

TEXAS DEFENDER SERVICE
(A Nonprofit Corporation)

INDEPENDENT AUDITORS' REPORT
AND
FINANCIAL STATEMENTS

December 31, 2012

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INDEPENDENT AUDITORS' REPORT

To the Board of Directors
Texas Defender Service

We have audited the accompanying consolidated financial statements of the Texas Defender Services (a nonprofit corporation), which comprise the statement of financial position as of December 31, 2012, 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

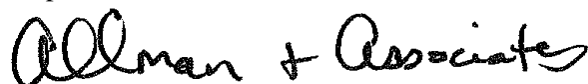
Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about 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, 2012, 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.



Austin, Texas
April 8, 2013

TEXAS DEFENDER SERVICE
(A Nonprofit Corporation)

STATEMENT OF FINANCIAL POSITION

As of December 31, 2012

Assets	
Current Assets:	
Cash and cash equivalents	\$ 897,873
Grants receivable	175,000
Prepaid Expenses	635
Other Assets	<u>725</u>
Total Current Assets	<u>1,074,233</u>
Property and Equipment, Net of accumulated depreciation	<u>579,192</u>
Total Assets	<u><u>\$ 1,653,425</u></u>
Liabilities and Net Assets	
Current Liabilities	
Accounts payable	\$ 1,691
Accrued expenses	<u>55,709</u>
Total Current Liabilities	<u>57,400</u>
Total Liabilities	<u>57,400</u>
Net Assets:	
Unrestricted Net Assets	891,139
Temporarily Restricted Net Assets	<u>704,886</u>
Total Net Assets	<u>1,596,025</u>
Total Liabilities and Net Assets	<u><u>\$ 1,653,425</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, 2012

Unrestricted Net Assets:	Temporarily		
Revenues:	Unrestricted	Restricted	Total
Grants	\$ 822,000	\$ 860,500	\$ 1,682,500
Litigation income	649,151	-	649,151
Contributions	87,654	-	87,654
Other income	4,683	-	4,683
Released from restrictions	463,244	(463,244)	-
	<hr/>		
Total Revenues	2,026,732	397,256	2,423,988
	<hr/>		
Expenses			
Program Services			
Trial Project	574,833	-	574,833
Post Conviction	578,256	-	578,256
Policy Advocacy	62,635	-	62,635
Capital Litigation Communications	421,088	-	421,088
Atlantic Center for Capital Representation	230,838	-	230,838
StandDown Texas	61,310	-	61,310
Other Program Services	75,246	-	75,246
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Total Program Services	2,004,206		2,004,206
Management and general	207,332	-	207,332
Fundraising	78,602	-	78,602
	<hr/>		
Total expenses	2,290,140	-	2,290,140
	<hr/>		
Change in Net assets	(263,408)	397,256	133,848
Net assets, beginning of the year	1,154,547	307,630	1,462,177
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Net assets, end of year	\$ 891,139	\$ 704,886	\$ 1,596,025
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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, 2012

Expense Category	Program Services	General & Administrative	Fundraising	Totals
Salaries	\$ 1,040,674	\$ 106,349	\$ 53,487	\$ 1,200,510
Contract labor	9,120	2,000	-	11,120
Employee benefits & taxes	184,458	30,419	10,913	225,790
Office rent, parking & insurance	82,090	11,147	7,431	100,668
Telephone/internet access	21,087	1,922	845	23,854
Office supplies	8,617	1,857	901	11,375
Travel & training	98,677	4,506	1,186	104,369
Law library	6,573	-	7	6,580
Equipment rental	878	68	29	975
Postage and delivery	7,022	196	352	7,570
Printing and reproduction	7,927	373	1,080	9,380
Professional development	1,746	-	-	1,746
Professional fees	504,772	16,583	430	521,785
Maintenance and repairs	7,159	1,578	928	9,665
Subscriptions and books	11,496	-	-	11,496
Fundraising expenses	-	-	625	625
Director and officers insurance	-	3,226	-	3,226
Professional liability insurance	6,377	-	-	6,377
Depreciation	-	19,684	-	19,684
Bad debt	-	4,455	-	4,455
Other expenses	5,533	2,969	388	8,890
Totals	<u>\$ 2,004,206</u>	<u>\$ 207,332</u>	<u>\$ 78,602</u>	<u>\$ 2,290,140</u>

See accompanying auditors' report and notes to financial statements.

TEXAS DEFENDER SERVICE
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STATEMENT OF CASH FLOWS

For the Year Ended December 31, 2012

Cash Flows From Operating Activities	
Increase (decrease) in net assets	\$ 133,848
Adjustments to reconcile change in net assets to net cash provided by operating activities:	
Depreciation	19,684
Changes in assets and liabilities:	
Accounts and grants receivable	465,306
Prepaid expenses	9,703
Accounts payable	(4,709)
Accrued expenses	(7,968)
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Net Cash Provided by Operating Activities	615,864
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Cash Flows From Investing Activities:	
Purchase of furniture and equipment	(4,199)
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Net Cash Used by Investing Activities	(4,199)
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Net Increase (Decrease) in Cash	611,665
Cash, beginning of the year	286,208
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Cash, end of the year	\$ 897,873
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Supplemental disclosure:	
Cash paid for interest	\$ -
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Cash paid for income taxes	\$ -
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See accompanying auditors' report and notes to financial statements.

TEXAS DEFENDER SERVICE
(A Nonprofit Corporation)

NOTES TO FINANCIAL STATEMENTS

December 31, 2012

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 newly established 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. To stand down is to go off duty temporarily, especially to review safety procedures.

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
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NOTES TO FINANCIAL STATEMENTS

December 31, 2012

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 the Corporation 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 the Corporation. The Corporation had no permanently restricted net assets as of December 31, 2012.

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.

Cash and Equivalents

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

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.

TEXAS DEFENDER SERVICE
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NOTES TO FINANCIAL STATEMENTS

December 31, 2012

2. Summary of Significant Accounting Policies (continued)

Federal Income Taxes

The Corporation 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).

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 the Corporation to credit risk consist of cash and cash equivalents, and accounts receivable. The Corporation 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. The Corporation's deposits did not exceed the federal depository insurance limits as of December 31, 2012. The Corporation generally does not maintain collateral for its accounts receivable, and does not believe significant credit risk exists as of December 31, 2012.

Subsequent Events

Subsequent events are events or transactions that occur after the statement of financial position date but before the financial statements are issued. We have evaluated subsequent events through the issuance date of the audit report, April 8, 2013, and there were no subsequent events to be disclosed.

TEXAS DEFENDER SERVICE
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NOTES TO FINANCIAL STATEMENTS

December 31, 2012

3. Property and Equipment

Major classes of property and equipment consist of the following:

Land	\$	176,400
Building		389,855
Office furniture and equipment		112,145
Less accumulated depreciation		<u>(99,208)</u>
Property and equipment, net	\$	<u><u>579,192</u></u>

Depreciation expense for the year ended December 31, 2012 was \$19,684.

4. Temporarily Restricted Net Assets

Temporarily restricted net assets consisted of the following unspent grant funds at December 31, 2012:

Butler Family Fund - TDS	\$	22,000
Tides - TDS		150,000
Open Society Foundation - TDS		128,000
Vital Projects - PAP		165,754
Open Society Foundation - ACCR		15,000
Butler Family Fund - ACCR		40,000
Tides - StandDown		9,132
Open Society Foundation - CLC		100,000
Proteus Action League - CLC		<u>75,000</u>
Total	\$	<u><u>704,886</u></u>

5. Pension Plan

The Corporation 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 \$1,944 for the year ended December 31, 2012.

TEXAS DEFENDER SERVICE
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NOTES TO FINANCIAL STATEMENTS

December 31, 2012

6. Lease Commitments

The Corporation leases office facilities in Austin and Philadelphia and office equipment under operating leases that expire at various times. Total rental expense for 2012 was approximately \$76,000.

Future minimum lease payments are as follows:

Year	Amount
2013	\$ 60,106
2014	32,613
Thereafter	<u>-</u>
Total lease payments	<u>\$ 92,719</u>

7. Fair Value Measurements and Disclosures

The requirements of *Fair Value Measurements and Disclosures* of the Accounting Standards Codification (ASC) 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 defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. *Fair Value Measurements and Disclosures* also established a fair value hierarchy that prioritizes the inputs used in valuation methodologies into the following three levels:

- Level 1 Inputs – Unadjusted quoted prices in active markets for identical assets or liabilities.
- Level 2 Inputs – Observable inputs other than Level 1 prices, such as quoted prices for similar assets or liabilities, or other inputs that can be corroborated by observable market data for substantially the full term of the assets or liabilities.
- Level 3 Inputs – Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities. Level 3 assets and liabilities include financial instruments whose value is determined using pricing models, discounted cash flow methodologies, or other valuation techniques, as well as instruments for which the determination of fair value requires significant management judgment or estimation.

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