the year then ended, and the related notes to the financial statements.

### **Management's Responsibility for the Financial Statements**

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

### **Auditors' Responsibility**

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. 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 involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### **Opinion**

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Texas Defender Service as of December 31, 2014, and the changes in their net assets and cash flows for the year then ended are in accordance with accounting principles generally accepted in the United States of America.

*Allman & Associates, Inc.*

Austin, Texas  
March 16, 2015

TEXAS DEFENDER SERVICE  
(A Nonprofit Corporation)

STATEMENT OF FINANCIAL POSITION

As of December 31, 2014

<b>Assets</b>	
Current Assets:	
Cash and cash equivalents	\$ 1,345,227
Grants receivable - current	550,000
Accounts receivable	1,304
Other Assets	<u>13,439</u>
Total Current Assets	1,909,970
Property and Equipment, net of accumulated depreciation	<u>584,468</u>
Total Assets	<u><u>\$ 2,494,438</u></u>
<b>Liabilities and Net Assets</b>	
Current Liabilities	
Accounts payable	\$ 4,193
Accrued expenses	<u>54,556</u>
Total Current Liabilities	<u>58,749</u>
Total Liabilities	<u>58,749</u>
Net Assets:	
Unrestricted Net Assets	1,437,120
Temporarily Restricted Net Assets	<u>998,569</u>
Total Net Assets	<u>2,435,689</u>
Total Liabilities and Net Assets	<u><u>\$ 2,494,438</u></u>

See accompanying auditors' report and notes to financial statements.

TEXAS DEFENDER SERVICE  
(A Nonprofit Corporation)

STATEMENT OF ACTIVITIES

For the Year Ended December 31, 2014

	<b>Unrestricted</b>	<b>Temporarily Restricted</b>	<b>Total</b>
<b>Revenues:</b>			
Grants	\$ 275,000	\$ 455,000	\$ 730,000
Litigation income	723,790	-	723,790
Contributions	227,695	-	227,695
Other income	2,355	-	2,355
	1,228,840	455,000	1,683,840
Released from restrictions	1,098,656	(1,098,656)	-
	2,327,496	(643,656)	1,683,840
<b>Expenses</b>			
Program Services			
Trial Project	815,132	-	815,132
Post Conviction	494,695	-	494,695
Policy Advocacy	100,504	-	100,504
Capital Litigation Communications	405,005	-	405,005
Atlantic Center for Capital Representation	317,800	-	317,800
StandDown Texas	50,245	-	50,245
Other Program Services	163,152	-	163,152
Total Program Services	2,346,533		2,346,533
Management and general	219,238	-	219,238
Fundraising	163,696	-	163,696
	2,729,467	-	2,729,467
Change in Net Assets	(401,971)	(643,656)	(1,045,627)
Net Assets, Beginning of Year	1,839,091	1,642,225	3,481,316
Net Assets, End of Year	\$ 1,437,120	\$ 998,569	\$ 2,435,689

See accompanying auditors' report and notes to financial statements.

TEXAS DEFENDER SERVICE  
(A Nonprofit Corporation)

STATEMENT OF FUNCTIONAL EXPENSES

For the Year Ended December 31, 2014

Expense Category	Program Services	General & Administrative	Fundraising	Totals
Salaries	\$ 1,125,763	\$ 131,211	\$ 89,832	\$ 1,346,806
Contract labor	127,274	2,533	-	129,807
Employee benefits & taxes	220,576	25,000	16,156	261,732
Office rent, parking & insurance	63,960	9,614	5,552	79,126
Telephone/internet access	20,134	2,472	1,359	23,965
Office supplies	16,755	3,840	2,405	23,000
Travel & training	146,118	3,482	1,272	150,872
Law library	7,578	-	-	7,578
Equipment rental	431	42	18	491
Postage and delivery	6,368	1,035	1,065	8,468
Printing and reproduction	12,219	326	4,089	16,634
Professional development	9,737	-	249	9,986
Professional fees	550,558	12,231	560	563,349
Maintenance and repairs	22,683	4,588	1,671	28,942
Subscriptions and books	7,866	-	-	7,866
Fundraising expenses	-	-	39,468	39,468
Director and officers insurance	-	3,598	-	3,598
Professional liability insurance	6,455	-	-	6,455
Depreciation	-	16,202	-	16,202
Other expenses	2,058	3,064	-	5,122
Totals	<u>\$ 2,346,533</u>	<u>\$ 219,238</u>	<u>\$ 163,696</u>	<u>\$ 2,729,467</u>

See accompanying auditors' report and notes to financial statements.

TEXAS DEFENDER SERVICE  
(A Nonprofit Corporation)

STATEMENT OF CASH FLOWS

For the Year Ended December 31, 2014

Change in net assets	\$ (1,045,627)
Adjustments to reconcile change in net assets to net cash provided by operating activities:	
Depreciation	16,202
Changes in assets and liabilities:	
Accounts and grants receivable	1,149,208
Prepaid expenses	(12,265)
Accounts payable	(2,021)
Accrued expenses	4,214
	<hr/>
Net Cash Provided by Operating Activities	109,711
	<hr/>
Cash Flows From Investing Activities:	
Purchase of furniture and equipment	(35,643)
	<hr/>
Net Cash Used by Investing Activities	(35,643)
	<hr/>
Net Increase in Cash	74,068
Cash, Beginning of Year	1,271,159
	<hr/>
Cash, End of Year	\$ 1,345,227
	<hr/> <hr/>
Supplemental Disclosure:	
Cash paid for interest	\$ -
	<hr/> <hr/>
Cash paid for income taxes	\$ -
	<hr/> <hr/>

See accompanying auditors' report and notes to financial statements.

TEXAS DEFENDER SERVICE  
(A Nonprofit Corporation)

NOTES TO FINANCIAL STATEMENTS

December 31, 2014

1. General Information

The Texas Defender Service (“TDS”) is a non-profit organization with offices in Houston, Austin, and Philadelphia. Founded in 1995, the Texas Defender Service provides direct representation to indigent inmates on Texas’ death row, consults with other lawyers litigating such cases, intervenes in cases where expert legal assistance is urgently needed, and engages in issue advocacy aimed at improving the Texas criminal justice system. TDS’ mission is to establish a fair and just criminal justice system in Texas. There are five aspects of TDS’ work, all of which aim to improve the fairness of the proceedings or quality of representation provided to indigent persons in Texas: (1) Trial Project – trial litigation, training and consulting aimed at reducing new death sentences; (2) Post Conviction – post-conviction litigation and consulting aimed at reducing executions; (3) Policy Advocacy – systemic research, advocacy and report publication regarding Texas death penalty and criminal justice issues; (4) Capital Litigation Communications – a comprehensive campaign designed to increase the chances for capital litigation success and erode public confidence in the death penalty; (5) The Atlantic Center for Capital Representation (ACCR) – a regional death penalty representation project based in Philadelphia that replicates the trial project work on the Atlantic coast; and (6) Prosecutorial Accountability Project (PAP) – a program designed to create accountability for prosecutors who violate the Constitution and laws of the United States as well as the ethical codes of the legal profession.

TDS’ financial statements include the financial activity of another nonprofit organization, the StandDown Texas Project. The StandDown Texas Project was organized in 2000 to advocate a moratorium on executions and a state-sponsored review of Texas’ application of the death penalty.

TDS has a fiscal sponsorship agreement which began May 14, 2008 with the StandDown Texas Project whereby TDS received the assets and incurred liabilities identified with the StandDown Texas Project and uses them to pursue the objectives for which the StandDown Texas Project was established. The employees of StandDown do not participate in the employee benefits of TDS, and their employees have signed written acknowledgements for nonparticipation.

2. Summary of Significant Accounting Policies

**Basis of Accounting**

The accompanying financial statements have been prepared on the accrual basis of accounting. Contributions received are recorded as unrestricted, temporarily restricted and permanently restricted support depending on the existence or nature of donor stipulations.



TEXAS DEFENDER SERVICE  
(A Nonprofit Corporation)

NOTES TO FINANCIAL STATEMENTS

December 31, 2014

2. Summary of Significant Accounting Policies (continued)

**Classification of Net Assets**

Net assets and revenue, expenses, gains, and losses are classified based on the existence or absence of donor-imposed restrictions. Accordingly, net assets of TDS and changes therein are classified as follows:

Unrestricted net assets - Net assets that are not subject to donor-imposed restrictions.

Temporarily restricted net assets - Net assets subject to donor-imposed stipulations which expire when the stipulated purpose for which the resource was restricted has been fulfilled.

Permanently Restricted Net Assets - Net assets subject to donor-imposed stipulations that they be maintained permanently by TDS. TDS had no permanently restricted net assets as of December 31, 2014.

**Use of Estimates**

The preparation of financial statements in conformity with U.S. generally accepted accounting principles 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 expenses during the reporting period. Actual results could differ from those estimates.

**Federal Income Taxes**

TDS is exempt from Federal income taxes under Section 501(a) of the Internal Revenue Code (IRC) as an organization described in Section 501(c)(3). TDS is potentially subject to audit by income tax authorities for the current year and previous three years.

**Cash and Equivalents**

For the purpose of the statements of cash flows, TDS considers cash and highly liquid investments with maturities of three months or less when purchased to be cash equivalents.

**Grants Receivable**

Grants received, including unconditional promises, are recognized as revenue when the donor's commitment is received. Pledged grants receivable are recognized as current receivables for those to be received in the next year and long term receivables for those to be received after one year. TDS has not established an allowance for uncollectible receivables based on its history and the credit worthiness of the granting organizations.

TEXAS DEFENDER SERVICE  
(A Nonprofit Corporation)

NOTES TO FINANCIAL STATEMENTS

December 31, 2014

2. Summary of Significant Accounting Policies (continued)

**Property and Equipment**

Property, equipment and leasehold improvements with a cost greater than or equal to \$1,000 and a useful life greater than one year are capitalized and recorded at cost, including the cost of significant improvements or renovations. Donated assets are recorded at their estimated fair market value at the date of donation. Costs of routine repairs and maintenance are charged to expense as incurred. Depreciation is calculated using the straight-line method over estimated lives of three to forty years.

**Functional Accounting**

The costs of providing the various programs and activities have been summarized on a functional basis in the statement of activities. Accordingly certain costs have been allocated among the programs and supporting services benefited. Expenses that can be identified with a specific program or that relate to a specific source of revenue are allocated directly to that program.

**Credit Risk**

Financial instruments which potentially subject TDS to credit risk consist of cash and cash equivalents, and accounts receivable. TDS has no formal policy which limits credit exposure for balances exceeding federal insurance limits by restricting the amount which may be deposited with any one financial institution. TDS's deposits exceeded the federal depository insurance limits by \$1,156,316 as of December 31, 2014. TDS generally does not maintain collateral for its accounts receivable, and does not believe significant credit risk exists as of December 31, 2014.

**Subsequent Events**

Subsequent events are events or transactions that occur after the statement of financial position date but before the financial statements are issued. Management has evaluated subsequent events through the issuance date of the audit report, March 16, 2015, and there were no subsequent events to be disclosed.

TEXAS DEFENDER SERVICE  
(A Nonprofit Corporation)

NOTES TO FINANCIAL STATEMENTS

December 31, 2014

3. Property and Equipment

Major classes of property and equipment consist of the following:

Land	\$	176,399
Building		389,855
Office furniture and equipment		152,496
		<u>718,750</u>
Less accumulated depreciation		<u>(134,282)</u>
Property and equipment, net	\$	<u>584,468</u>

Depreciation expense for the year ended December 31, 2014 was \$16,202.

4. Temporarily Restricted Net Assets

Temporarily restricted net assets consisted of the following unspent grant funds at December 31, 2014:

Themis Fund - TDS	\$	150,000
Tides - TDS		100,000
Open Society Foundation - TDS		450,000
Linman Fellowship - TDS		22,000
Yale Initiative for Public Interest Law		23,419
Open Society Foundation - ACCR		85,650
Atlantic Philanthropies - ACCR		112,500
Vital Projects - ACCR		30,000
Proteus Fund - CLCP		<u>25,000</u>
Total	\$	<u>998,569</u>

5. Pension Plan

TDS established a defined-contribution retirement plan covering all salaried employees with at least one year of employment except StandDown employees. Expenses under the plan were \$2,506 for the year ended December 31, 2014.

TEXAS DEFENDER SERVICE  
(A Nonprofit Corporation)

NOTES TO FINANCIAL STATEMENTS

December 31, 2014

6. Lease Commitments

TDS leases office facilities in Austin and Philadelphia under operating leases that expire at various times. Total rental expense for 2014 was \$69,430.

Future minimum lease payments are as follows:

<b>Year</b>	<b>Amount</b>
2015	62,039
2016	57,880
2017	59,269
2018	60,658
2019	<u>38,857</u>
Total lease payments	<u>\$ 278,703</u>

7. Fair Value Measurements and Disclosures

The requirements of *Fair Value Measurements and Disclosures* of the Accounting Standards Codification apply to all financial instruments and all nonfinancial assets and nonfinancial liabilities that are being measured and reported on a fair value basis. Fair value is a market-based measurement, not an entity-specific measurement. For some assets and liabilities, observable market transactions or market information might be available. For other assets and liabilities, observable market transactions and market information might not be available. However, the objective of a fair value measurement is the same in both cases – to estimate the price at which an orderly transaction to sell the asset or to transfer the liability would take place between market participants at the measurement date under current market conditions (that is, an exit price). *Fair Value Measurements and Disclosures* also establish a fair value hierarchy that prioritizes the inputs used in valuation methodologies into the following three levels:

- Level 1 Inputs – Quoted prices (unadjusted) in active markets for identical assets or liabilities that the reporting entity can access at the measurement date.
- Level 2 Inputs – Inputs other than quoted prices included with Level 1 that are observable for the asset or liability either directly or indirectly.
- Level 3 Inputs – Unobservable inputs for the asset or liability.

The fair value of the TDS's current assets and current liabilities approximate the carrying amounts of such instruments due to their short maturity.