

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

MEETING OF THE
FINANCE COMMITTEE

OPEN SESSION

Wednesday, July 20, 2011

2:46 p.m.

Davis Wright Tremaine, LLP
1201 Third Avenue, Suite 2200
Seattle, Washington 98101

COMMITTEE MEMBERS PRESENT:

Robert J. Grey, Jr., Chairman
Sharon L. Browne
Martha L. Minow
Father Pius Pietrzyk, O.P.
Robert E. Henley, Jr. (Non-Director member)
John G. Levi, ex officio

OTHER BOARD MEMBERS PRESENT:

Laurie I. Mikva

STAFF AND PUBLIC PRESENT:

James J. Sandman, President

Kathleen Connors, Executive Assistant to the President

Victor M. Fortuno, Vice President for Legal Affairs,

General Counsel, and Corporate Secretary

Katherine Ward, Executive Assistant, Office of

Legal Affairs

David L. Richardson, Treasurer and Comptroller

John Constance, Director, Office of Government

Relations and Public Affairs

David Maddox, Assistant Inspector General for

Management and Evaluation, Office of the

Inspector General

Alison Paul, Executive Director, Montana Legal Services

Association

Cesar Torres, Executive Director, Northwest Justice

Project

Steve Pelletier, Director of Finance, Northwest Justice

Project

Caitlin Davis Carlson, Executive Director, Legal

Foundation of Washington

Jim Bamberger, Washington State Office of Civil Legal

Rights

Reginald Haley, Office of Program Performance

Terry Brooks, American Bar Association Standing

Committee on Legal Aid and Indigent Defendants

(SCLAID)

Don Saunders, National Legal Aid and Defenders

Association (NLADA)

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1 P R O C E E D I N G S

2 (2:46 p.m.)

3 CHAIRMAN GREY: Let me call the Finance
4 Committee meeting to order. Welcome to all.5 Let's start the session by asking that the
6 Board move approval of -- the committee move approval
7 of the agenda.

8 M O T I O N

9 DEAN MINOW: I so move.

10 CHAIRMAN GREY: Second?

11 MS. BROWNE: I'll second.

12 CHAIRMAN GREY: All in favor say aye.

13 (A chorus of ayes.)

14 CHAIRMAN GREY: And we also need to approve
15 the minutes of the committee's meeting of April 15 and
16 of the committee's telephonic meeting on June 16. I'd
17 entertain a motion for adoption of those minutes.

18 M O T I O N

19 DEAN MINOW: So move.

20 MS. BROWNE: I'll second.

21 CHAIRMAN GREY: Second? All in favor say aye.

22 (A chorus of ayes.)

1 CHAIRMAN GREY: Thank you.

2 Item number 4 is a presentation of Legal
3 Services' finance reports for the eight months of
4 fiscal year 2011. I'd like to call on the treasurer,
5 David Richardson, to present the report. Mr.
6 Richardson?

7 MR. RICHARDSON: Thank you, sir. Again, for
8 the record, my name is David Richardson. I'm the
9 treasurer of the Corporation. The information that
10 I'll be referring to is on page 36 -- begins on page 36
11 of the board book, and it runs through page 43.

12 For the eight-month period, we're operating
13 well within our budget. The basic field, we do have \$2
14 million that has not been awarded thus far, but the
15 money has been set aside for three service areas. And
16 those are Louisiana, there's some money for Wyoming,
17 and American Samoa. Just in the past week or so, the
18 money for Louisiana has been awarded after a
19 competition, and so in the next cycle you will see that
20 drop from this since we do have the money that's
21 awarded to that area.

22 The U.S. Court of Veterans' Appeals, there is

1 money available there for additions to the grant. I'm
2 told that those will be completed in the next week or
3 so, so that we can make the further grant that's needed
4 there. As you'll recall, the subject of the review of
5 the consolidated operating budget, we received more
6 money than we actually thought we were going to get.
7 And as a result, we'll give a grant based on last
8 year's amount, and they're aware of this additional
9 money and know that it's coming to them. So it's
10 earmarked for the Pro Bono Consortium, who deals with
11 the veterans' projects.

12 DEAN MINOW: Dave, can I ask a question, back
13 to the prior point? Does American Samoa now have a
14 provider?

15 MR. RICHARDSON: They do not.

16 DEAN MINOW: So do we expect that money to be
17 allocated this year or not?

18 MR. RICHARDSON: At this point, there was some
19 competition. I don't know that --

20 MR. HALEY: I'm here if you have a question.

21 MR. RICHARDSON: Okay. Reggie, the American
22 Samoa, was there a grantee that came forward in the

1 competition? I don't believe there was.

2 MR. HALEY: We did not receive a bona fide
3 grant application from the applicant at American Samoa.

4 DEAN MINOW: Thank you. So I'm wondering what
5 happens then to that money this year.

6 MR. RICHARDSON: In 2012, when we get our
7 appropriation and we start making awards next year,
8 that money for 2011 will be added to the 2012
9 appropriation and allocated to all the grantees.
10 That's the way we've handled it in the past.

11 DEAN MINOW: And are there any steps that we
12 can take to try to bring forward some eligible
13 competitor for American Samoa for the future?

14 MR. RICHARDSON: We have been.

15 DEAN MINOW: I know we've tried.

16 MR. RICHARDSON: There's been advertisement.
17 There's been contact with the Hawaii program and other
18 programs. It's such an area --

19 DEAN MINOW: I understand.

20 MR. RICHARDSON: -- far from anybody else that
21 no one has stepped forward who is eligible for the
22 services. As Reggie said, there was somebody that came

1 forward, but they didn't meet the needs that we have.

2 MR. LEVI: Maybe Northwest Justice has to take
3 them on.

4 DEAN MINOW: Or somebody not local. I mean,
5 this is now -- we're going on, what, two and a half,
6 three years?

7 MR. RICHARDSON: Three years.

8 DEAN MINOW: Three years?

9 CHAIRMAN GREY: It sort of raises the
10 question -- I'm sorry. Go ahead.

11 MS. BROWNE: Well, I was wondering, how about
12 Wyoming? It's the other state that has money
13 outstanding.

14 MR. RICHARDSON: That is money that was -- I
15 think it's 2009, when we were in a transition period
16 where we had an interim grantee. And actually, the
17 Legal Affairs office is looking. There's like \$207,000
18 there.

19 The interim grantee was not given the full
20 amount of money as they were gearing up to start
21 operations, and they're looking at that to see what we
22 need to do as far as provide that to Wyoming or provide

1 it pro rationally, like we do the American Samoa money,
2 to everybody. Hopefully in the next month or so, we'll
3 have that taken care of also.

4 MS. BROWNE: Can we change the service areas
5 to increase one service area to cover American Samoa?
6 Are there any steps being taken to increase that
7 service area to include American Samoa? What steps do
8 we need to take to do something like that to get them
9 serviced?

10 MR. RICHARDSON: Hawaii has been approached.

11 MR. LEVI: Has Seattle?

12 MR. RICHARDSON: Excuse me?

13 DEAN MINOW: Has Seattle?

14 MR. LEVI: Seriously.

15 MR. TORRES: We'll take Hawaii if they'll take
16 Samoa.

17 (Laughter.)

18 MR. RICHARDSON: Talking about American Samoa,
19 though, just because of how far it is and how costly it
20 would be to set up an office, manage it, go there and
21 provide the management functions that's needed, they
22 determined it was not economically viable.

1 MR. LEVI: What are we doing right now?

2 DEAN MINOW: Nothing.

3 MR. LEVI: Nothing? Aren't we even trying to
4 Skype something to them?

5 MR. RICHARDSON: There was an advertisement
6 placed in the area. We did get a grantee application.
7 But it didn't meet the quality controls that we have
8 to be offered a grant.

9 CHAIRMAN GREY: Is it feasible to take that
10 particular applicant and do some further training to
11 sort of get them up to speed? Or was it so deficient
12 that we decided just to pass on it?

13 MR. RICHARDSON: Reggie, do you want to --

14 MR. HALEY: We didn't receive an application.

15 DEAN MINOW: It wasn't eligible.

16 MR. HALEY: What we did receive was just a
17 notice of intent to compete. And the applicant that
18 filed that notice of intent to compete did not follow
19 through with the grant application --

20 CHAIRMAN GREY: I got you. Okay. That's
21 different, yes. But it does beg the question about us
22 being able to do some outreach affirmatively and say,

1 let's see if we can collaborate with you to put
2 together a small office that might --

3 MR. HALEY: May I? We have taken a number of
4 steps in that regard. This year alone, we sent a --

5 DEAN MINOW: Come to the table, please.

6 MR. HALEY: This year alone, we sent a
7 notice --

8 CHAIRMAN GREY: Reggie, identify yourself so
9 the people on the phone --

10 MR. HALEY: Oh, sorry.

11 CHAIRMAN GREY: That's all right.

12 MR. HALEY: My name is Reginald Haley. I'm
13 with the LSC Office of Program Performance, and I also
14 manage the competitive grants process.

15 We sent out a special notice describing what
16 we were looking for in an applicant, describing what
17 the requirements were to apply for an application. We
18 sent that notice to every member of the bar on American
19 Samoa. And we also made telephone contact.

20 And the best we received was a single notice
21 of intent to compete, and that notice of intent to
22 compete came from an entity that had submitted a notice

1 of intent to compete a year prior to that.

2 So we have taken a number of steps. It
3 doesn't mean we can't do more. But for this year's
4 grants process, it's already begun.

5 DEAN MINOW: I'm just wondering if there's
6 some other strategy because we've been here before.
7 And is there some way to make these funds available to
8 private attorneys? Is there some way to work with the
9 closest provider grantee on the mainland somewhere?
10 Because this is a community that I am sure has great
11 needs, and they are not getting any legal services.

12 MR. HALEY: They do. We had a team of people
13 from the Office of Program Performance, as well as a
14 team of people from the Office of Compliance and
15 Enforcement, visit American Samoa. That was about four
16 years ago when there were some troubles, yes, with the
17 applicant.

18 DEAN MINOW: I remember.

19 MR. HALEY: And so the need is there. And we
20 literally knocked on doors. We tried to establish a
21 private attorney project, if you will. We just
22 couldn't do it. No one was interested enough to submit

1 an application.

2 MS. BROWNE: Well, I understand we're probably
3 not going to find a provider or somebody to come
4 forward from American Samoa. But I think that Dean
5 Minow was referring to is, can we enlarge the service
6 area -- say, Florida -- to include American Samoa, or
7 Hawaii, to include American Samoa? Just increase the
8 service area itself, the geographic area?

9 MR. HALEY: The nearest entity would be
10 Hawaii, and that's about 4,000 miles away. And
11 certainly the regulation allows us to define the
12 service area. But that would be a very complicated
13 process, particularly if Hawaii wasn't enthusiastic
14 about expanding their service area to include American
15 Samoa.

16 CHAIRMAN GREY: We've got a lot of work to do,
17 and we're not going to solve this problem right here.
18 I think the input has been good, though, and I think it
19 begs for some creativity and some continued discussion.

20 And it looks like Seattle is going to get, probably,
21 the nod to get --

22 (Laughter.)

1 CHAIRMAN GREY: I'm sorry. But thank you,
2 Reggie. Appreciate it.

3 MR. RICHARDSON: Thank you, sir. Get me out
4 of the hole.

5 Okay. Grants from other funds. We do have
6 \$644,000 available in the budget. In the last week, we
7 have made a grant to help one of the programs that are
8 dealing with the tornadoes in the South, and that was
9 about \$69,000. And that has been finalized and payment
10 made, so that will be shown as an expense with the July
11 reporting.

12 The technology, we continue to work on the
13 technology line. There is at this point \$3,000 (sic)
14 of money available. They're working hard closing out
15 some of the older technology grants. Some are being
16 canceled due to their not being completed.

17 DEAN MINOW: Three thousand or three million?

18 MR. RICHARDSON: Three million. I'm sorry,
19 three million. Sorry. So we hope to have those grants
20 made. I talked with Glenn a week or so ago, and
21 they're starting the process of reviewing the
22 applicants that have submitted proposals, and hope to

1 have those to the president before the end of the year
2 so that the awards can be made.

3 The reason that he's working on closing out
4 the older grants is because that money goes back into
5 the line, and that way they can give more awards. So
6 that's the approach that we're taking there, and that
7 process is underway.

8 For management and grants oversight, we are
9 spending at a rate greater than we did last year. We
10 are actually \$1,067,000 over what was spent last year.

11 We currently have \$3 million under budget, which is 21
12 percent of our budget, and that money is largely
13 because of the 12 open positions we have.

14 With the uncertainty of our budgeting and
15 everything, we're just sort of taking a cautious
16 approach. Certainly with the task force that is
17 underway, may create some changes in the way that we
18 function. So the president has held off in hiring
19 folks at this point until those items are completed,
20 and then there will be a decision made as to how we'll
21 operate in the future.

22 We also have money available in consulting.

1 With the areas of the fiscal oversight task force,
2 we've paid some of that money. The strategic planning
3 and the development money that has been set aside for
4 your particular use. And right now we have \$145,000
5 under contract and we're hoping to get more of that
6 committed and encumbered as far as the records in the
7 coming weeks.

8 We also have outside legal costs, so there's
9 additional money in the OLA budget in the outside
10 counsel. So we're having some good savings there
11 because we don't have as many legal issues that are
12 going on at this point.

13 Travel, again, because of the task force, this
14 meeting, and your August meeting will take a chunk of
15 that money. For the Board, the executive office, we
16 had a travel budget set up for the president and for
17 some task force, and there's some of those items. Some
18 of this budget will -- this meeting will be charged to
19 that particular line item, so that'll go down some. We
20 do still have the contingency funds, as far as -- some
21 of those is for travel also.

22 So there's things in the works that'll spend

1 some of this money. But we do anticipate a good deal
2 of this being carried over to next year.

3 When we look at the LRAP program, we are just
4 making the 2011 loans. The amount that you see there
5 expended, the \$856,000, is the amount of loans that
6 we're forgiving from last year. And at the bottom,
7 you'll see that there's an asterisk -- two asterisks,
8 actually.

9 There's 8/12ths of the year gone by, but the
10 second asterisk is \$394,000, and that's how much loans
11 have been given as of May. We've given out more since
12 then, and there's actually -- after I left, I got an
13 email that there's more loans being given out. So
14 we're in the middle of processing those and getting the
15 remainder of the 2009 and '10. We had some delays in
16 getting some of those out, and the 2011 loans are going
17 out.

18 DEAN MINOW: Do you expect that remainder to
19 be spent this year?

20 MR. RICHARDSON: No, not entirely, because the
21 way that we do their loans -- for instance, we got a
22 million dollars new money this year, and we give about

1 \$350,000 in LRAP loans, and we save the additional
2 amount of money to pay the final two years on those.
3 So there is a significant amount of money.

4 I have been working with the office as far as
5 changing the reporting somewhat. I am getting more
6 information -- got some Friday -- and we hope to be
7 able to give you the exact amount of what was paid for
8 2009 and '10 on the awards, and what we're giving for
9 2012, to make this a little more meaningful report to
10 you to provide you more information.

11 The OIG budget, as we look at there, they are
12 spending basically \$193,000 more than last year.
13 They're 1.5, almost 1.6, under budget, and there's 37
14 percent of their budget under budget at this point.

15 I've also got a breakdown as to the key
16 components there. Again, it's personnel compensation
17 and benefits, consulting, and other operating expenses
18 are the larger lines there where the money is
19 remaining.

20 I've got a footnote. As we were preparing
21 this, we got the information for a contract. And there
22 is an additional \$227,000 for the audit quality control

1 initiative that was provided to our office just a day
2 or two before this was prepared. So instead of trying
3 to work it into the system, it was footnoted to make
4 you aware that additional money is being spent.

5 CHAIRMAN GREY: Questions?

6 (No response.)

7 CHAIRMAN GREY: Resolution for the report.

8 MR. RICHARDSON: Page 44, I have a memo in
9 regards to our budget review and internal budgetary
10 adjustments and reallocations. The president has
11 authority to make internal budgetary adjustments up to
12 \$75,000. We actually only had two small adjustments
13 under \$500 that the president approved.

14 However, in the Office of Program Performance,
15 when we had our hiring freeze with the uncertainty of
16 our funding, they went ahead and hired a couple of
17 people into temporary positions. These two people were
18 brought in to help with the assignments of the office,
19 special assignments in the office's workload. They
20 also brought in -- actually have two people that they
21 have as program quality visit specialists, and they
22 continue to use them on a regular basis.

1 Because of that, the people who were hired as
2 program visit specialists, they were thinking they
3 could charge directly to the personnel compensation and
4 benefits. But they were temporary employees, to
5 properly, we charged them to the temporary employee
6 line. But the money they budgeted was in personnel
7 compensation and benefits. So we need to move that to
8 sort of match the two.

9 Additionally, the two people that we hired to
10 help with the workload, our intent was to hire them
11 into regular positions. That has now been done, but
12 they were on board from December through May in a
13 temporary position. So we need to move the money that
14 was budgeted again in personnel compensation and
15 benefits down to temporary to accommodate those hires
16 there. So what we're doing is we're asking that you
17 approve a transfer of \$105,000 to temporary employee
18 pay.

19 In addition, we found, in looking at our
20 regulation and the movement of our money before, we
21 actually moved \$10,000 too much money as far as in
22 consulting to temporary employee. And we need to move

1 money back into the consulting line because our
2 regulations state that we need to have consultants
3 independent of the organization to make recommendations
4 to the president in regards to funding decision when
5 there is competition.

6 So we're asking that you move \$10,000 into the
7 consulting line; and also, the Office of Program
8 Performance, when they projected their travel to show
9 that they need an additional \$5,000 based on their
10 projections.

11 All that money is available in the personnel
12 compensation and benefits line. So we're asking that
13 those three adjustments be made, with the \$120,000
14 being reduced from personnel compensation to support
15 those.

16 CHAIRMAN GREY: Questions?

17 (No response.)

18 MR. RICHARDSON: I have one more thing, the
19 next-to-last paragraph. When we got our U.S. Court of
20 Veterans' Appeals funds, in the past they've not been
21 subject to rescission. This year, they were. So when
22 we approved the budget, we included the \$2,320,000 for

1 the budget, and there was actually a rescission of
2 \$4,640.

3 So we need to reduce our consolidated
4 operating budget that amount of money, which will make
5 a consolidated operating budget of \$420,160,905. And
6 that's what the resolution sets forth for you. Page 46
7 on the resolution.

8 CHAIRMAN GREY: Questions?

9 DEAN MINOW: I have a couple of questions.
10 One, this movement of the funds with regard to the
11 temporary employees who are now permanent employees,
12 that includes benefits or any such benefits that would
13 be necessary for their temporary status?

14 MR. RICHARDSON: Yes.

15 DEAN MINOW: Because I don't want to get into
16 that consultant problem that we've seen.

17 Secondly, I'm wondering whether the \$75,000
18 cap on the president's authority to make internal
19 budgetary adjustments is something that we can adjust
20 so that something of the scale that we're talking about
21 here would be covered by the president's discretion.

22 MR. RICHARDSON: We can certainly adopt a

1 modification to our budget guidelines. That was
2 something that the prior Board set. They it eight
3 years ago. Different economic times. So you may want
4 to adjust that.

5 DEAN MINOW: Not here. I just raise it as
6 something we might want to think about.

7 CHAIRMAN GREY: Mr. President, if you find
8 that you want us to consider that, we'll be happy to do
9 so.

10 MR. SANDMAN: Okay.

11 MS. BROWNE: Is there a recommendation as to
12 an amount that it should be raised to?

13 DEAN MINOW: No.

14 CHAIRMAN GREY: I think we're just raising the
15 issue.

16 DEAN MINOW: I just raised the issue.

17 MS. BROWNE: Raising the issue. So are we
18 going to receive a memo back as to --

19 DEAN MINOW: Well, if Jim wants it. Think
20 about it.

21 MS. BROWNE: Oh, I'm sorry.

22 CHAIRMAN GREY: No. It wasn't on the agenda.

1 It was just an observation that the Dean made. We've
2 invited Jim, if he wants to talk to us about it, to
3 talk to us about it.

4 Any other questions or comments?

5 (No response.)

6 CHAIRMAN GREY: Can I have a motion on the
7 revised -- the resolution approving the revised
8 consolidating operating budget for fiscal year 2011?

9 M O T I O N

10 DEAN MINOW: I move adoption of the
11 resolution.

12 CHAIRMAN GREY: Is there a second?

13 DEAN MINOW: Or do we recommend it to the
14 Board.

15 CHAIRMAN GREY: Yes. We're going to recommend
16 it.

17 DEAN MINOW: I move that we recommend it to
18 the Board.

19 CHAIRMAN GREY: Second?

20 FATHER PIUS: Second.

21 CHAIRMAN GREY: All in favor say aye?

22 (A chorus of ayes.)

1 CHAIRMAN GREY: Thank you.

2 Can we -- oh, you've got the temporary
3 operating budget for 2012, David.

4 MR. RICHARDSON: I did this agenda six weeks
5 ago, and at that point we were talking about this being
6 the last meeting before October 1st. There's going to
7 need to be one more, at least, to discuss the budget
8 mark and vote on that, and then to recommend it to the
9 Board.

10 For that reason, and because of the
11 information we are receiving in regards to our possible
12 appropriations, I'm going to ask that you table that at
13 this meeting.

14 CHAIRMAN GREY: That makes sense.

15 M O T I O N

16 DEAN MINOW: Move to table.

17 CHAIRMAN GREY: Second?

18 MS. BROWNE: Second.

19 CHAIRMAN GREY: All in favor say aye?

20 (A chorus of ayes.)

21 CHAIRMAN GREY: I'd like to switch 7 and 8
22 just so we can finish up on --

1 MR. RICHARDSON: This will be quick, too.

2 CHAIRMAN GREY: Oh, good.

3 MR. RICHARDSON: Alice is reporting on the
4 Audit Committee, so we're going to ask that you table
5 this agenda item. It's a technical -- it's a
6 resolution approving some technical amendments to the
7 403(b). She'd like to be able to explain this to you.
8 We'll do that in October.

9 M O T I O N

10 CHAIRMAN GREY: Okay. Move to table.

11 FATHER PIUS: Second.

12 DEAN MINOW: Second.

13 CHAIRMAN GREY: All in favor say aye.

14 (A chorus of ayes.)

15 CHAIRMAN GREY: Okay. Discussion of the 2013
16 budget. For the record, the Finance Committee has
17 taken one pass at this with some input from the staff,
18 which was very helpful, quite frankly, in understanding
19 the parameters and the scale at which we might want to
20 consider a budget request.

21 We bookended the discussion at the time with a
22 \$420 million floor and a \$490 million cap. And the

1 idea was that recognizing the moving target that we're
2 working with, we wanted to be in a space where we were
3 both practical but also realistic about the opportunity
4 for funding this year. And we want to be credible in
5 our approach for 9it.

6 There has been a lot of movement in Congress
7 about consideration. There has been a statement, at
8 least, by the House about the possibility of a funding
9 number. And John, if you wouldn't mind sort of giving
10 us an update from our last discussion, and we might
11 have some questions for you about how we might want to
12 consider this.

13 MR. CONSTANCE: Thank you, Mr. Chairman. For
14 the record, John Constance, director of Government
15 Relations and Public Affairs. Let me first of all talk
16 about what is going on in terms of the 2012 process
17 just briefly, and then I'd be happy to answer any
18 questions that you have about 2013 possibilities.

19 The House has passed out of full committee a
20 2012 bill. It does not look like that bill will be
21 taken up before the August recess, so that bill is
22 probably going to be delayed until September.

1 For us -- and the bill that I'm talking about
2 is the Commerce, Justice, Science, and Related Agencies
3 bill. For us, the bill shows \$300 million for LSC, a
4 \$104 million cut for current levels and in the range of
5 a 27 percent cut from that level.

6 At this point, I think there's every
7 expectation that given the fact that they had the votes
8 to get that out of committee, I think we can assume
9 that the votes are there in order to pass that bill on
10 the House floor.

11 There has been discussion within the
12 subcommittee, it's my understanding, of the possibility
13 of some kind of a floor action to try to put money back
14 in. But I think that, realistically, even those that
15 have discussed that understand that that effort would
16 be largely symbolic. It would not carry the day.

17 So that's the House side. On the Senate side,
18 they have been waiting for the negotiations on the 2012
19 budget to be completed, whatever that word means in the
20 context that we're in right now, and from that would
21 set their 203b levels in order to go forward.

22 Given the fact that those negotiations are not

1 complete, given the fact that there are a couple of
2 possibilities that are knocking around right now, as
3 you've probably seen from the press the last couple of
4 days, they haven't gone forward with their process at
5 this point. And presumably, that's again a September/
6 October time frame.

7 A lot of effort has already been concentrated
8 on the Senate, I must say, by the advocates, largely
9 led by ABA and NLADA, to get a "Dear Colleague" letter
10 circulated. I think 34 signatories to that letter are
11 recommending the President's number of \$450 million.
12 So on the Senate side, that activity has gone forward.

13 There was no Republican participation in that
14 letter. However, a number of Republican senators
15 indicated that they were sending their own letters and
16 their own process and were supportive of the effort.
17 So there is certainly still some bipartisan support on
18 the Senate side for increased funding from current
19 levels for LSC.

20 That's where 2012 stands at this point.

21 CHAIRMAN GREY: Thank you, John. And that's
22 an update from where we were last time, and it's good

1 to have for our own edification. The challenge for us
2 at this point is to think prospectively about the 2013
3 budget. And in that regard, the sense that we have is
4 that, from public comment, that NLADA suggested and
5 encouraged us to think above the 500 mark, and ABA came
6 in at the President's mark.

7 And we have had some initial discussion that I
8 think we ought to continue about where we might
9 recommend to the Board or think about --

10 MR. LEVI: Does the President have a mark? I
11 don't think he has a mark for 2013.

12 CHAIRMAN GREY: No. His previous mark. I'm
13 sorry. The 450 mark.

14 MR. LEVI: The ABA came in, I think, only for
15 2012.

16 CHAIRMAN GREY: Yes. For 2012. I'm sorry,
17 you're right. Not for 2013.

18 MR. LEVI: They haven't come in on 2013.

19 CHAIRMAN GREY: ABA?

20 MR. LEVI: They came in for --

21 MR. CONSTANCE: Yes, they did. I mean, the
22 presentations that were made by NLADA, ABA --

1 MR. LEVI: But that was a different -- what
2 number was -- NLADA was about 500.

3 FATHER PIUS: It was last year's number.

4 MR. LEVI: It was last year's number?

5 FATHER PIUS: NLADA's number is last year.

6 And ABA was 450, I think.

7 MR. CONSTANCE: I believe their actual words
8 are, "No less than \$450 million."

9 CHAIRMAN GREY: So I think we are all within
10 striking distance of where we want to be in trying to
11 get a mark that will be reflective of both our need and
12 expectation, and to also be reasonable, I think, in
13 terms of where we think we ought to be with those who
14 are going to fund us. So I'd like to open the floor
15 for some discussion about that, among the committee
16 first, and then we'll hear from public comment.

17 So I think I've set the stage for where we
18 ended our discussion. John has given us an update.
19 We're informed by our outside organizations of great
20 interest in what we do. I think it's up to us to have
21 some discussion about that.

22 And I will note that the president, Finance,

1 Government Relations, all have been very supportive and
2 helpful in giving us background to work with. And so
3 we appreciate that very much.

4 Mr. Chairman?

5 MR. LEVI: Well, I don't sleep very well at
6 night since I took this role. I recognize there's a
7 national debate about what the country can afford. But
8 I know what the country cannot afford, and that is to
9 turn over a shambles of the civil justice system to the
10 next generation.

11 And I'm struck, and I'm struck again at these
12 meetings, and I hear and I see the stress on the faces
13 of our executive directors and the situations that
14 they're confronting. And I recognize that there have
15 been issues in oversight and whatnot. We're going to
16 take care of those.

17 But I don't want to get engaged in the
18 national debate, particularly in this Board, other than
19 to say we always have to be prudent in how we spend our
20 funds. But the folks that come here and ask us for
21 help have no other voice. They were telling us that at
22 the client meeting. And I take that very seriously.

1 And if we are fortunate enough to get through
2 this budget cycle at 450, then we ought to be asking
3 for 475 or 480 for the next budget. I understand we're
4 going to have to do this incrementally, and how to pick
5 what is the federal government's appropriate share of
6 the burden of making sure we have an orderly
7 functioning civil justice system.

8 But one of our fiscal oversight members -- I
9 don't think he'd mind my saying this -- and my father
10 happened to serve together years ago. And we found
11 ourselves the other day in a conference room at my
12 firm. And he turned to me and said, "Can you believe
13 what our fathers must be thinking? Thirty years ago
14 the kind of justice system that existed and they turned
15 over to our generation, and what the heck is our
16 generation doing on behalf of the next generation?"

17 And I just think it's incumbent on us to level
18 with the American people. If you don't have an orderly
19 functioning justice system, then what are we sending
20 people abroad for to fight for our values? This is at
21 the core of what makes us free.

22 So I want to make sure -- and I want to be

1 responsible here. We asked for 516 last year; it was a
2 compromise number. I think if we ask for something
3 that is \$40,000 (sic) less than that, which is 475, I'm
4 going to assume and hope that the Senate and the
5 President somehow get us close to 450. I'm just an
6 optimist on this.

7 And incidentally, when I say I'm an optimist,
8 we know how these folks have been living, what the
9 layoffs have been. We sent out the questionnaires. We
10 got the responses. So we know that this will just
11 barely help tread water because the IOLTA funds and
12 other funders are down some.

13 So I myself would think that you maybe don't
14 have to decide this today, that you want to wait and
15 see what happens. But we want to keep moving the ball
16 forward, not backward. And so I'm not going to
17 tell -- I'm one voice on the committee; that's just my
18 sense that we have folks in the field, clients who came
19 here who are depending on us. We're the voices that
20 they had.

21 And we're doing our business here to make
22 sure -- and you will hear tomorrow from the Fiscal

1 Oversight -- you know it, Mr. Grey; Father Pius, you
2 know that we are doing what we need to do on that front
3 and to assure the American people that the money is
4 well spent.

5 With Jim and with the management team we're
6 accumulating, I believe we're going to do what we can
7 in the thinking about things together, collaboratively,
8 to make sure our programs are the best they possibly
9 could be. But the resources are stretched so thin.
10 And how, with this situation, do we encourage the next
11 generation to want to step into this field?

12 And so if we go backwards, that's not a good
13 place. So that's -- you know, I wish we weren't in the
14 moment in time in the country that we are. We have to
15 be realists. We know what the need is, far beyond
16 anything that we're talking about in this room. But I
17 just think if we can keep prudently moving the ball
18 forward. That's all.

19 CHAIRMAN GREY: I'm going to go to the other
20 end of the table.

21 (Laughter.)

22 CHAIRMAN GREY: Father Pius?

1 FATHER PIUS: One of the things, obviously,
2 that's -- in terms of the increased funding, there's
3 more than just the increased need and the decreased
4 funding from other sources. But there's also real
5 costs that we're going to incur, I think, going into
6 the future.

7 One of those things that come to mind are the
8 changes from the census -- for example, in the past
9 that we have tried to do -- but are we going to get a
10 report from management about, for example, what those
11 costs could be so we could take that into account in
12 determining what this budget number is? Because,
13 frankly, I have no idea.

14 MR. LEVI: Well, do you mean --

15 FATHER PIUS: For example, in the past we
16 have --

17 MR. LEVI: -- whether the programs are going
18 to lose funding?

19 FATHER PIUS: Right. In the past, we have
20 made -- my understanding is we have made kind of bridge
21 adjustments in funding to give people who would be
22 losing lots of money some transition money, which I

1 think is personally reasonable.

2 And because we do this thing every ten years,
3 some of our grantees are going to be facing huge cuts
4 based on these --

5 MR. LEVI: Well, the State of California I'm
6 terribly worried about.

7 FATHER PIUS: Yes. Ohio is optimistic,
8 however.

9 MR. LEVI: Do they think their poverty --

10 FATHER PIUS: We've got more -- oh, they know
11 that we've got more poor people. Yay.

12 (Laughter.)

13 FATHER PIUS: But so the question is, based on
14 what we think the numbers are going to be, based on
15 what we've done ten years ago, how much do we think
16 that's going to be? And I think that is going to have
17 to be part of my decision on how much that we have to
18 ask for.

19 MR. LEVI: Well, you're recommending a
20 two-year bridge?

21 MR. SANDMAN: Yes. But that's not responsive
22 to Father Pius's question. We're recommending a

1 two-year phase-in of the change. You're talking about
2 in the past there's been additional money appropriated.

3 FATHER PIUS: That's my understanding.
4 Correct me if I'm wrong.

5 DEAN MINOW: That's correct.

6 MR. LEVI: We're not doing that, are we?

7 MR. CONSTANCE: No. It's been proposed in the
8 past, and I think several members of the Congress have
9 made, in the old world, earmarks to ease those
10 transitions. But I don't know that the Corporation has
11 ever actually been successful in doing that.

12 And again, for purposes of your view and your
13 discussion, just keep in mind that we're dealing with a
14 fixed pie. There will be losers but there will be
15 gainers in terms of that, and the net of all of that
16 will essentially be the same number.

17 But we have not been bashful about letting the
18 Hill know that there will in fact be some reductions,
19 clear reductions, in 2013 and, depending upon how the
20 decision is made regarding phase-in, 2013 and 2014 from
21 some programs, in some cases up to 29 percent of their
22 funding.

1 FATHER PIUS: Oh, wait, just one other thing.

2 The other thing is, I want to put out a number that's
3 going to contribute to the likelihood of their being at
4 least as much if not more funding for legal services.
5 I think, when we put out crazy numbers, that it doesn't
6 help anything.

7 It seems to me -- and the question is, what's
8 the crazy number and what's the reasonable number? It
9 seems to me that there seems a good consensus that over
10 500 million is a crazy number that people will look at
11 and many people will laugh at and think, wow, you're
12 great dreamers; but that there are lower numbers that
13 could really contribute and say that we're serious
14 about what a good number is, and that we could provide
15 a more united front.

16 This year it's all coalescing at about 450
17 million, it seems, is what I'm getting. Is it
18 reasonable to assume, as John thinks, that we could
19 increase that by 25 million for the following year? Is
20 that something that would strike people as reasonable?
21 Or when we issue this number, are people thinking 2013
22 or are they just simply thinking 2012 still?

1 I guess the question is, how is Congress going
2 to receive a number we give? If we give 516 million
3 again, is that going to be something that just
4 somebody's going to glance at and throw it away with a
5 snicker?

6 If they see something like 450 million, is
7 that something that people would say, oh, well, if
8 they're willing to come down this much, maybe this is
9 something we can do? 475, are they going to say, well,
10 this is slightly too big or this is slightly too small?

11 MR. CONSTANCE: Again, I feel very comfortable
12 about talking about 516.5 because I have the experience
13 of carrying 516.5 up there twice. And I can tell you
14 that while it is a number that I think is very sincere
15 and is reflective of the need and is probably
16 indicative of just the beginning of the need -- I've
17 said to Charles Keckler that I think that one of the
18 things that would be quite helpful in terms of the
19 strategic planning effort is to look at what this Board
20 feels that the eventual goal is in some way of defining
21 that, not even in numerical terms but in terms of what
22 is the goal, and then asking management to try to work

1 toward putting numbers against a goal like that so that
2 you do know what is 516.

3 I mean, what percentage of where we're going
4 is 516? I can tell you that 516 has taken us out of
5 the negotiations because, again, while it is reflective
6 of need, it's also reflective of not being realistic in
7 terms of the environment that appropriators operate in.

8 Appropriators operate in an environment of looking
9 where your number is, and in the good old days, looking
10 at what the increased need is, and then looking at what
11 a reasonable percentage increase is.

12 In this budget cycle, they have looked at what
13 your present number is and looked at, again, the
14 broader debt issue, and determined how far below that
15 for them is reasonable to redistribute that money to
16 other programs. And so I can certainly speak to the
17 experience with 516.

18 CHAIRMAN GREY: Dean?

19 DEAN MINOW: No. I think Sharon.

20 MS. BROWNE: I'm of the belief that if we're
21 going to recommend a figure for 2013, it has got to be
22 a figure that will be taken seriously on the Hill. I

1 don't believe that the figure of 516 is taken
2 seriously. As you reflected, it's not a figure that
3 can be negotiated, especially in this type of economic
4 time.

5 Currently, if the House is looking at pulling
6 us back to 300 million for 2012, is we go with a figure
7 of 516 for 2013, I think we've lost our credibility. I
8 don't want to be in that position. And I don't think
9 anyone wants to try to defend that type of a position.

10 Right now, we've got a figure for 2011 of 420
11 million, which I think is something that we could
12 certainly say is credible. It's responsible based upon
13 today's economic crisis. It's something that could be
14 worked with. If we're going to increase it, then I
15 want to see a specific program attached to any
16 increase.

17 We know that the TIG program, the TIG
18 initiative, was embraced by Congress, and they have
19 funded it. They have taken the U.S. Court of Veterans'
20 Appeals and they are willing to fund it. Our because
21 field programs, they are willing to fund it. And
22 grants from other funds, which is more discretionary,

1 they are willing to fund it.

2 But those are specific items that Congress is
3 willing to embrace. And if we're going to go above the
4 \$420 million, let's give something to Congress that
5 they can back it with, a program. And I think I
6 mentioned that at our last meeting.

7 CHAIRMAN GREY: You did.

8 MS. BROWNE: And if we're going to go above
9 the 420, I'd like to see a program that's specially a
10 line item.

11 MR. LEVI: Well, let me just say, one problem
12 for all of this is we are on record at 516. The Senate
13 and the President, for 2012, are trying to get us 450.
14 So if they are successful --

15 MR. CONSTANCE: I don't know that the Senate
16 has signed onto that. Thirty-four members of the
17 Senate have signed a letter. But I don't know that you
18 could make the broader statement as to that is going to
19 be the number that the committee even recommends, let
20 alone what is eventually acted on.

21 But no, it is absolutely the President's
22 number. And I think the work that you did last year in

1 seeing that it indeed was recognized and that you've
2 gotten to the point of 450, I mean, is a very good
3 achievement. And the President -- I would say this for
4 2013: I think it would be unlikely for the White House
5 to ask for less.

6 MR. LEVI: But what I'm saying is if we come
7 out with a number of 420 right now while people are
8 trying to fight for us for 450 a year earlier, you tell
9 me about how that works out. I know how that works
10 out. And that doesn't work out in our favor.

11 So I don't like that approach. I would rather
12 have this Board table the whole thing and see how 2012
13 turns out, and then go to school on 2013.

14 MR. CONSTANCE: I don't know that we have that
15 luxury. The timeline is that --

16 MR. LEVI: Well, but then this chairman
17 doesn't have the luxury of proceeding with a number
18 that undercuts 2012. I'm not going to sit here for
19 that.

20 MS. BROWNE: Do we have management's
21 recommendation on a budget amount? Do we have any type
22 of information coming from staff?

1 CHAIRMAN GREY: Here's what we -- well, let me
2 finish. Let me let the Dean speak. Let's get
3 everybody on the table and then let's kind of work
4 through it.

5 DEAN MINOW: Yes. I think this is a very
6 challenging circumstance. That goes without saying. I
7 think that we all feel very frustrated. I think the
8 frustration is as much due to the uncertainty at this
9 moment as it is anything else, but it's also in part
10 due to this hope that there actually will be rational
11 deliberation that's based on actual evidence of need
12 and programmatic plans, about which I have not much
13 hope, frankly. I don't think that that's the
14 environment we're in right now. We're not actually
15 having a rational discussion.

16 And so I completely am with Father Pius and
17 Sharon Browne in saying, we want to be part of a
18 rational budget deliberation in which we have a plan,
19 in which we have backed it up, in which we have
20 developed it. At this moment, I don't think that
21 that's what's going in Washington. Nobody's looking at
22 our program. That's not what's happening. It's not on

1 the table.

2 So I'm feeling a little bit of ships passing
3 in the night about how do we pick a number now, where
4 the right thing to do would be exactly to think -- I
5 mean, I'd get even more specific. How much money is
6 needed for LRAP, given the shifting population and the
7 recruitment issues? How much money is needed for the
8 estimated increase in the poverty level over the
9 upcoming period of time? How much money is needed for
10 technology grants that might be short-term, as opposed
11 to an ongoing line? And how much money is needed for
12 implementing what might be our strategic planning ideas
13 about supporting best practices?

14 I mean, I would want to go through that kind
15 of a deliberative process where you actually reason
16 through needs and plans. From what I'm being told, we
17 don't have the time to do that, and also, from what I
18 perceive, this is not what the Congress is actually
19 looking at.

20 So I guess I just want to say this. If it is
21 at all a risk that we undermine the realtime
22 negotiations, right now, by coming out with a number

1 that is lower than what is already on the table for
2 this current budget cycle, I have to say I think we
3 should be silent because I think the power of offering
4 anything for the year after is minimal, given that
5 we're not actually having a rational discussion right
6 now about the year after, and there's a risk about
7 coming out right now.

8 So I appreciate what you're saying, John, that
9 we don't have the luxury. But I'd rather be silent
10 than to come out with a number that makes life harder
11 at this moment.

12 MR. CONSTANCE: Well, part of what our goal
13 is -- excuse me. If I could just address that. The
14 Office of Management and Budget and the Administration
15 need a number from us by Labor Day in order to begin
16 their deliberation on what 2013 is going to look at.

17 A lot of what we are doing is informing, with
18 not just a number but also with a package which we're
19 required to provide to the Congress, and the Board has
20 traditionally provided to OMB, with not only a number
21 but a rationale for that number so that that can work
22 into the process at the White House for the 2013

1 number.

2 I understand the frustration, but every year
3 one of the things that is absolutely a constant from
4 year to year is that you're always doing this prior to
5 the previous year being completed.

6 MR. LEVI: And I promised this Board that they
7 wouldn't be put in the position that the prior boards
8 were put in --

9 DEAN MINOW: Correct. Correct.

10 MR. LEVI: -- that we have found ourselves in
11 with that September meeting in which we were already
12 past due, and it went from the Finance Committee right
13 into the Board meeting with not a hiccup in between.
14 We're trying to sort all these things out It's tough.

15 DEAN MINOW: And just one more thing. We
16 haven't even, as a Board, heard the recommendations of
17 the fiscal task force, which --

18 MR. LEVI: No. Which they're hearing
19 tomorrow.

20 DEAN MINOW: -- we're hearing tomorrow. So I
21 certainly don't feel myself in a position today to pick
22 a number when there might be some proposals on the

1 table for change that we'll make in the next month that
2 could alter what we plan to do.

3 CHAIRMAN GREY: Well, let's see if I can put a
4 little bit of context around the discussion.

5 I've had the fortune, I think, of wearing the
6 task force hat and the chairman of the finance hat and
7 whatever other hat John decides I will wear.

8 DEAN MINOW: And your hair still looks good.

9 (Laughter.)

10 MR. LEVI: And he has --

11 CHAIRMAN GREY: Well, that's because I went to
12 the vet and I got a shearing.

13 (Laughter.)

14 CHAIRMAN GREY: Yeah, I got it cut off. But
15 here's some very positive things to be taken from our
16 discussions.

17 The first is that I believe we are on the same
18 page, that this committee's describe is to inform the
19 Board as best it can with a number that it believes is
20 realistic, and that we are very capable of
21 understanding our responsibility to do that. I think
22 that's number one.

1 The second is the last thing that this
2 committee wants to do is offer a number that undermines
3 what we might have. None of us have that desire. So
4 we have been instructed -- John has been very careful
5 about -- every time we try to put words in his mouth,
6 he says, "No, that's not what I said."

7 So he's been very careful and very clear that
8 the last thing that we want to do is we do not want to
9 undermine what is the President's budget number for the
10 last year, or for 2012. So we don't want to do that.

11 This committee was very clear that it does not
12 want to go and send this Board and its administration
13 to the Hill with a number that will not pass the red
14 face test or the test of appreciating and understanding
15 the environment that we're in. And so we're pretty
16 clear about our desire not to do that as well.

17 Having said that, I want to share an
18 experience that I had because I think it informs us
19 about -- and I hadn't done that with the committee yet
20 because it happened in the interim, between our
21 meetings and today. But I had a conversation with Eric
22 Cantor, who happens to be my congressman.

1 DEAN MINOW: Good.

2 CHAIRMAN GREY: At least I claim him, anyway.

3 But he and I grew up together in the General Assembly
4 of Virginia. He was a legislator; I was a lobbyist.
5 And we worked very closely together.

6 And when I asked him, could I come see him, he
7 said, why, of course. And we sat down and had a very
8 long -- as a matter of fact, I had to excuse myself
9 because I was -- I said, "Congressman, you got somebody
10 else out waiting." He said, "Well, I haven't finished
11 yet."

12 But my point is this. He said, when I told
13 him about what we were doing, how the Board was
14 cooperating, and how the Board was taking the
15 initiative to do the things that we were doing, he
16 said, "I wish I could hold you up as an example because
17 you are absolutely the exception to the rule. And I
18 want you to continue to do that.

19 "Now, I can't promise anything while we're all
20 sitting here, but I want you to know that I fully
21 endorse what you're doing and want to find out more
22 about how you're doing it because, my goodness, that's

1 exactly what we're asking people to do right now."

2 So he said, "Be proactive in telling me and
3 other members of Congress what you're doing. It is
4 that conduct that we are trying to reinforce among the
5 agencies of this government, to take a look at the
6 fiscal oversight responsibility that you have for
7 taxpayers' money, to take a very careful look at
8 program needs and whether others can help with the
9 support of those needs, and, most importantly, are you
10 properly leveraging the money that we give you to have
11 others participate?"

12 And I said, "I've got answers to all of that,
13 I think, in spades." And he said, "Well, let's
14 continue the conversation. But please, don't forego
15 that process."

16 So I think what we've got -- no, no. Well,
17 John reminded me. And he said, this is not about
18 cutting across the board. This is about giving money
19 to those who are doing the right thing. So some people
20 are not going to get cut; they're going to get more
21 money because they're doing what they are expected to
22 do, and they're doing it in a way that is properly

1 executing the responsibility which they have.

2 So be thoughtful, but don't undercut yourself,
3 is basically what he was telling us. Now, we
4 understand -- I think all of us on this committee
5 understand our responsibility, and I think we can
6 deliver, Mr. Chairman, a number to the committee.

7 DEAN MINOW: It squares the circle.

8 CHAIRMAN GREY: It does. But Sharon makes a
9 very good point, and so does Father Pius, in this
10 regard. We don't have to pull it out of the air.

11 MR. LEVI: No. And that's one reason we did
12 the survey.

13 CHAIRMAN GREY: And we don't have to. We have
14 heard the need in rural areas for additional funding,
15 and that's not -- we don't even have to make that up.
16 That is so clear in terms of the loss of revenue and of
17 support that we could comfortably say we're going to go
18 in that direction.

19 We absolutely believe that the transition of
20 lawyers as we are aging out is going to mean that we
21 need more young lawyers. We ought to help provide them
22 with greater opportunities by giving them loan

1 forgiveness, a path to participate with us so that they
2 may become career attorneys with this organization. I
3 don't think we'll have a problem figuring that out.

4 I do like the idea of putting our money where
5 our mouth is, so to speak. And if we say we want it,
6 where do we want to put it? So I like the idea of us
7 getting some focus, and I think that's what we're
8 trying to do.

9 What I would suggest, Sharon, is that in the
10 context of our strategy plan, that's how we do that,
11 that we absolutely say to ourselves as we're developing
12 the priorities of this organization that if we come in
13 at a number, we're going to have a place that that
14 number works for us in terms of where we put our
15 effort, and that it is not just a take it and have fun.

16 Because I think we want to be involved, John, as a
17 board in helping the Administration come up with that
18 direction.

19 Dean?

20 DEAN MINOW: I think that's an extremely good
21 statement, Mr. Chair. I want to say that I learned
22 today from Allison Paul and from Thomas Matsuda that if

1 we end up with the kind of reduction in funds that
2 leads to the closing down of offices in regions where
3 there are no lawyers for thousands of miles, that we
4 are doing just what John told us to be careful about,
5 that we are punching holes in the justice system.

6 And being able to demonstrate that the scale
7 of the current budget is already jeopardizing the
8 presence of any kind of legal representation for -- I
9 want to be able to fill in the hole. The percentage,
10 the numbers of people in this country, the percentage
11 of people who are in rural poverty, we're just on the
12 verge of being able to say that. And that's why having
13 the data behind the number is, in my view, absolutely
14 essential.

15 CHAIRMAN GREY: Well, in Father Pius's point
16 about you don't want to leave somebody out on a limb
17 having just sawed off the back end of it and say, now
18 keep doing what we ask you to do. This idea, which we
19 fortunately have the ability to do, is to move money
20 around in our budget when we need to. It's not the
21 best situation, but it is better than not having the
22 flexibility to do that at all.

1 Here's what I'd like to do, if the committee
2 is amenable, is I think that -- John, I think we're at
3 a point where we're not interested in coming below the
4 present number. I think the question is, where do we
5 go from there? And you have given us a starting point,
6 at least; you've put -- I'm sorry, what did you
7 suggest?

8 MR. LEVI: I said 475. But I --

9 CHAIRMAN GREY: What I'd like to do is just
10 get a reaction from John and David and Jim, if you have
11 a reaction; then we'll discuss it some more. But if
12 you have a reaction and you think we're off track or on
13 track or -- help us.

14 MR. CONSTANCE: Mr. Chairman, I work for a lot
15 of people in this room.

16 (Laughter.)

17 MR. CONSTANCE: No. I would say this, that I
18 think there is a lot of hard work involved by John and
19 others to get to 450. And I can tell you the
20 professional side of OMB last year was shocked that we
21 got where we got because the word came from across the
22 street to the professional side of OMB that that's

1 where we should be.

2 So just based on that alone, as well as Dean
3 Minow's perceptive remarks about the current
4 negotiations, I don't think you go below 450. Now,
5 that is a -- I'm saying that as a political statement
6 as much as anything, in terms of supporting the people
7 that have supported you and the bipartisan efforts
8 there have been on the Hill supporting that number.

9 In terms of mentioning names, I'm not going to
10 do that, but I will tell you this: There is strong
11 bipartisan support for increases. And I would say that
12 450 is the floor.

13 MR. LEVI: I also can't say names. But I
14 agree with you as to the bipartisan because I have had
15 those discussions on both sides of the aisle, and I'll
16 continue to have them.

17 CHAIRMAN GREY: Let me go back to the end of
18 the table again and come back down.

19 DEAN MINOW: You have Jim's hand up.

20 CHAIRMAN GREY: Oh, I'm sorry, Jim. I did
21 want to recognize you. I'm sorry.

22 MR. SANDMAN: I'm Jim Sandman, president of

1 LSC. I agree that \$450 million is the floor here.
2 Since the President asked for \$450 million for fiscal
3 year 2012, the need has only increased. The size of
4 the poverty population has gone up, and the sources
5 available for other funding for legal services are
6 going down.

7 So in that environment, I don't see how we
8 could in good conscience ask for anything less than the
9 President asked for for 2012, and the amount for which
10 at least 34 senators have already signed on. As I said
11 in the telephone conference a couple of weeks ago, I
12 think that asking for anything over \$500 million is
13 just a mistake. I think that loses us our seat at the
14 table.

15 So for me, the proper range is somewhere
16 between \$450 million and \$490 million. 475 sounds like
17 a pretty good compromise to me.

18 CHAIRMAN GREY: Father Pius?

19 FATHER PIUS: You know, I hate playing a
20 numbers game, and unfortunately, that's what we're left
21 to do. You know, we all know that the need is
22 increased. We all know that there is an unwillingness

1 and an inability -- not just an unwillingness, an
2 inability -- to fully fund what the need is.

3 I mean, we are in financial crisis mode in
4 this country in terms of funding, and I can't ignore
5 that. We're not talking about zeroing LSC funding,
6 thankfully; I think that's pretty much off the table.
7 And so there will still continue to be provided funds
8 for LSC. But a great threat is still the collapse of
9 our -- not the collapse, but the real long-term damage
10 to our economy.

11 So that's something that -- that also worries
12 me. I worry about the stories that I've heard of the
13 people who are really suffering because they have no
14 one to help them. And then I worry about the children
15 who are being born today who are going to live under
16 this enormous amount of debt. How do we reconcile
17 that?

18 I mean, we have to take both things into
19 account, and I think that means playing in some ways a
20 numbers game, coming up with a number that does justice
21 to the people who really need the help that we provide,
22 and yet at the same time being realistic about what it

1 is that it can support. And that's a difficult
2 balance, and I don't know what the best answer is. I
3 still don't know what the best answer is. I'm still
4 very much thinking about what the best answer is.

5 One of the things that concerns -- one of the
6 things that I keep thinking about, too, and maybe Jim
7 can help me with this, is that with the surveys of the
8 funding, non-LSC funding or the funding for our
9 grantees over the years, it's surprisingly gone up
10 between 2009 and 2010. We have to explain -- do we
11 have any sense of what the actual number is going to be
12 for 2011? Because we keep saying that funding is going
13 down, but we've actually realized that it hasn't, at
14 least between 2009 and 2010 in overall funding for our
15 grantees.

16 MR. SANDMAN: It will vary from program to
17 program and from state to state. But I think there are
18 two things that have happened since 2010 that make me
19 think that the number for other funding sources for
20 2011 will be down.

21 Number one, we know that one of the reasons
22 for the increase between 2009 and 2010 was federal

1 stimulus funding, other non-LSC federal funding. That
2 number is no longer available. And second, we do know
3 from the reports that we got from our survey of the
4 programs, to which we got a very high response rate,
5 that in many states, state funding is going down in
6 addition to the declines that we've seen in IOLTA
7 funding. And that's reflected in the numbers we got on
8 reductions in program size, with lots of vacant
9 positions going unfilled.

10 So those two pieces of information tell me
11 that the total number of funding from non-LSC sources
12 for our programs for 2011 is, I'd say, almost certain
13 to be less than 2010.

14 FATHER PIUS: Obviously we don't have time to
15 be --

16 MR. LEVI: We heard that here in Washington.

17 FATHER PIUS: Yes. And it would be great to
18 be able to quantify that and have that reflected in our
19 number. I don't know if we have the -- we can't see
20 that far quite into the future yet.

21 CHAIRMAN GREY: Well, no, no.

22 MR. LEVI: Well, we could, but I think they

1 can collect that.

2 CHAIRMAN GREY: No, no. I was going to say I
3 think --

4 FATHER PIUS: Because that for me is a big
5 part of the rationale for an increase.

6 CHAIRMAN GREY: It is. And I think it is part
7 of the Administration's rationale, too, that they stay
8 on top of those numbers and that they are current as
9 they are reported, and that they reported to us. So,
10 Jim, you've done that, and so I think you will continue
11 to do that because it does not serve our put to not
12 know that.

13 And we've put Jim and John in the position of,
14 since we have been doing this, to continue to advise us
15 of that. And we've seen the charts on it.

16 FATHER PIUS: And I guess just my last thought
17 on all of this is that in the grand scheme of things,
18 the LSC budget is a mere blip in the federal budget.
19 It's not something that many congressmen take a lot of
20 time poring over, like, ooh, look at that LSC number.
21 I just don't think that happens all that much.

22 So that's why it comes down -- to me why,

1 John, your view is, from my point of view, one of the
2 more important views, is that when you're dealing with
3 the staff people who actually deal with this issue,
4 what is going to come to them to be a reason so that we
5 can provide a fairly united front between the
6 Administration, between LSC, between those would be
7 our friends in Congress, to provide a solid front in
8 advocating something that's similar so that we have
9 broad agreement among everybody so that we can show
10 people who may be wavering or even may be opposed,
11 look. This is what everybody else -- everyone is
12 saying. And that's why the reasonability of that
13 number seems to me so important.

14 So that's my thoughts. They haven't
15 completely crystallized. It's helpful getting more
16 views on this. But anyway, those are my thoughts.

17 CHAIRMAN GREY: Sharon?

18 MS. BROWNE: Well, I think Father Pius was
19 quite eloquent. And I'm not at all firm on any number;
20 I don't think anybody here is firm on any number. I
21 think this is something that we're still working our
22 way through.

1 I feel I'm not -- I don't have enough
2 information to back up a number yet. We don't have the
3 census data. We don't know what programs are going to
4 be shifted. And I'm just feeling very insecure in
5 coming up with a number. Certainly I'm not able to
6 suggest a number or say we're going in the right
7 direction or the wrong direction right at the moment.
8 I just don't have that feeling that I have the
9 information I need.

10 CHAIRMAN GREY: Dean?

11 DEAN MINOW: So we need a number in the next
12 six weeks. We don't need a number today. So I propose
13 that we not come up with a number today. I think that
14 several of us would be helped by some data and some
15 information.

16 I'd identify three things I would be helped
17 by. One is quantifying what we predict to be the total
18 number of dollars available from other sources so that
19 we can actually be able, with some confidence, to say
20 what the total number available for our grantees will
21 be.

22 I think that if we had that and we knew that

1 the amount that we're asking for is less than the
2 dropoff, that would be a very helpful thing to be able
3 to know. So that's number one.

4 Number two is that I think that being able to
5 identify what the census means would be a very relevant
6 data point as well.

7 And number three is, with regard to some of
8 the specific programs either that we know are helpful
9 in dealing with this crisis time, like technology, or
10 some that we are just beginning to talk about, and be
11 able to quantify that, I would find that helpful.

12 I think, just as an example, the jobs growth
13 or, shall we say, decrease rate is going to be so bad
14 in the next couple of years that we can predict what
15 the landlord/tenant problems are going to be. We can
16 predict with the domestic violence problems are going
17 to be. We can predict with the child support problems
18 are going to be.

19 We can do a little work and do that
20 prediction, and that translates into need. And so it's
21 those kinds of exercises that would give me more
22 confidence coming up with a number.

1 MR. LEVI: Vic has to make an announcement on
2 the public airwaves here.

3 MR. FORTUNO: Since we're going to have
4 concurrent meetings, the Operations & Regulations
5 Committee meeting is getting underway next door. The
6 number that had been published in the Federal Register
7 for anyone who wanted to listen to that meeting, they
8 can't call in because you're using the number now.

9 DEAN MINOW: Sure.

10 MR. FORTUNO: So the only thing we need to do
11 is announce a new number, and the new number would be:
12 1-866-451-4981. 1-866-451-4981. The pass code is
13 2755431953. Again, 2755431953, and the leader code is
14 7329.

15 DEAN MINOW: That's for the Ops & Regs.

16 MR. FORTUNO: That's Ops & Regs. So anyone
17 who's calling this number to listen to the Ops & Regs
18 meeting will have to call that other number.

19 MR. LEVI: Please hang up and dial into the
20 other number.

21 MR. FORTUNO: That's right. Thank you.

22 MR. LEVI: And if we're still meeting in 15

1 minutes, you'll have to make the announcement again.

2 MR. CONSTANCE: Can I just say one or two
3 additional things? One is that I don't want to leave
4 the impression that we have until Labor Day to make the
5 decision. We have until Labor Day for us to submit the
6 justification with the decision. So I don't know that
7 we have that time window.

8 We're going to need -- I mean, typically we
9 need some time -- three to four weeks is about what
10 it's taken in the past to put together all the data
11 necessary to do the justification and do the
12 publication. That's one item.

13 The other item is that -- it's a more
14 difficult point, and that is that while I completely
15 understand the idea of being strategic in the request,
16 and that is technology, LRAP, those kinds of things,
17 the cut this year means the layoff of over 200
18 attorneys. The estimate at the 300 million figure is
19 over 500 attorneys nationwide and many small offices
20 being closed.

21 So while some of this is strategic in terms of
22 wanting to put numbers in the right places, the

1 overwhelming need is for the basic field grant program
2 to go up and to go up significantly.

3 So again, I just wanted to make that point.
4 In a time of lowering resources, a lot of times -- and
5 what it will be is that, trust me, the technology money
6 and the LRAP money will be taken out of --

7 DEAN MINOW: Yes. The total.

8 MR. CONSTANCE: -- the total.

9 CHAIRMAN GREY: We understand.

10 MR. LEVI: What I would suggest in terms of
11 board process, then, first of all you'll report your
12 deliberation and discussion to the full Board --

13 MR. CONSTANCE: Right.

14 MR. LEVI: -- at the Board meeting tomorrow.
15 But two things. We are in Boston together and we could
16 try to give this committee 30 minutes or whatever there
17 in ten days if maybe something is clarified.

18 DEAN MINOW: May have to give notice.

19 MR. LEVI: And then we may have to do
20 something telephonically. But obviously, we have to be
21 mindful of the time frame that you need to write
22 whatever we're going to be submitting. But at the same

1 time, we also have to give you a little bit more time
2 to pull together a few more things to help the
3 committee.

4 Does that seem --

5 MR. HENLEY: Let me just say one thing. I
6 think that quantifying some of the things -- we're
7 talking about estimates of the increased need because
8 of more people in poverty, because of declines in the
9 other funding. That kind of quantification, from
10 everything I've heard, will support a much larger
11 number.

12 So that data can be pulled together toward the
13 interest of supporting a number that we decide upon a
14 week from now or two weeks from now. So I think the
15 thing to do would be to get that data pulled together
16 as best we can, and it's got -- if everything I've
17 heard is on target, it'll support a very large number.

18 And then the committee and the Board makes the
19 decision. But the support package is already largely
20 put together. John, does that work?

21 MR. CONSTANCE: Right. Right. I mean,
22 that's -- it certainly gives us a head start, Robert.

1 That's absolutely true.

2 CHAIRMAN GREY: Dean?

3 DEAN MINOW: I want to again thank John for
4 your stamina and your perceptiveness. I don't know if
5 we can do this, but the other figure it would be
6 helpful to know is, if there were cuts of X amount, how
7 many offices would literally have to close, so then how
8 many square miles in this country would literally have
9 no lawyers? As I say, I don't know if we can figure
10 that out.

11 MR. LEVI: But maybe you can make a guess.

12 DEAN MINOW: But maybe we can get some
13 educated guess about that so that it gives some meaning
14 to your point about basic operations. I think that a
15 lot of people who are representing particular states
16 would be well informed to know that this number of
17 miles, square miles, in your state will have no one
18 within thousands and thousands of miles.

19 MR. CONSTANCE: The survey data that we did
20 get back, we did kind of have a section for narrative
21 comment. And we do have some data gathered from that
22 section that I think would be informative of that kind

1 of an estimate.

2 CHAIRMAN GREY: So, Dean, you've been very
3 eloquent in laying out the criteria that summarizes all
4 of our thoughts. And Jim, if you would make sure that
5 we have that information as soon as it is available.
6 And then we will assure you that we'll response timely
7 to that, with the proper notice for us to give to the
8 public. And John, you will make sure that the Board
9 has a number that they can work with. All right?

10 MR. LEVI: Okay. Good.

11 DEAN MINOW: Do you want public comment?

12 CHAIRMAN GREY: Yes, I do.

13 DEAN MINOW: Public comment?

14 CHAIRMAN GREY: Any comment from the public?

15 MR. SAUNDERS: Thank you, Mr. Chairman, and I
16 will really be brief. I wanted to thank, on behalf of
17 NLADA -- Don Saunders with NLADA -- each of you for
18 struggling with these issues and the support you've
19 shown. I understand we're the ones that don't pass the
20 red face test, but I know everyone's heart here is
21 definitely in the right place.

22 I just really for the record wanted to

1 strongly second what John just said about
2 justifications as you go above current funding.
3 Understanding there's a lot of work to do the recent
4 analysis that Dean Minow suggests we need to have about
5 some of these other programs, basic field is the single
6 most important program that you fund.

7 As you've heard from the presentations today,
8 that really is where we would like to see you focus
9 and -- not saying there might be an initiative here or
10 there, but to justify the entire increase on specific
11 different programs away from basic field we just don't
12 think is a good idea. So thank you.

13 CHAIRMAN GREY: Thank you, Don. Anyone else?

14 (No response.)

15 CHAIRMAN GREY: Anyone on the phone?

16 (No response.)

17 CHAIRMAN GREY: Other business?

18 (No response.)

19 CHAIRMAN GREY: Motion to adjourn?

20 M O T I O N

21 DEAN MINOW: So move.

22 CHAIRMAN GREY: Second?

1 FATHER PIUS: Second.

2 CHAIRMAN GREY: All in favor say aye.

3 (A chorus of ayes.)

4 CHAIRMAN GREY: The motion carries.

5 (Whereupon, at 4:14 p.m., the committee was
6 adjourned.)

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