

**PUBLIC DEFENDER SERVICE CORPORATION**  
**Board of Trustees Regular Meeting**  
**Tuesday, January 14, 2014**  
**Conference Room,**  
**Public Defender Service Corporation**  
**12:30 p.m.**

**A G E N D A**

**I. Call to Order**

**II. Roll Call**

**III. Proof of Due Notice of Meeting:**

5 Working Days Notice:	Marianas Variety, Monday, January 06, 2014
48 Hours Notice:	Marianas Variety, Friday, January 10, 2014

**IV. Determination of Quorum**

**V. Approval of Minutes: (Regular Meeting of October 08, 2013)**

**VI. Old/Unfinished Business:**

- A. Financial Status Update (PDSC and APD Allotment Releases)
- B. Domestic Violence Program Update
- C. Alternate Public Defender Update
- D. PDSC's Policy for Conflicts of Interest  
(PDSC Resolution No. 03-14)
- E. PDSC Client Eligibility Criteria  
(PDSC Resolution No. 04-14)
- F. Pacific Judicial Council Public Defender's Training

**VII. New Business:**

- A. PDSC Fiscal Year 2014 Budget Appropriation:  
PDSC Resolution No. 05-14 (Additional Lapsed Funds Requested for FY14 Shortfall)
- B. PDSC Resolution No. 06-14: Use of APD Lapsed Funds to Pay For Atty. Eric Overton's Attendance at CACJ Conference in San Francisco on December 13-14, 2013
- C. PDSC Resolution No. 07-14: Request to Use PDSC Lapsed Funds To Purchase Network Scanner
- D. Extending Appreciation to  
Chief Justice F. Philip Carbullido as Chairman of the PDSC Board of Trustees from January 18, 2011 to January 18, 2014

**VIII. Public Discussion**

**IX. Adjournment and Next Meeting Date**

# Police now carrying Tasers

By Jasmine Steh  
jsteh@mgm.com  
Marilyn News Staff

THE Guam Police Department has trained and certified about 45 of its officers to handle Tasers while on duty.

Sgt. Anthony Chaco, one of the department's certified instructors, said this is the first time the department has certified officers to use the devices. Chaco added that the goal is to eventually certify all the officers in the department.

Chaco said most of the officers certified have been exposed to the power a Taser holds so they know how it feels to be on the receiving end of the weapon.

GPD currently has eight Tasers: four of the X26 type and four X2 types. Each of the four precincts is assigned one Taser. One has been assigned to the department's highway patrol division and another one will be designated for the local SWAT team. Chaco said the last two Tasers will be reserved for training.

"This is just another tool for them. It's another option that they have now," Chaco said.

Other nonlethal weapons available to GPD officers are pepper spray and collapsible batons for use at the officer's discretion when handling a violent suspect. "Each officer perceives a situation differ-

*GPD currently has eight Tasers: four of the X26 type and four X2 types.*

ently. Each officer has a different level of power when it comes to whatever situation they're dealing with," Chaco said.

He likened the officers' discretion to an officer of a smaller stature dealing with a larger suspect and making a judgment call versus a larger officer handling the same suspect.

"We do tell them 'don't rely on the Taser,'" Chaco added.

GPD has equipment logs to keep track of the Tasers. The four Tasers assigned to each precinct will be rotated for every shift within their respective precinct, Chaco said. He added that it will be up to the officers' supervisors to determine who, among those who have undergone training, will carry the device. Most supervisors underwent training as well, Chaco said.

Chaco has been certified to instruct Taser use for about five years. Initially, he was among a few of the department's personnel that went to the Taser Training Academy in Arizona. According to Chaco, instructors must be recertified every three years and users must be recertified every year.



Sen. Chris Doenas introduced Bill 203 to stimulate the purchase of electric vehicles, noting that the island is an ideal location for the use of these plugged-in vehicles. *Marilyn News Staff*

# Electric vehicle rebate bill to be heard

By Louella Lozelle  
louella@mgm.com  
Marilyn News Staff

BILL 203, a measure that would provide an additional \$7,500 cash rebate for any person or business that purchases an electric vehicle, will be discussed in a public hearing this Friday at 10 a.m.

Sen. Chris Doenas introduced the bill to stimulate the purchase of electric vehicles, or EVs, noting that the island is an ideal location for the use of the plug-in vehicles.

As proposed in Bill 203, the Guam Energy Office is to oversee the implementation of the rebate program, which shall be funded from the government of Guam general fund starting in fiscal 2015.

Specifically, the bill sets

an annual appropriation of \$375,000 from the general fund to the Guam Energy Office to fund the rebates of eligible claimants.

If the bill becomes law, the rebates will be offered in addition to any federal tax credit applicable to the vehicle purchase.

After the introduction of the bill, the senator noted that the measure was the product of working with key advisors on how to address the rising cost of living on Guam.

The Guam Power Authority, as noted in the bill, had estimated that the cost to fill up an electric vehicle is about \$2.50 per gallon, as opposed to \$4.73 per gallon of unleaded gas at the time the bill was written.

Doenas noted in a release that

the more Guam residents save at the pump, the more disposable income they have to spend on their families at local stores and restaurants.

"Ultimately, more money circulates on the island rather than the millions of dollars that go off-island each year in oil to Singapore. A family that spends \$400 a month on gas will save about half of this if they switch to an electric vehicle. This is \$200 more a month for additional food, clothes and entertainment," Doenas said.

He added that Bill 203 would put more money in the pockets of Guam's working families, stimulate the economy, and allow the government and the private sector to fast-track technology and sustainability.

# Ylig Bridge construction

(DPW) - Construction work at the Ylig Bridge continues this week with roadside work including guardrails, sedimentation basin and drainage system.

Lane closures and traffic delays may be required for the safety of motorists traveling in the area.

The new bridge is now open with a posted sign of 15 mph speed limit for the next few weeks as the contractor completes the work. Motorists

may expect intermittent traffic delays. Motorists should observe the posted speed limit and all construction signs.

The contractor is working at the Agfayan Bridge located south of the Inarajan pier (facing Bear Rock). Motorists should observe the posted speed limit and all construction signs and expect intermittent traffic delays during the day.

Traffic control is installed and there is a one lane closure at this time.

## NOTICE OF PUBLIC MEETING

The Public Defender Service Corporation Board of Trustees will conduct a regular meeting on Tuesday, January 14, 2014 at 12:30 p.m. in the Conference Room of the Public Defender Service Corporation, located at the MVP Sinajana Commercial Building, Unit B, 77B Route 4, Sinajana, Guam 96910.

Copies of the agenda will be available prior to the meeting at the Public Defender Service Corporation (address above).

Individuals requiring special accommodations are asked to contact Mrs. Bernadette S.N. Changuialaf at 475-3100.

/s/ CHIEF JUSTICE F. PHILIP CARBULLIDO  
Chairman

*This public notice is paid for with government funds administered by the Public Defender Service Corporation.*

## Proposed Issuance of Underground Injection Control System Operating Permits for E.C. Development Corporation

Public Review and Comment Period: January 9, 2014 - February 7, 2014

The Guam Environmental Protection Agency (Guam EPA) runs the Underground Injection Control (UIC) Program, as mandated by the Safe Drinking Water Act, and approved by U.S. EPA.

The Agency regulates all applicable activities as set forth in the Guam's UIC Regulations. The UIC Program requires operating permits for all existing injection wells/systems. This includes wells built prior to the approval of the regulations or still in operation, and well/systems constructed after the effective date of the regulations.

Guam EPA has received renewal applications from E.C. Development Corporation for three injection systems located at Olive Commercial Center, Harmon Loop Road, Dededo, Guam. The commercial building has offices, warehouses, clinic, retail stores, gym room, and subsurface drainage system at this parking area.

Monday through Friday at the Water Resources Management Program Section of the Water Division, Guam Environmental Protection Agency, located at 75-3161 Mariner Ave., Tiyas, San Roque 96973.

For more information, contact Mr. Roman Miguez at (671) 308-4774 or at (671) 308-4761.

Written comments on the draft permits may be hand delivered to the address above or mailed to the address below. Comments must be received by Guam EPA no later than 5 p.m., Friday, February 07, 2014. No late submissions will be accepted.

Administrator  
Guam Environmental Protection Agency  
P.O. Box 22438 EMF  
San Roque, Guam 96921

If there are no appeals, the Draft Permits become final. Operation of the injection systems identified by the applicant may proceed subject to the conditions of the permits and other applicable legal requirements.

The final decision to set conditions and issue the final permits or deny applications for the permits will be decided after all comments have been considered. If no comments are received within the 30-day waiting period, the final permits shall be issued immediately after the corresponding period closes.

Please bring this information to the attention of all persons who may be interested in this matter.

/s/ ERIC M. PALACIOS-Administrator



On the basis of a preliminary UIC requirement review, the Administrator has proposed issuing UIC permits to allow discharges of stormwater runoff into the injection systems.

The discharges contain stormwater runoff only. No industrial discharges or any discharges are allowed into the systems.

- The permits for these applications will require:
- 1 - Only stormwater runoff to be discharged into the injection systems.
  - 2 - Semi-annual monitoring of water quality for MBAS, Oil and Grease, TSS-10, Cadmium, Lead, Inorganic Phosphorus, 2, 4-D, 7, 4, 4-TP, Silver, Hexachloro, Methoxychlor, Lead, Barium, Ethylbenzene, Xylene, Toluene, MTBE, Boron, CO2, and pH.
  - 3 - Maintenance reporting, repair, replacement, or abandonment of the well/system in the event of failure.
  - 4 - A laboratory analysis report of runoff water taken from the designated sampling point of the system; and
  - 5 - Compliance with other UIC requirements.

A copy of the Draft Permits and Permit Applications for the above applicant and all other supporting documents are available for public inspection from 9 a.m. until 5 p.m.



# Boat capsizes at Hagåtña Boat Basin, Rota man killed

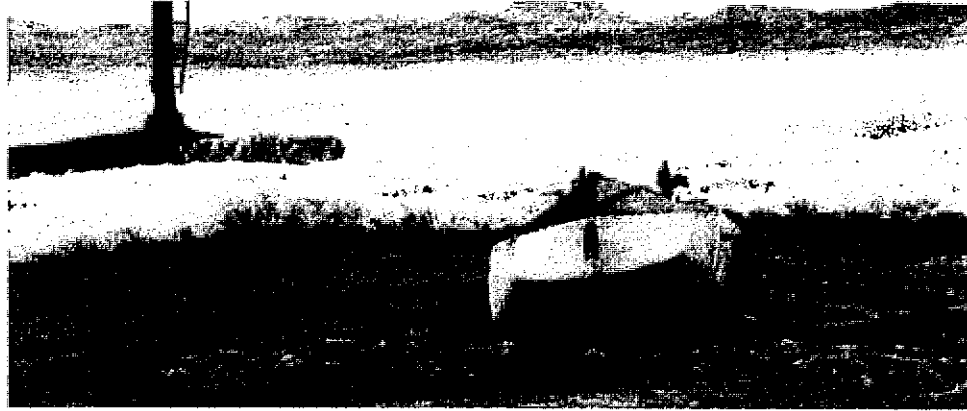
By Olive Takonara-Pally  
olive@mgnews.com  
Variety News Staff

A MAN from Rota died and another was injured yesterday morning when they fell into the water at the Hagåtña Boat Basin after their boat capsized.

The victim, whose identity is being withheld pending the notification of next of kin, was pulled from the water by rescue team members from Coast Guard Sector Guam and the Guam Fire Department minutes after a 911 call was made at about 7:20 a.m.

According to Lt. Ed Artero, GFD spokesman, CPR was administered to the victim en route to Naval Hospital where he was pronounced dead at 8:05 a.m.

The second man on the boat suffered minor injuries and was first treated on the scene and then transported to Guam Memorial



The boat overturned right in the middle of the entrance to the boat basin where waves were noticeably rough. Photo: Variety News Staff

Hospital for evaluation.

Witnesses said the victim and his companions were on their way to Rota where they live.

The boat overturned right in the middle of the entrance to the

boat basin where waves were noticeably rough.

Meteorologists said the water off Guam and the Marianas was hazardous for small vessels yesterday with seas of 9 to 11

feet and sustained winds of 22 to 25 knots.

Yesterday's death is the fifth water-related fatality in the last 30 days. The victim is the second resulting from a capsized boat

in the Hagåtña Boat Basin.

On Dec. 20, 58-year-old Joseph Anthony Terrell drowned after his boat capsized while leaving the Hagåtña Boat Basin.

## PUBLICATION NOTICE

In accordance with the provisions of Guam Code Annotated, Title XI, Chapter III, Section 3315, notice is hereby given that:

JAM SUK AN

aka: AN MARKET

has applied for a Class: (5) GENERAL OFF SALE, ALCOHOLIC BEVERAGE LICENSE said premises being marked as Lot: 1183-1-1-3 Rt-10, Mangilao.

## PUBLICATION NOTICE

In accordance with the provisions of Guam Code Annotated, Title XI, Chapter III, Section 3315, notice is hereby given that:

TOLENTINO, ENMANZOR DR.

aka: LET'S DANCE

has applied for a Class: (4) GENERAL ON SALE BEER ALCOHOLIC BEVERAGE LICENSE said premises being marked as Lot: L 2102-1-R 548 S. Marine Corp. Dr., Tamuning.

## NOTICE OF PUBLIC MEETING

The Public Defender Service Corporation Board of Trustees will conduct a regular meeting on Tuesday, January 14, 2014 at 12:30 p.m. in the Conference Room of the Public Defender Service Corporation, located at the MVP Sinajana Commercial Building, Unit B, 779 Route 4, Sinajana, Guam 96910.

Copies of the agenda will be available prior to the meeting at the Public Defender Service Corporation (address above).

Individuals requiring special accommodations are asked to contact Mrs. Bernadette S.N. Changuialaf at 475-3100.

/s/ CHIEF JUSTICE F. PHILIP CARBULLIDO  
Chairman

This public notice is paid for with government funds administered by the Public Defender Service Corporation.

## Man injured after pickup truck flips

By Olive Takonara-Pally  
olive@mgnews.com  
Variety News Staff

THE male operator of a white pickup truck was rushed to Guam Memorial Hospital after his vehicle flipped over in front of the Hagåtña Boat Basin yesterday morning.

Traffic was rerouted and backed up for miles at the height of the morning rush hour along Marine Corps Drive in Hagåtña as police investigated the accident.

The driver was injured and initially treated at the scene by a responding ambulance team from the Guam Fire Department. He was transferred to Guam Memorial Hospital for further examination with no life-threatening injuries.

The southbound lane was closed because of the mess from



Traffic was rerouted and backed up for miles at the height of the morning rush hour along Marine Corps Drive in Hagåtña after a white pickup truck flipped in front of the Hagåtña Boat Basin yesterday morning. Photo: Variety News Staff

the spilled contents of the truck. The lane was reopened after an hour.

The Guam Highway Patrol Division is still investigating the accident.

## Farmers' assistance funds released

By Mar-Yie Caporacion  
marvie@mgnews.com  
Variety News Staff

THE Office of the Governor yesterday released \$350,000 worth of checks to assist farmers who lost crops as a result of stormy weather last year.

According to the governor's office, the funds seek to help farmers recover from their losses resulting from damage to their crops.

"We made sure that we could provide them with funding as quickly and responsibly as possible so they could rebuild. For some of these Guamanians,

farming is their livelihood," said acting Gov. Ray Tenorio.

The farmers' plight came to light during a roundtable meeting hosted by the Legislature in November.

Prior to the meeting, Sen. Rory Raspolico wrote to Gov. Eddie Calvo urging him to declare a state of emergency and allow up to \$250,000 in funding assistance for farmers affected by Typhoon Francisco.

At the same time, the Guam Economic Development Authority board approved a

\$20,000 per farmer.

The loan can be extended for 24 months at a 4 percent interest rate.

Last year, the Legislature passed Bill 223, amending the measure to increase the allocation for distressed farmers to \$790,000.

Initially, the bill proposed allocating \$400,000 from service fees from the issuance of the Guam Waterworks Authority bonds to the Department of Agriculture for the sole purpose of funding the Compensation to Farmers for Crop Damages Program.

Marianas Variety-Guam Edition is circulated by home and office delivery, consignments, and vending machines throughout Guam, as well as delivery to the Federated States of Micronesia, the Marshall Islands, South Pacific, Hawaii, Japan and the continental U.S. Daily coverage can also be read from our website [www.mvguam.com](http://www.mvguam.com).

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**PUBLIC DEFENDER SERVICE CORPORATION  
BOARD OF TRUSTEES  
Regular Meeting  
of  
Tuesday, October 08, 2013  
12:45 p.m.  
PDSC Conference Room**

**MINUTES**

**I. CALL TO ORDER:**

This meeting was called to order by the Chairman, Chief Justice F. Philip Carbullido at 12:45 p.m.

**II. ROLL CALL:**

Present: Chief Justice F. Philip Carbullido, Chairman  
Attorney Cynthia Ecube, Guam Bar Association President  
Donna Muna-Quinata, Member

Others Present: Attorney Eric D. Miller, PDSC Executive Director  
Bernadette S.N. Chargualaf, PDSC Administrative Director  
Attorney Stephen P. Hattori, Alternate Public Defender  
Michael S. Moreno, Chief Fiscal Officer  
Julito B. Tingson, Jr., MIS Administrator  
Bernadette L.P. Lizama, Personnel Specialist IV  
Cecelia M. Fernandez, Administrative Assistant

**III. PROOF OF DUE NOTICE OF MEETING:**

“Notice of Public Meeting” was published in Marianas Variety on Friday, September 27, 2013 and Friday, October 04, 2013.

**IV. DETERMINATION OF QUORUM:**

With the presence of three (3) board members, a quorum was determined for this meeting.

**V. APPROVAL OF MINUTES: Minutes of the regular board meeting held on Tuesday, August 27, 2013 were adopted and approved.**

**VI. OLD BUSINESS:**

**A. Financial Status Update (PDSC and APD Allotment Releases):** Chief Fiscal Officer Michael S. Moreno reported that PDSC received all allotments for Fiscal

Year 2013 (100%); the same status applied to allotments for the Alternate Public Defender (APD).

- B. Domestic Violence Program Update:** The monthly reimbursements for this program are up to date.
- C. Alternate Public Defender Update:** Due to the absence of APD Supervising Attorney Annie Gayle, an update for APD was not available.
- D. PDSC's Policy for Conflicts of Interest:** This matter was deferred to the next meeting in order to give Executive Director Eric Miller ample time to develop a resolution for this matter, which the board can then officially adopt.
- E. PDSC Client Eligibility Criteria:** Presented by Executive Director Miller, this involves the consideration of a client's assets in addition to his/her household income when determining eligibility for PDSC services. (Assets include possessions such as cars, land, bank accounts, stocks, bonds, etc.) Surveys were conducted with other legal offices involving charges for various types of criminal cases. According to Attorney Miller, the guidelines followed by the Guam Legal Services Corporation appear to be the most practicable for the PDSC. This amounts to a maximum value of \$2,500 for the first person in a family, and \$1,500 for each additional family member.

However, this item was deferred to the next meeting so that a resolution can be prepared, presented and adopted.

- F. Pacific Judicial Council Public Defender Training:** Both Chief Justice Carbullido and Executive Director Eric Miller provided input on this subject.

This event will be sponsored by the Pacific Judicial Council, with Ms. Josephine Cepeda handling the logistics. Ms. Cepeda had prepared the resolution with a budget amount that was submitted to the Pacific Judicial Council for their approval. U.S. District Court Chief Judge Frances Tydingco-Gatewood was instrumental in pushing this matter through.

Approximately seventy-five (75) to eighty (80) persons will be in attendance; this training session will take place from February 26-28, 2014.

## **VII. NEW BUSINESS:**

- A. Resolution No. 01-14 (Request to Use Lapsed Funds to Cover Budgetary Shortfalls for Operations in Fiscal Year 2014):** Presented by Chief Fiscal Officer Michael Moreno, an analysis of the agency's FY2014 legislative appropriation and projected expenditures for its operations were provided. Summarily, \$6,415 from lapsed funds was requested in order to meet the Corporation's needs for FY2014. After a brief discussion, this resolution was adopted and approved.

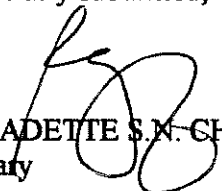
- B. Resolution No. 02-14:** Personnel Specialist IV Bernadette Lizama provided results of her reconstruction of Joleen M.G. Cruz's Personnel Jacket with respect to her pay assignment when she was first employed by the PDSC. (Ms. Cruz was employed by the office of the Attorney General prior to the PDSC.) Apparently, there was an inconsistency upon her hiring when she was designated as a "Probational Appointment" rather than a "Transfer-Promotion". (§4114 of Chapter 4, Title 4 GCA)

Ms. Lizama's evaluation indicated that \$5,107.95 (inclusive of the government's share of contributions to the Retirement Fund, and Medicare taxes) was required to settle this matter. Resolution No. 02-14 was adopted and approved.

**VI. PUBLIC DISCUSSION:** None.

**VII. NEXT MEETING DATE:** A tentative date of December 05, 2013 was set for the next board meeting. There being no further business up for discussion, this meeting was adjourned at 1:20 p.m.

Respectfully submitted,

  
BERNADETTE S.N. CHARGUALAF  
Secretary

## **Agenda Item #VI-D**

### **PDSC's Policy for Conflicts of Interest (Resolution No. 03-14)**

**BEFORE THE  
BOARD OF TRUSTEES OF THE  
PUBLIC DEFENDER SERVICE CORPORATION  
RELATIVE TO THE APPROVAL OF THE  
PUBLIC DEFENDER SERVICE CORPORATION'S  
STANDARD OPERATING PROCEDURES (SOP)  
FOR CONFLICTS OF INTEREST**

**RESOLUTION NO. PDSC 03-14**

- WHEREAS,** Chapter 11, Title 12 Guam Code Annotated established the Public Defender Service Corporation; and
- WHEREAS,** §11104 of Chapter 11, Title 12 Guam Code Annotated defines the duties of the Corporation in Criminal Cases indicating that “the Corporation may assist the judges of the courts of Guam in ruling on cases of indigency and in establishing criteria for determining when the services of the Corporation are appropriate”; and
- WHEREAS,** §11106 of Chapter 11, Title 12 Guam Code Annotated grants the Corporation “the power to do any and all things necessary to further the purposes of this Chapter” ; and
- WHEREAS,** §11107 of Chapter 11, Title 12 Guam Code Annotated (Board of Trustees) states, “All powers vested the Corporation, except as otherwise provided in this Chapter, shall be exercised by the Board; and
- WHEREAS,** a written policy relative to a consistent methodology for determining **CONFLICTS OF INTEREST** in cases assigned to the Corporation by the courts of Guam is non-existent; and
- WHEREAS,** the Board of Trustees, recognizing the need for the development and implementation of such a policy, has instructed the PDSC Executive Director to create one which will be brought before the Board for its review and approval; and
- WHEREAS,** on January 14, 2014 Executive Director Eric D. Miller presented the attached PDSC Standard Operating Procedures (Attachment “A”) for Conflicts of Interest to the Board of Trustees; now therefore be it
- RESOLVED,** the Board of Trustees of the Public Defender Service Corporation, at its duly-noticed meeting of January 14, 2014, hereby approves the Corporation’s Standard Operating Procedures (Attachment “A”) for Conflicts of Interest, which is attached hereto and made a part of this resolution; and be it further
- RESOLVED,** these Standard Operating Procedures (Attachment “A”) for Conflicts of Interest shall take effect immediately.



**DULY AND REGULARLY ADOPTED** this 14<sup>th</sup> day of January, 2014.

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Chief Justice F. PHILIP CARBULLIDO

ATTEST:

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BERNADETTE S.N. CHARGUALAF  
Secretary

**ATTACHMENT "A"**  
**(PDSC Board of Trustees Resolution No. 03-14)**

**STANDARD OPERATING PROCEDURE**

<b>DIVISION/SECTION:</b> <b>LEGAL SERVICES (Attorneys, Legal Secretaries, Legal Clerks)</b>		
<b>NUMBER:</b> <b>001-FY2014</b>	<b>DATE OF ISSUE:</b> <b>January 14, 2014</b>	<b>EFFECTIVE DATE:</b> <b>January 14, 2014</b>
<b>SUBJECT: Conflicts of Interest (Withdrawals from Cases due to Conflicts)</b>		

**BACKGROUND:**

The Public Defender Service Corporation (PDSC) is a *public corporation* of the Government of Guam (§11103, Chapter 11, Title 12 Guam Code Annotated). The primary functions of the agency include the provision of legal services, primarily in the representation of indigent defendants brought before the courts of Guam.

In some instances, the PDSC is required to withdraw as counsel of record when a conflict of interest exists. The Corporation seeks to establish a written policy which will provide guidelines as to when these withdrawals should occur.

**AUTHORITY:**

**Chapter 11, Title 12 Guam Code Annotated** established the Public Defender Service Corporation. In particular, §11104 defines the duties of the Corporation in Criminal Cases, and states that “the Corporation may assist the judges of the courts of Guam in ruling on cases of indigency and in establishing criteria for determining when the services of the Corporation are appropriate”.

The **Guam Rules of Professional Conduct (GRPC)** provides guidelines for determining whether a conflict exists.

**PURPOSE:**

This Standard Operating Procedure shall provide a consistent methodology and/or guide in determining whether a conflict of interest exists, and therefore the PDSC must withdraw from a certain case.

## **APPLICABILITY:**

This Standard Operating Procedure shall apply to all PDSC employees, especially the Legal Clerical Services division, the Legal Secretarial Services Division and the Attorneys division. These personnel are directly involved in the processing of cases received by the Corporation. (Please see "Procedures" below.)

## **POLICY:**

The Public Defender Service Corporation shall not accept clients where the acceptance of the client would create a conflict of interest with respect to a current or former client, or an employee of the PDSC. In determining whether a conflict exists, the PDSC will be guided by the Guam Rules of Professional Conduct (GRPC). The following is a guide to making those decisions in specific situations:

### **➤ Witness is a Former Client:**

1. PDSC shall not reveal information relating to the former representation except as allowed by the GROC. [GRPC 1.9 (c) (2)]
2. PDSC shall not represent a client where current representation is with respect to the same or substantially related matter, and the current and former clients have interests adverse to each other. [GRPC 1.9 (a)]

**Example:** PDSC represents the victim in a Domestic Violence case, and has obtained an Order of Protection. Subsequently, the PDSC is appointed to represent the abuser in a new assault case against the former client.

PDSC would move to withdraw from representing the abuser in the assault case, because current representation is with respect to the same or substantially related matter, and the current and former clients have interests adverse to each other.

### **➤ Witness is a Current Client: This is a CONFLICT [GRPC 1.7 (a) (1)] UNLESS:**

1. Representation of the witness is unrelated to a current case; and
2. Continued representation of both parties will not negatively impact the representation of either client; and
3. Both clients sign a Waiver of Conflict. [GRPC 1.7 (b)]

**Example:** PDSC represents a child in a Juvenile case. PDSC is subsequently appointed to represent the child's father in a Family Violence case where the

juvenile client is a victim. Although the two cases are unrelated, continuing representation of both would negatively impact the representation of the two clients. Continued representation of the father would mean challenging the veracity of our juvenile client, and would harm the attorney-client relationship in the Juvenile case.

**Example:** PDSC represents a client on a DWI charge. Subsequently, we are appointed to represent a defendant charged with drug possession where the DWI client is a passenger in the car at the time the defendant was arrested for possession of drugs in the same car. The drug case is unrelated to the DWI case. Continued representation of both would probably not negatively impact representation of either client, but we would require BOTH clients to sign a Waiver of Conflict before we continued with both cases.

➤ **Victim is a Current Client:** This is a CONFLICT. [GRPC 1.7 (a) (1)]

➤ **Where two (2) cases come in at about the same time:**

Where two (2) cases come in at about the same time but there is determined to be a conflict, the PDSC will continue with the case which came in FIRST, and move to withdraw from the case which came in SECOND in time, unless we can avoid a conflict by taking the SECOND in time (because we represented the SECOND in time in other cases).

➤ **Where a PDSC employee, or a member of his/her immediate family is the victim or a witness:**

This is a CONFLICT. [GRPC 1.7 (a) (2)]

➤ **Where a PDSC employee has a connection to the victim or witness:**

Representation will be declined by the staff attorney where there is a significant risk that the representation of the client will be materially limited by the personal interests of the staff attorney. PDSC will assign the case to another staff attorney without a disqualifying conflict. The client and the Court will be advised of the staff attorney's disqualifying personal interest. [GRPC 1.7 (a) (2)]

**Disclosure:** Where the PDSC has a potential conflict, but determines that withdrawal is not required, the PDSC shall nevertheless advise the Court and the parties involved of the potential conflict.

**PROCEDURES:**

1. The Legal Clerical Services division (Front Office) receives charging documents indicating the PDSC has been appointed by the Court to represent a defendant in a case.
2. The assigned Legal Clerk checks for conflicts involving parties and witnesses in Abacus (case management software), and notes any potential conflicts in writing on the Note Sheet provided in each case file.
3. The case file is then transmitted to the assigned attorney.
4. The assigned attorney reviews the case file for potential conflicts. If the attorney determines there is a conflict, he/she shall request written permission to withdraw from the CONFLICT COORDINATOR (Executive Director or his designee).
5. When Police Reports are received, the assigned attorney reviews them and identifies all relevant names mentioned in this document which need to be checked for conflicts in Abacus (case management software).
6. The assigned attorney's Legal Secretary processes identified names in Abacus, and reports his/her findings back to the assigned attorney.
7. The assigned attorney reviews potential conflicts and determines whether one exists.
8. If the assigned attorney determines there is a conflict, he/she shall seek written permission from the CONFLICT COORDINATOR (Executive Director or his designee), to withdraw from the case.



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Attorney ERIC D. MILLER  
Executive Director

Date: 1/14/14

## **Agenda Item # VI-E**

### **PDSC Client Eligibility Criteria (Resolution No. 04-14)**

**BEFORE THE  
BOARD OF TRUSTEES OF THE  
PUBLIC DEFENDER SERVICE CORPORATION (PDSC)  
RELATIVE TO THE ADOPTION AND APPROVAL  
OF THE UPDATED  
PDSC ELIGIBILITY GUIDELINES**

**RESOLUTION NO. 04-14**

- WHEREAS,** Chapter 11, Title 12 Guam Code Annotated established the Public Defender Service Corporation “to provide legal aid and assistance to those persons in Guam who are unable to afford counsel”; and
- WHEREAS,** while Chapter 11, Title 12 Guam Code Annotated provides the discretionary powers for judges to determine whether a defendant is indigent, and whether his case is to be referred to the PDSC, the corporation is also permitted to assist the judges of the courts of Guam in ruling on cases of indigency and in establishing criteria for determining when the services of the Corporation are appropriate; and
- WHEREAS,** the PDSC relies on the Federal Poverty Guidelines used by various public assistance programs in determining a client’s eligibility for its services; and
- WHEREAS,** periodic adjustments of these guidelines have been necessary in order to accommodate changes in Guam’s economic climate (i.e., minimum wage adjustments, cost-of-living increases, etc.); and
- WHEREAS,** on July 12, 2011 the PDSC submitted the attached Eligibility Guidelines (based on household income), and received approval for its immediate implementation from the Board of Trustees; and
- WHEREAS,** the above-mentioned Eligibility Guidelines did not provide for the consideration of a client’s assets (i.e., cars, real estate, bank accounts, stocks, bonds, etc.); and
- WHEREAS,** historically, the PDSC’s Eligibility Guidelines took into account a client’s assets when determining his/her eligibility for PDSC’s services; and
- WHEREAS,** it is imperative that specific allowances for assets (as listed above), be included in determining a client’s eligibility for legal assistance from the PDSC; now therefore be it
- RESOLVED,** the Board of Trustees of the Public Defender Service Corporation, in its duly-noticed meeting of January 14, 2014, hereby reaffirms the Income Guidelines reflected on “Attachment A” of PDSC Board Resolution No. 07-11, and approves the inclusion of the language, “Additionally, household assets may not exceed \$2,500 per person, and \$1,500 for each additional household member.”; and be it further
- RESOLVED,** these Eligibility Guidelines shall become effective immediately.

**DULY AND REGULARLY ADOPTED** this 14<sup>th</sup> day of January, 2014.

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**Chief Justice F. PHILIP CARBULLIDO**  
Chairman

ATTEST:

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**BERNADETTE S.N. CHARGUALAF**  
Secretary



Attachment "A"  
(PDSC Board Resolution No. 04-14)

**PUBLIC DEFENDER SERVICE CORPORATION  
ELIGIBILITY GUIDELINES**

(Adopted by the PDSC Board of Trustees  
on January 14, 2014)

**2011 HHS POVERTY GUIDELINES**

<b>Persons In Family</b>	<b>48 Contiguous States and D.C.</b>	<b>\$10/hr</b>	<b>Hourly Wage:</b>
1	\$10,890	\$20,800	\$10.00
2	14,710	24,620	11.83
3	18,530	28,440	13.67
4	22,350	32,260	15.51
5	26,170	36,080	17.35
6	29,990	39,900	19.18
7	33,810	43,720	21.02
8	37,630	47,540	22.86
For each additional person, add	3,820	3,820	Annual Wage/2080 Hours

**Additionally, household assets (i.e., cars, land, bank accounts, stocks and/or bonds, etc.) may not exceed \$2,500 per person and \$1,500 for each additional household member.**

# **Agenda Item #VII-A**

## **Additional Lapsed Funds Requested for FY2014 Shortfall**

**(Resolution No. 05-14)**

**BEFORE THE  
BOARD OF TRUSTEES OF THE  
PUBLIC DEFENDER SERVICE CORPORATION  
RELATIVE TO THE USE OF LAPSED FUNDS  
TO COVER BUDGETARY SHORTFALLS FOR OPERATIONS  
IN FISCAL YEAR 2014**

**RESOLUTION NO. PDSC 05-14**

- WHEREAS,** §11113.1 of 12 GCA authorizes the Public Defender Service Corporation (PDSC) to retain unexpended appropriations beginning with Fiscal Year 2000, and to carry these funds over into succeeding fiscal years; and
- WHEREAS,** the PDSC Board of Trustees adopted Resolution No. 99-07 requiring Board approval for the budgeting of and/or spending authorization(s) for these lapsed funds; and
- WHEREAS,** the language contained in Public Law 32-068 appropriated \$3,661,522 in Chapter VII, Part II, Section 1; \$35,354 for Merit Bonus Awards in Chapter VII, Part II, Section 1; and \$158,259 for Medical, Dental and Life Insurance contributions in Chapter XIV, Part II, Section 4; and
- WHEREAS,** the PDSC erroneously recognized the \$158,259 for Medical, Dental and Life Insurance contributions as a separate appropriation (as set forth in previous fiscal years), when in fact this amount is included in the \$3,661,522 general appropriation; and
- WHEREAS,** on October 8, 2013 PDSC Board Resolution No. 01-14 was adopted and approved, authorizing the Corporation to expend \$6,415 in lapsed funds to cover the anticipated shortfall for FY2014; and
- WHEREAS,** in order to correct the above-described error and provide for the government's contributions for medical, dental and life insurance premiums involving PDSC personnel, the use of additional lapsed funds is necessary; and
- WHEREAS,** as provided for in Public Law 32-068, the amount of **\$158,259** is required for medical, dental and life insurance premiums (government's share); now therefore be it
- RESOLVED,** The Board of Trustees of the Public Defender Service Corporation, in its meeting of January 14, 2014, hereby approves the Corporation's request for the expenditure of **\$158,259** of lapsed funds for the purpose of meeting the government's share of medical, dental and life insurance premiums in Fiscal Year 2014.

**DULY AND REGULARLY ADOPTED** this 14<sup>th</sup> day of January, 2014.

---

Chief Justice F. PHILIP CARBULLIDO

ATTEST:

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BERNADETTE S.N. CHARGUALAF  
Secretary

1	Guam Fire Department	\$785,955	\$57,470	\$44,676
2	PBS Guam	\$30,053	\$2,255	\$1,377
3	Guam Comm. for Ed. Cert.	\$10,616	\$775	
4	Office of Public Accountability	\$56,617	\$4,658	\$3,060
5	Chamorro Land Trust Commission	\$21,231	\$1,551	\$1,071
6	Guam Regional Transit Authority	<u>\$19,130</u>	<u>\$1,386</u>	<u>\$765</u>
7	<b>Total</b>	<b>\$6,293,327</b>	<b>\$471,284</b>	<b>\$423,388</b>

8           **Section 4. Agency Allocations for Medical, Dental, and Life Insurance**  
9 **for Branches and Agencies.** The amounts in this Section *shall* be allocated from  
10 the General Fund and Special Funds appropriations and Federal Matching Grants-  
11 in-Aid authorizations in this Act to the Branches and Agencies as outlined in this  
12 Section for government of Guam Employees medical, dental, and life insurance  
13 premiums in Fiscal Year 2014.

14		<b>Medical Ins.</b>	<b>Dental Ins.</b>	<b>Life Ins.</b>
15	Guam Legislature	\$288,513	\$12,021	\$19,890
16	Guam Department of Education	\$5,496,671	\$412,753	\$394,986
17	University of Guam	\$1,004,843	\$72,078	\$57,953
18	Guam Community College	\$556,086	\$43,909	\$41,157
19	Public Defender Service Corporation	<u>\$141,069</u>	<u>\$9,693</u>	<u>\$7,497</u>
20	<b>Total</b>	<b>\$7,487,182</b>	<b>\$550,454</b>	<b>\$521,483</b>

21           **Section 5. Government of Guam Health Insurance Program**  
22 **Reporting.**

23           (a) All health insurance carriers for the government of Guam *shall* submit  
24 a monthly written report and corresponding Microsoft Excel file of said report to  
25 the Department of Administration and the Office of Finance Budget aggregating  
26 the:

**CHAPTER VII**  
**LEGAL SERVICES**

**PART II – PUBLIC DEFENDER SERVICE CORPORATION**

1       **Section 1. Appropriation.** The sum of Three Million Six Hundred Sixty  
2 One Thousand Five Hundred Twenty Two Dollars (**\$3,661,522**) is appropriated  
3 from the General Fund to the Public Defender Service Corporation (PDSC) for its  
4 operations, including personnel services, for Fiscal Year 2014.)

5       *No more than* Three Million Three Hundred Thirty Six Thousand Six  
6 Hundred Thirty One Dollars (**\$3,336,631**) *shall* be expended for Personnel Object  
7 Categories (111 to 115).

8       **Section 2. Transfer Authority for the PDSC.** The PDSC may transfer  
9 funds between appropriations made in this Act for the PDSC, *provided*, that the  
10 PDSC notify *I Maga'lâhen Guâhan* and the Speaker of *I Liheslaturan Guâhan* *no*  
11 *later than* fifteen (15) working days before the transfer is made, *except that no*  
12 *funds shall* be transferred to Personnel Services Object Categories (111 to 115).

13       **Section 3. Appropriation for Merit Bonus Payments.**

14       (a) The sum of Thirty Five Thousand Three Hundred Fifty Four Dollars  
15 (**\$35,354**) is appropriated from the General Fund to the Public Defender Services  
16 Corporation for the payment of merit bonuses.

17       (b) Notwithstanding any other provision of law, *I Maga'lâhen Guâhan shall*  
18 *provide a written report to the Speaker of I Liheslaturan Guâhan for I Liheslaturan*  
19 *Guâhan's consideration, no later than* the first (1<sup>st</sup>) of each month during Fiscal  
20 Year 2014, that details any available funds identified by *I Maga'lâhen Guâhan* for  
21 the payment of retroactive merit bonuses above the amount of the appropriation in  
22 Subsection (a), for the employees of the Public Defender Service Corporation. *I*  
23 *Maga'lâhen Guâhan shall only* expend funds for the payment of retroactive merit

## **Agenda Item #VII-B**

**Use of APD Lapsed Funds  
to Pay for  
Atty ERIC R. OVERTON's  
Attendance at  
CACJ Conference  
(Resolution No. 06-14)**

**BEFORE THE  
BOARD OF TRUSTEES OF THE  
PUBLIC DEFENDER SERVICE CORPORATION  
RELATIVE TO THE USE OF  
ALTERNATE PUBLIC DEFENDER LAPSED FUNDS  
TO COVER COSTS ASSOCIATED WITH  
ATTORNEY ERIC R. OVERTON'S ATTENDANCE AT THE  
CALIFORNIA ATTORNEYS FOR CRIMINAL JUSTICE (CACJ)  
ANNUAL FALL CRIMINAL DEFENSE SEMINAR**

**RESOLUTION NO. PDSC 06-14**

- WHEREAS,** the office of the Alternate Public Defender (APD), a separate division of the Public Defender Service Corporation (PDSC), was established through PDSC Board of Trustees Resolution No. 08-04; and
- WHEREAS,** the PDSC Board of Trustees approved the APD's Fiscal Year 2014 Budget Request through Board Resolution No. 06-13 ; and
- WHEREAS,** the 2013 Judicial Council of Guam subsequently approved the APD's Fiscal Year 2014 Budget Request through Resolution No. JC13-019; and
- WHEREAS,** due to continued budgetary constraints, the PDSC was directed to retain a "maintenance budget" for the APD, which resulted in the absence of funds for off-island training; and
- WHEREAS,** APD Attorney Eric R. Overton was provided with the opportunity to attend the California Attorneys for Criminal Justice's (CACJ) Annual Fall Criminal Defense Seminar in San Francisco, California on December 13-14, 2013, assuming personal responsibility for air fare; and
- WHEREAS,** Attorney Overton requests that the APD provide for registration (\$325.00) and per diem (\$1,458.00) expenses totaling \$1,783.00; and
- WHEREAS,** a review of the APD's finances revealed that there sufficient lapsed funds exists to cover these expenses; and
- WHEREAS,** the PDSC Board of Trustees was not able to conduct a meeting prior to Attorney Overton's departure from Guam in order to hear and approve this request; and
- WHEREAS,** APD Supervising Attorney AnaMaria C. Gayle authorized the use and release of these funds to Attorney Overton; now therefore be it



**RESOLVED,** The Board of Trustees of the Public Defender Service Corporation, in its meeting of January 14, 2014, hereby approves the Corporation's request for the expenditure of **\$1,783.00** of APD's lapsed funds for the purpose of providing for registration and per diem costs associated with APD Attorney Eric R. Overton's attendance at the CACJ's Annual Fall Criminal Defense Seminar from December 13-14, 2013.

**DULY AND REGULARLY ADOPTED** this 14<sup>th</sup> day of January, 2014.

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Chief Justice F. PHILIP CARBULLIDO

ATTEST:

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BERNADETTE S.N. CHARGUALAF  
Secretary



# CACJ's Annual Fall Criminal Defense Seminar

December 13-14th, 2013  
Hotel Nikko - San Francisco  
222 Mason Street  
San Francisco, CA 94102  
7.5 MCLE hours

Friday, December 13, 2013

**Charles Garry Memorial Lecture**  
Defending the Defenseless  
*John Cleary*

Saturday, December 14, 2013

**The Year in Review &  
The Best & Worst Cases in the last 40 years**  
*Al Menaster*

**These 40 Years of CACJ**  
*Ephraim Margolin*

**Ethical Challenges of the Web & Social Media:  
2013 & Beyond**  
*Charles Sevilla*

**Public Records Act: Uncovering the Treasure Trove**  
*Marcia Morrissey, Elisabeth Samal*

**Prosecutorial Misconduct:  
Recognizing it and Dealing with it**  
*James Thomson*

**Owning Your Courtroom**  
*Tony Serra*

**Communicating with the Jury through Empathy**  
*Jack Earley*

**California Attorneys for Criminal Justice**  
1555 River Park Drive, Suite 105  
Sacramento, CA 95815  
Phone: (916) 643-1800  
Fax: (916) 643-1836

**FOR MORE INFORMATION OR TO  
REGISTER GO TO: [WWW.CACJ.ORG](http://WWW.CACJ.ORG)**

### CONFIDENTIALITY PLEDGE

My signature indicates my criminal law practice is devoted exclusively to the defense.

Signature \_\_\_\_\_

Date \_\_\_\_\_

**7.5 MCLE Hours Available**

Register by Friday, December 6, 2013 to get the  
Pre-Registration Rates  
**REGISTER TODAY!!**

### CACJ MEMBER PRE REGISTRATION

- CACJ Member Attorney  \$225.00
- CACJ Member Public Defender  \$190.00
- CACJ Investigator/ Other Memb.  \$160.00
- CACJ Attorney Member (0-5 Yrs)  \$60.00
- CACJ Law Student  \$19.50

### NON MEMBER PRE REGISTRATION

- Attorney & Investigator/Other  \$325.00
- Law Student  \$65.00

- Hard Copy Syllabus  \$25.00
- Additional Lunch  \$50.00

### GROUP DISCOUNTS:

Groups of 5-19 = 10% • 20-34 = 20% • 35 or more = 25%  
Pre-register AS A GROUP by December 6, 2013. Preregistration forms must be received together - Not available Online!  
Group discounts do not apply to CACJ Attorneys 0-5 years and Law Students

Name: Eric Overton

Address: PO Box 951

City/State/Zip: Hagerman, GU 96932

Bar Number: 260929 Date Admitted to the Bar: 12/08

Phone: (671) 487-6785 Fax: \_\_\_\_\_

Email Address: ericoverton@gmail

Total Amount Enclosed: \$ 325

Check Enclosed Charge my:  Visa  MasterCard

Account Number: \_\_\_\_\_

3 Digit Security Code: \_\_\_\_\_ Exp. Date: \_\_\_\_\_

Billing Address: Same as above

[Signature]  
Signature

11/20/13  
Date



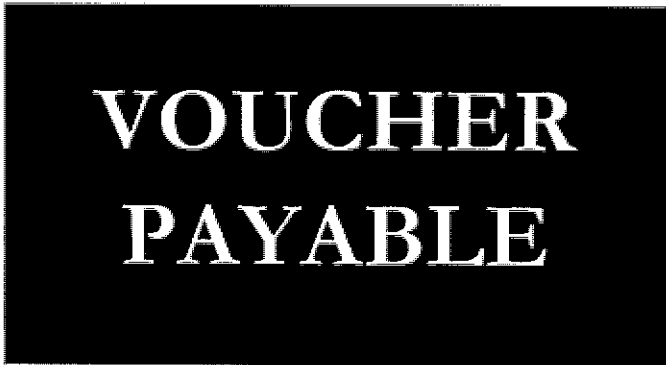
CREDIT CARD (...2953)

	<u>Trans Date</u>	<u>Post Date</u>	<u>Type</u>	<u>Description</u>	<u>Amount</u>
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<b>Transaction Number</b> 75500593325482100814832					
916-6431800, CA 958150000 US In-person transaction					

# ALTERNATE PUBLIC DEFENDER

Government of Guam  
 Suite 902, Pacific News Building  
 238 AFC Flores Street  
 Hagåtña, Guam 96910  
 Phone: (671) 475-3234 Fax: (671) 475-3238

VENDOR NAME:  
**ERIC OVERTON**



APDVO #2014-018  
 Date: 12/03/2013  
 Allotment: 290.1  
 Check Issued: 7792

DESCRIPTION	TOTAL
PER DIEM for travel and attendance at the CACJ's Annual Fall Criminal Defense Seminar: Dec 13-14, 2013	1,458.00
Hotel Nikko San Francisco, CA (7.5 MCLE hours): 6 days including 4 days' travel time at rate of \$243 (Federal guidelines for San Francisco, CA)	
Reimbursement of REGISTRATION FEE	325.00
Remarks: Payment will come from APD Lapsed Funds since off-island travel for FY2014 was not budgeted for. Authorization: Chief Justice Carbullido and APD Supervising Attorney Annie Gayle.	
TOTAL	<b>\$1,783.00</b>

\_\_\_\_\_  
 Certifying Officer                      DATE  
 Certified Funds Available

\_\_\_\_\_  
 Eric D. Miller, Executive Director      DATE

Prepared by: Cil Fernandez

**Agenda Item #VII-C**

**Request to Use PDSC  
Lapsed Funds to  
Purchase Network Scanner**

**(Resolution No. 07-14)**

**BEFORE THE  
BOARD OF TRUSTEES OF THE  
PUBLIC DEFENDER SERVICE CORPORATION  
RELATIVE TO THE USE OF LAPSED FUNDS  
TO PURCHASE A NETWORK SCANNER**

**RESOLUTION NO. PDSC 07-14**

- WHEREAS,** §11113.1 of 12 GCA authorizes the Public Defender Service Corporation (PDSC) to retain unexpended appropriations beginning with Fiscal Year 2000, and to carry these funds over into succeeding fiscal years; and
- WHEREAS,** the PDSC Board of Trustees adopted Resolution No. 99-07 requiring Board approval for the budgeting of and/or spending authorization(s) for these lapsed funds; and
- WHEREAS,** in its Fiscal Year 2014 Budget Request, which was approved by the PDSC Board of Trustees on March 27, 2013, the amount of \$1,500 was requested for the purchase of a network scanner; and
- WHEREAS,** the purpose of this network scanner is to enable the immediate electronic storage of closed PDSC client files and to provide for greater efficiency in case management (linked with the Abacus case management system in place); and
- WHEREAS,** a price quote of \$2,300 for a network scanner suitable for the needs of the PDSC was obtained by the MIS Administrator on January 13, 2014; and
- WHEREAS,** an additional \$800 is required in order to make this acquisition; now therefore be it
- RESOLVED,** The Board of Trustees of the Public Defender Service Corporation, in its meeting of January 14, 2014, hereby approves the Corporation's request for the expenditure of \$800.00 of lapsed funds for the purchase of a network scanner as described herein.

**DULY AND REGULARLY ADOPTED** this 14<sup>th</sup> day of January, 2014.

\_\_\_\_\_  
Chief Justice F. PHILIP CARBULLIDO

**ATTEST:**

\_\_\_\_\_  
BERNADETTE S.N. CHARGUALAF  
Secretary