

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

MEETING OF THE FINANCE COMMITTEE
OPEN SESSION

Tuesday, September 21, 2010

10:00 a.m.

Legal Services Corporation
3333 K Street, N.W.
Washington, D.C. 20007

COMMITTEE MEMBERS PRESENT:

Robert J. Grey, Jr., Chairperson
Thomas A. Fuentes
Martha L. Minow (by telephone)
Hon. Sarah M. Singleton (by telephone)
Robert E. Henley, Jr.
John G. Levi, ex officio

OTHER BOARD MEMBERS PRESENT:

Sharon L. Browne (by telephone)
Jonann C. Chiles (by telephone)
Victor B. Maddox
Laurie I. Mikva
Charles N.W. Keckler

STAFF AND PUBLIC PRESENT:

Victor M. Fortuno, Interim President and General Counsel
Kathleen Connors, Executive Assistant to the President
Katherine Ward, Executive Assistant to the Vice President, Office of Legal Affairs
Patricia Batie, Acting Corporate Secretary and FOIA Officer, Office of Legal Affairs
David L. Richardson, Treasurer and Comptroller
Jeffrey E. Schanz, Inspector General
Laurie Tarantowicz, Assistant Inspector General and Legal Counsel, Office of the Inspector General
Ronald "Dutch" Merryman, Assistant Inspector General for Audit, Office of the Inspector General
David Maddox, Assistant Inspector General for Management and Evaluation, Office of the Inspector General
John Constance, Director, Office of Government Relations and Public Affairs
Stephen Barr, Media Relations Director, Office of Government Relations and Public Affairs
Sean Driscoll, Special Assistant, Office of Government Relations and Public Affairs
Treefa Aziz, Government Affairs Representative, Office of Government Relations and Public Affairs
Alice C. Dickerson, Director, Office of Human Resources
Martin Polacek, Accounting Manager, Office of Financial and Administrative Services
Ron Jordan, Grant Analyst II, for John Meyer, Director, Office of Information Management
Dianne Rouse, Research Coordinator, Office of Information Management
Jean Edwards, Administrative Assistant II, Office of Information Management
Jeffrey J. Morningstar, Director, Office of Information Technology

Don Saunders, National Legal Aid and Defenders Association (NLADA)
Hillary Evans, NLADA
Robert E. Stein, Standing Committee on Legal Aid & Indigent Defendants (SCLAID), American Bar Association
Terry Brooks, American Bar Association
Ann Carmichael, American Bar Association
Linda Perle, Center for Law & Social Policy (CLASP)
Julie Clark

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1 PROCEEDINGS

2 (10:00 a.m.)

3 CHAIRMAN GREY: Why don't we just take a roll
4 and see who's on the phone to begin with.5 JUDGE SINGLETON: Sarah Singleton's on the
6 phone.

7 DEAN MINOW: Martha Minow.

8 PROFESSOR KECKLER: Charles Keckler.

9 MS. BROWNE: Sharon Browne.

10 CHAIRMAN GREY: Good. I think we've got a
11 quorum.12 If we could start -- I'd also like to
13 introduce Bob Henley to the group as a member of the
14 committee. Bob has agreed to join us and to provide
15 his expertise as a former managing partner of Ernst &
16 Young, and has had the opportunity to be briefed to
17 some extent on this.18 Bob, welcome to the committee, and thank you
19 for your willingness to provide your services in
20 helping us work with this very important matter. And
21 if you'd like to say anything, I'd be happy to
22 entertain your thoughts.

1 MR. HENLEY: Well, I'm delighted to serve.
2 I'd correct one thing Robert said. I wasn't the
3 managing partner of Ernst & Young; I was the manager of
4 Ernst & Young's Central Virginia practice, Ernst &
5 Young in Richmond, where Bob is located -- Robert is
6 located. I was the managing partner there. Managing
7 partner of the firm would be a little bit different
8 position.

9 CHAIRMAN GREY: Well, we all know Richmond's
10 the hub of the universe, so we just --

11 MR. HENLEY: That's right.

12 MR. FUENTES: Where is Richmond?

13 (Laughter.)

14 CHAIRMAN GREY: California. Am I right?
15 Exactly right, the hub of the universe. Indiana.
16 Virginia. California.

17 Anyway, approval of the agenda. Is there a
18 motion?

19 M O T I O N

20 DEAN MINOW: I so move.

21 CHAIRMAN GREY: Is there a second?

22 JUDGE SINGLETON: Sarah Singleton will second.

1 CHAIRMAN GREY: Thank you. All in favor say
2 aye.

3 (A chorus of ayes.)

4 CHAIRMAN GREY: Opposed, no.

5 (No response.)

6 CHAIRMAN GREY: The minutes of the July 31st
7 meeting are before you. Are there any additions or
8 corrections?

9 (No response.)

10 CHAIRMAN GREY: If not, I'll entertain a
11 motion for their approval.

12 M O T I O N

13 DEAN MINOW: Martha Minow. I so move.

14 CHAIRMAN GREY: Thank you. Is there a second?

15 JUDGE SINGLETON: Sarah Singleton, second.

16 CHAIRMAN GREY: Thank you. All in favor say
17 aye.

18 (A chorus of ayes.)

19 CHAIRMAN GREY: Opposed, no.

20 (No response.)

21 CHAIRMAN GREY: Thank you. They are approved.

22 We are going to go to the third item on the

1 agenda, which is public comment. And I would invite
2 those who are in the audience to join us at the
3 microphone. And Bob Stein, on behalf of SCLAID, has
4 indicated his interest in wanting to present SCLAID's
5 analysis. And Bob, welcome.

6 MR. STEIN: Thank you.

7 CHAIRMAN GREY: And you have the floor.

8 MR. STEIN: Thank you, Mr. Chairman.

9 CHAIRMAN GREY: And please pull the microphone
10 to you so those on the phone can hear you.

11 MR. STEIN: Okay. I hope this is all not only
12 understandable but that it makes sense.

13 My name is Bob Stein. I'm the chair of the
14 American Bar Association's Standing Committee on Legal
15 Aid and Indigent Defendants, which is SCLAID. And
16 there e two other ABA people and SCLAID people here
17 with me today, Terry Brooks, who you know, who's around
18 somewhere, and has long been a principal champion of
19 LSC within the ABA; and Ann Carmichael, who has
20 recently taken over these responsibilities for the
21 ABA's Government Affairs office. We submitted a
22 memorandum earlier this month which sets forth in more

1 details our views on the budget request, and I'd like
2 to supplement that submission.

3 The LSC's own Justice Gap studies in 2005/2009
4 examined the iceberg of need anecdote he small tip of
5 that iceberg that protrudes above the waterline. Every
6 credible study which has been produced over the last 30
7 years has shown that we are only able to address about
8 20 to 30 percent of the legal needs to the poor.

9 The tip of the iceberg is the number of people
10 who, despite the word on the street that LSC can't help
11 you, still come to the offices to apply for help. And
12 of those people, LSC-funded offices have only the
13 resources to help half. You don't need these
14 statistics to help you understand the problem. You all
15 have firsthand experience through visits that the LSC
16 Board has made to local programs and through your
17 experiences in your own communities.

18 People struggle daily to get the legal help
19 they need to get back on their feet. They need
20 assistance to get back into the workforce, to avoid
21 eviction or foreclosure, or escape abuse. And I'm sure
22 that we are all familiar with the recent statements

1 that the poverty rate is higher than at any point since
2 the early 1960s; nearly 15 percent of the population
3 falls below the poverty line, and far more are eligible
4 to seek LSC assistance at 125 percent of the poverty
5 level.

6 If the recession is officially over, as has
7 been announced, many haven't gotten the word. In our
8 view, we must continue the partnership of a well-funded
9 LSC and a robust supplemental pro bono effort by the
10 private bar. Collaboration and partnership is
11 essential to expanding access to justice in America.

12 The legal aid system began as a charitable
13 endeavor led in large part by the organized bar.
14 SCLAID, in its original form, was established in
15 1920 -- we are celebrating our 90th birthday -- through
16 the efforts of two leaders of the bar, who were
17 appalled at the absence of access to justice for poor
18 people.

19 The first two chairs, Charles Evans Hughes and
20 Reginald Heber Smith, wrote together about the problem
21 and stoked the imagination of the entire bar, moving
22 the bar towards action. Many other ABA and state and

1 local bar leaders have taken up the cause in the
2 intervening years, and we now have in place an
3 infrastructure of local pro bono programs that at least
4 is a thousand strong across the nation, involving many
5 thousands of lawyers.

6 They give their stock in trade without charge
7 to join the ranks of full-time legal aid lawyers.
8 Estimates today are that 55 to 70 percent of private
9 lawyers provide at least some placebo service each
10 year, and a portion of that does involve important
11 pursuits of civil rights or other major policy issues,
12 but at least half of the placebo service provided is
13 devoted to direct legal service to individual poor
14 clients.

15 Is that enough? No. Bar leaders nationwide
16 recognize that more must be done. Our committee,
17 SCLAID, reviews and gives an award, the Harrison Tweed
18 award, that recognizes some of the best bar efforts in
19 this area. For example, North Carolina bar launched a
20 "For All" program to urge members of the bar to expand
21 access to justice through educating, legislating,
22 donating, and participating in wide-ranging programs.

1 The Washington State bar, seeing the decline
2 of other resources -- which I'll come to in a few
3 minutes -- donated a million dollars in bar reserve
4 funds to assist the state legal aid providers. The
5 Texas bar has launched an all-out campaign and garnered
6 a huge legislation appropriation to offset the losses
7 in IOLTA funds. And there are many more.

8 The recession has in many places led to an
9 increase in pro bono and an increased outpouring of bar
10 effort. The American Lawyer has reported in 2009 that
11 the nation's 200 highest-grossing firms devoted more
12 hours to pro bono than ever before. Mandatory
13 reporting statistics in some states mirror that
14 finding.

15 With law firms nationwide deferring start
16 dates for incoming associates, many firms took the
17 admirable step of giving stipends to those deferred if
18 they would work in public interest programs. Many new
19 law grads took these offers and have made significant
20 contributions. LSC's own "private attorney
21 involvement" statistics which were released early this
22 summer show an uptick in cases closed by private

1 attorneys.

2 The bar has heard the call to action and it is
3 responding. And we will continue to provide -- we will
4 continue to provide leadership and will continue to
5 expand the pro bono contributions of private lawyers.

6 But even with all of these efforts and the
7 incredible demonstrations of leadership in many, many
8 state and local bars, the contribution of the private
9 bar makes only a small dent in the overall problem of
10 access to justice for the poor. LSC provides the
11 essential central resource, which is used to build and
12 leverage all the local volunteer efforts and
13 contributions.

14 LSC is what catalyzes all the other activity.

15 For that reason, we urge that the LSC Board continue
16 to seek an appropriation for the federal portion of the
17 system that will inspire and catalyze even more
18 volunteer efforts and even more private, state, and
19 institutional funding to support local programs.

20 Last year we urged that LSC seek an
21 appropriation from Congress of \$530 million. This
22 year, and my written statement went into this is more

1 detail, recommended that LSC seeks an appropriation for
2 2012 of no less than \$540 million. This figure is
3 certainly less than we think is justified for the work
4 that must be done by LSC and legal aid organizations in
5 providing equal access to justice for all, and it
6 hasn't even kept up with the rate of inflation or as a
7 percentage of the federal budget.

8 But we believe that this increase to at least
9 \$540 million is a reasonable and realistic step towards
10 reducing the justice gap in America. It is one-third
11 of the distance between where the budget now
12 stands -- or at least we think it stands -- and the
13 \$750 million that is proposed as the authorized budget
14 in both the House and Senate authorizing legislation
15 for LSC. We would urge that LSC seek to move forward
16 towards that authorized amount in equal increments over
17 three years.

18 Other resources to support the legal system
19 also are shrinking. Most states now provide government
20 funding for legal aid programs, and significant
21 additional funding is provided by the organized bar
22 through the IOLTA programs. However, funding available

1 from both those sources has decreased or stagnated.
2 ABA research shows that IOLTA programs experienced a
3 57 -- 57 -- percent decline in income in 2009. State
4 funding to assist in supporting legal aid has not
5 increased during the past year in the aggregate, and in
6 many states has decreased sharply.

7 With respect to the allocation of funds within
8 the appropriation request, we urge that LSC continue
9 its admirable record of efficiency, and that in excess
10 of 95 percent of LSC's budget request be allocated to
11 the provision of field services.

12 We remain particularly concerned about
13 attracting and especially retaining high-quality
14 lawyers to have a career in legal services. We urge,
15 therefore, that LSC continue to request funds for its
16 program providing loan repayment assistance for
17 selected lawyers in LSC-funded programs.

18 The ABA has since the year 2000 worked to
19 establish a network of state, federal, academic, and
20 employer-based loan repayment assistance programs, and
21 this patchwork is essential as each new law graduate's
22 educational debt burden is unique in the way it's

1 structured.

2 New and under-funded federal loan repayment
3 programs can help some students with their debts, but
4 do little for other kinds of educational debt -- for
5 example, debt from private lenders. The ABA has led
6 the way in facilitating the creation of 23 state-funded
7 and state-based LRAP programs, and continues to provide
8 technical assistance to those programs.

9 But they are largely small and can assist only
10 a small number of legal aid lawyers. And we believe
11 that LSC, through a modest LRAP program, has provided
12 leadership and encouragement out of all proportion to
13 the amount of money invested. And we urge that that
14 program continue.

15 We also endorse the continuation of the TIG
16 grant program, and urge the Board to include within its
17 2012 budget request an amount sufficient to continue
18 building a strong technological infrastructure within
19 the legal services community. Our written statement
20 discusses that in more detail.

21 We will also continue a number of other
22 efforts to help in addressing that program, and our

1 Commission on IOLTA will continue to work closely with
2 state IOLTA programs to find methods to enhance IOLTA
3 revenues.

4 SCLAID will continue to work closely with
5 fundraising advocates in each state to support efforts
6 to expand funding for legal aid from state government
7 and other sources. Our Pro Bono Committee will
8 continue to work closely with a network of a thousand
9 local pro bono programs to expand that. So together,
10 with leadership from LSC and robust funding for the LSC
11 program, we think that a dent, and a big dent, can be
12 made in closing the justice gap.

13 Thank you for giving us the opportunity to
14 contribute our views as you consider the appropriate
15 funding for LSC for 2012.

16 CHAIRMAN GREY: Bob, thank you very much.

17 Are there any questions for Bob Stein?
18 Laurie?

19 MS. MIKVA: This is Laurie Mikva. Mr. Stein,
20 can you tell me or perhaps persuade me why \$540 million
21 is realistic?

22 MR. STEIN: I guess realism is, in part, in

1 the eye of the beholder. And it is admittedly a
2 mixture of what we think it should be and a somewhat
3 aspirational number.

4 But if you look at where we are and where we
5 were in years past, and if you look at the amount that
6 both houses have said should be appropriated as part of
7 the authorization, which is 750, we took that as what
8 Congress felt is an appropriate number, and don't think
9 we're there yet.

10 So it is our hope that not by having it
11 achieved in five years, but having it achieved in three
12 years, we can get there. Whether that is realistic
13 will depend on whether Congress is willing to look at
14 what the real needs are and try to respond to the real
15 needs rather than start from the inadequate level of
16 funding that we're currently at.

17 I don't know whether that convinces you or
18 helps you. But it's the direction and the reason that
19 we have picked that number.

20 MS. MIKVA: Thank you.

21 CHAIRMAN GREY: Any other questions? Vic?

22 MR. VICTOR MADDOX: Yes, I do. Thank you, Mr.

1 Chairman. I'm not, of course, on the committee. I do
2 have a couple of questions.

3 CHAIRMAN GREY: Use the microphone, if you
4 don't mind.

5 MR. VICTOR MADDOX: Sorry.

6 CHAIRMAN GREY: We all seem to have that
7 problem, microphones.

8 MR. VICTOR MADDOX: Right. Does the ABA have
9 statistics on the value of the pro bono contribution of
10 its members?

11 MR. STEIN: By value, you mean a monetary
12 value or --

13 MR. LEVI: Donated time?

14 MR. VICTOR MADDOX: Hours? Hours worked?

15 MR. STEIN: There is some information on that
16 which is collected.

17 Terry, does the Pro Bono Commission have that
18 which we can provide to the committee?

19 MR. VICTOR MADDOX: It doesn't have to be this
20 minute. I'm just wondering if it's available
21 somewhere.

22 MR. STEIN: Yes. Yes. If it is available,

1 you will get it shortly.

2 MR. VICTOR MADDOX: Part of the reason I ask
3 is because you speak in terms of increases in pro bono
4 involvement and private attorney involvement. But it
5 seems to me it's generalized. And I'm wondering if
6 there is a metric whereby you compare the increase in
7 the aggregate involvement of lawyers generally in
8 providing pro bono services.

9 I just looked on line. There's, say, a
10 million lawyers in the country. I don't know how many
11 are ABA members, maybe 300,000.

12 MR. STEIN: Well, fortunately more than that.
13 We're at about 380 now, just below 400.

14 MR. VICTOR MADDOX: The statistics we got
15 earlier were that there was one lawyer for 6,415
16 low-income people, which by that I assume that was
17 LSC-eligible people, versus one lawyer for 429 in the
18 general population. And I've checked on line.

19 There are 500,000 people in the D.C. -- in the
20 city of Washington, and 50,000 lawyers. Well, that's
21 one for 50 people. There are 89,000 lawyers in the
22 metropolitan area, again, a much higher percentage than

1 the one in 429.

2 If the number of D.C. lawyers is roughly ten
3 times the number of lawyers for the general population,
4 or for the low-income population, if just some
5 percentage, some reasonable percentage, of the 50,000
6 in the District of Columbia were committed to pro bono
7 activity, it seems like LSC could do away with its
8 grant for the District of Columbia because there would
9 be a dramatic increase in the number of lawyers and in
10 the value of that contribution.

11 Does the ABA really push its members in this
12 city? I assume that most of the lawyers in the
13 District of Columbia are ABA members. Does it really
14 push its members to contribute? I was on the ABA Pro
15 Bono Committee in the mid-'90s, and one of the things
16 that we looked at was increasing the involvement of
17 in-house counsel, corporate lawyers, in providing pro
18 bono services which was very, very limited at the time.

19 And I'm just wondering. I mean, is there a
20 private sector way -- and when the ABA comes and asks
21 for a 30 percent increase in congressional
22 appropriations, is it actively seeking a 30 percent

1 increase in the contribution of its membership in the
2 next 12 months?

3 MR. STEIN: I will not give you any numbers.
4 At the effort is active, and it's increasing, and it's
5 supplemented by the state bar. The D.C. Bar has an
6 extensive pro bono program as well.

7 The D.C. situation is probably unusual, if not
8 unique, in the number of lawyers who are both members
9 of the bar, government lawyers as well as others.
10 Government lawyers are limited in the kind of work that
11 they can do. There are a number of organizations in
12 the D.C. area outside of LSC-funded organizations which
13 take up some of the pro bono time, as I mentioned, some
14 of the policy or civil liberties organizations, so that
15 there are some.

16 I think the simple answer to your question is
17 that it doesn't matter how much we have done. We can
18 always do more. And I think that is something that we
19 should continue to work on. And indeed, the ABA has
20 done that. And I am here as the chair of SCLAID and
21 cannot speak for all of the many groups within the ABA
22 that are working on this subject.

1 But sure, I think they can do more. But I
2 think they have ramped up their efforts, and I don't
3 think that if you look at the amount -- the number of
4 lawyers who are working and the money that goes to
5 D.C.-funded LSC organizations, that the bar could fill
6 that gap at all.

7 MR. VICTOR MADDOX: That's it. Thank you.

8 CHAIRMAN GREY: Further questions? Any other
9 questions or comments?

10 (No response.)

11 CHAIRMAN GREY: Bob, thank you very, very much
12 for taking the time to join us and providing your
13 thoughts and analysis on this.

14 MR. STEIN: If, as you continue, there are
15 other questions that I can provide information
16 for -- and I will try to get as much detailed
17 information as I can for you.

18 CHAIRMAN GREY: That would be appreciated.

19 Don Saunders of NLADA has agreed to join us,
20 and provided written material in support of a proposal
21 with regard to budget requests. Don, thank you for
22 being here, and the floor is yours.

1 MR. SAUNDERS: Good morning, Mr. Chairman.
2 Thank you and members of the committee. I am Don
3 Saunders. I'm the vice president for civil legal
4 services for the National Legal Aid and Defenders
5 Association. It's my honor this morning on behalf of
6 NLADA's board and civil policy group, and our thousands
7 of members, including the community of LSC grantees, to
8 address you this morning on this very, very important
9 topic.

10 We come to you, obviously, at a time of great
11 need in the community of low-income people that your
12 grantees represent. We recognize the severity of the
13 situation. We all know that we're faced with a brutal
14 recession. People who have been far too close to the
15 ledge for many years are now falling into the depths of
16 poverty at an alarming rate.

17 As a result of that, we come to you and seek
18 your support for a bold statement to Congress about the
19 need that low-income people in this country face for
20 legal services, and the need that your grantees have to
21 begin to address that.

22 Our request is even more aggressive than the

1 ABA's. We agree with the strategy that Mr. Stein laid
2 out to you with respect to the approach to be
3 consistent with the Civil Access to Justice Acts that
4 have been introduced into the House and to the Senate.

5 It's our message to you today, on behalf of the field,
6 that you should seek that level of funding in the
7 greatest speed possible.

8 We would urge you to consider a request of
9 \$592 million, which I understand, in this difficult
10 fiscal time we live in, is a very strong statement.
11 But we feel, for a number of reasons, that it's
12 justified, and we would urge you to consider that
13 approach.

14 As you well know, as Mr. Levi pointed out in
15 his message to the field with regard to the recent
16 figures, one in seven Americans live in poverty in this
17 country; 57 million of them are eligible for the
18 services of your grantees.

19 If you look in communities of color, those
20 figures are even more staggering -- one in four African
21 Americans live in poverty in this country. The
22 unemployment rate for young African Americans is

1 significantly higher than the 9.7 percent that exists
2 in the general population.

3 The resources available to your grantees, as
4 you well know -- I don't have to tell you, as Mr. Stein
5 pointed out and, as I'm sure management will shortly
6 outline in detail for you -- other resources to meet
7 this need are significantly down. The 57 percent drop
8 in IOLTA resources is not something that seems to be
9 going away any time in the near future.

10 Why, you might ask, can we justify -- I'm sure
11 you will ask -- can we justify such a request in this
12 particular time? I'll just share a few issues that I'm
13 sure you're aware of that your field programs will be
14 addressing over the next year and into the future.

15 The most recent figures, for example, with
16 regard to home ownership and foreclosures continue to
17 show a trend that is very significant in terms of the
18 potential loss of housing for owners, and in
19 particular, for renters, who are almost 40 percent of
20 the folks affected by foreclosures. One in seven homes
21 are now -- one in seven -- are now either past due or
22 in foreclosure. That's down from -- or up from one in

1 eight last year and one in eleven the year before.
2 Millions of families are faced with the loss of their
3 home.

4 Clearly, the statistics show that having
5 access to counsel is a very strong determinant in
6 whether or not those homes can be saved. We've worked
7 very hard in the Congress, and we're very pleased to
8 see the Wall Street reform bill include a provision
9 that provides legal assistance for people faced with
10 foreclosures.

11 We are currently working very hard to secure
12 funding for that, which would be available to your
13 grantees and non-LSC grantees, but obviously that is by
14 no means a done deal in terms of this Congress or the
15 next. And so the challenges there are enormous, and us
16 one challenge that will be continually faced by your
17 grantees.

18 The implementation of health reform, however
19 the bill goes with regard to the next Congress, clearly
20 has enormous implications for the legal aid system and
21 others who deal with the programs that low-income
22 families face in obtaining healthcare. Between 16 and

1 17 million people will be added over the next several
2 years. Most of those will be low-income children or
3 non-disabled adults with incomes below 133 percent of
4 the federal poverty level.

5 That's an enormous number of folks, and legal
6 aid programs very often are involved in problems with
7 securing healthcare access. And just the numbers of
8 increased need in that area are truly staggering.

9 I know this Board, correctly, has a
10 commitment, through the website that's being developed
11 and through other areas, to address again the large
12 legal needs that exist in the population of returning
13 veterans. That kind of service is also something that
14 more and more programs are seeing, and the increases
15 there require funding.

16 I mean, we continue to deal with the shortages
17 that Mr. Stein laid out very effectively, and at the
18 same time, the economy is really in the worst shape
19 it's been in in our lifetimes. We're seeing particular
20 new categories of eligibility that come in addition to
21 just general problems that grow out of being poor in
22 this country.

1 There are obviously large and important
2 debates going on in our country right now about the
3 shape of future public policies. I'm not nearly
4 capable of commenting on those sorts of matters. I
5 will suggest to you, though, Mr. Chairman and members
6 of the Board, that you, as stewards of this critical
7 program, have an opportunity to be a voice for the
8 homeless; for the victims of a violent, abusive family
9 member; for the returning vet, and the disabled child.

10 You and your grantees experience these
11 problems on the front lines each and every day. We
12 urge you to seize this opportunity, this
13 responsibility, by sending the strongest message
14 possible to the Congress with regard to 2012 funding.

15 If I could, Mr. Chairman, I would like to
16 spend just a few moments on some of the specific
17 details of the budget request, if that's acceptable to
18 you. I will be as quick as I can. But particularly as
19 this Board considers its first request, there are some
20 issues within the budget that are important to the
21 field, and I would like to point out to the committee
22 and for the record.

1 A first and really prime principle that we
2 would bring to you with regard to your approach to the
3 budget, this budget and future budgets, is that for
4 many, many years, the values of local control and local
5 decision-making over funding have been a keystone of
6 the program, and it has served the community well.

7 So our priority principle in discussing these
8 matters with you is that the vast bulk of the
9 appropriation should be allocated in the basic field
10 line, with a minimum of federal earmarks or federal
11 directives. The needs in communities across the
12 country vary tremendously, and even though there's a
13 lot of interest and initiative that this board should
14 take and leadership it should take in putting the field
15 in certain directions, we would urge that you be
16 careful about earmarking or requiring certain things
17 across the board at a national level that may or may
18 not be appropriate for a given local community.

19 Having said that, there are a few issues
20 within the budget that, we would suggest, do lend
21 themselves to a federal approach, to a national
22 approach. As Mr. Stein pointed out, the loan repayment

1 assistance program is something that we all recognize
2 responds to a very significant need in the community to
3 bring in a new cadre of committed, bright students and
4 graduates, and make it possible for them to pursue a
5 career in the wonderful work of legal aid.

6 We are not as sure at this point about the
7 future definition of this program and whether or not
8 this program should be institutionalized at LSC.
9 Therefore, we would urge for 2012 that you continue for
10 one more year a request for a pilot program in the
11 amount of one million dollars.

12 The concern we have is really whether or not
13 institutionalizing a program at LSC is appropriate at
14 this point in time. The Civil Legal Assistance
15 Attorney Loan Repayment Assistance Program, or whatever
16 the Harkin bill is actually titled, has been funded.
17 The first round of RFPs have gone out.

18 I checked with the Department of Education
19 yesterday to see if I could get any new information for
20 you with regard to how that program is going. There's
21 really nothing available other than the first round is
22 out and has been completed, and the Senate

1 appropriations bill for Labor/HHS for 2012 includes the
2 continuation of the Harkin loan repayment program. We
3 would like to see how that develops, whether or not
4 it's continued, and whether or not that, in addition to
5 the other programs that exist, really are the more
6 appropriate approach over the long term.

7 In our written submission to you we suggested
8 a series of questions and information that would be
9 very helpful as you go forward in future years in
10 determining whether or not to have a national LSC LRAP
11 program. One that would apply across the country would
12 be very expensive. It would be very much more than one
13 million dollars.

14 And whether or not that money is better spent
15 towards salaries or other issues is a conversation we
16 would like to have with you in future years. We're
17 certainly not disagreeing in any form or fashion with
18 respect to the issues that Mr. Stein raised with you,
19 but we do think it would be valuable to have a survey
20 of what employer programs are out there, what state and
21 federal programs are out there, and how should LSC step
22 into that mix.

1 We also have continued to urge the Corporation
2 to consider the needs of your grantees for training and
3 support. We have asked for this provision for a number
4 of years, and we continue to raise it with you again
5 without having specific details about how it should be
6 spent.

7 We have a committee working very hard.
8 They've developed principles. The chair of your
9 Promotion and Provisions Committee has been at several
10 conversations in the community recently about training
11 needs. We are doing surveys and trying to develop
12 information with regard to how LSC funding could be
13 part of a more comprehensive training infrastructure
14 that really does not exist in very many parts of the
15 country.

16 We really urge you to take this as an issue
17 like loan repayment and over the next year consider
18 further information with regard to how LSC can better
19 promote professional development among your grantees.

20 We, too, support the continuation of the
21 Technology Initiatives program at the federal level.
22 It has been a wonderful success. Many, many

1 innovations have been developed over time that have
2 been replicated across the country. It is an example
3 of a federal initiative that has really paid dividends.

4 We urge your continuation of it.

5 And finally, Mr. Chairman, with respect to the
6 Native American special grant proposal that this board
7 and your predecessor board considered, we continue to
8 support that. We continue to support working with the
9 National Association of Indian Legal Services in
10 developing a program which would effectively spend
11 those resources. Thank you, Mr. Chairman.

12 CHAIRMAN GREY: Thank you very much. Are
13 there any questions?

14 (No response.)

15 CHAIRMAN GREY: Thank you again for your
16 presentation and your willingness to come and share
17 your thoughts with us.

18 That concludes -- first, well, let me see.
19 Are there any more comments or anyone else in the
20 audience that would like to be part of the public
21 comment period?

22 (No response.)

1 CHAIRMAN GREY: Hearing none, then I think we
2 will move to item 4 on the agenda, which is
3 management's presentation. And I would invite David
4 Richardson and John Constance to share their thoughts.
5 And Mr. Inspector General, if you -- David?

6 MR. RICHARDSON: Good morning. For the
7 record, I am David Richardson, the treasurer of the
8 Corporation.

9 We also prepared a memorandum and provided it
10 to you last week in regards to the management's
11 approach to this year's budget request. You're going
12 to see, in looking at this information in our
13 presentation, that we're really singing from the same
14 song sheet. It's just the matter of there's a couple
15 of voices that are louder than others.

16 With the ABA's request at 540, NLADA at the
17 592-5, we have come in at a budget mark of \$525
18 million. You might say that we're singing bass, NLADA
19 is singing tenor, at this particular approach.

20 We have outlined an approach a little bit
21 different from prior years. We have shown in the
22 memorandum the need that we have. Certainly, with this

1 board traveling throughout the country, many of you in
2 your home states have seen this.

3 When we went to Tucson and Milwaukee, we heard
4 presentations from the field in regards to the need for
5 additional funding, how many of them have lost money
6 through IOLTA, through the state, charitable giving
7 down. So we've come forward also with a bold approach
8 as to money that we help support this particular
9 program, our program.

10 We see many Americans as we travel who have
11 legal needs. And we are there to help fund our local
12 legal aid groups so that the services can be provided
13 to these folk. We see the weak economy that is about
14 us. Now, in the last two months, you've seen, through
15 Wall Street, the markets have gone up 7 percent, from
16 about 10,000. Yesterday they closed at 10-7.

17 Corporate profits are up, but people are not
18 being put back to work. They have found ways of being
19 more efficient with less people, and not putting these
20 folks who have lost their jobs back to work. Job
21 growth is down. It was up a little bit last month, but
22 overall, the last six months, it's way down.

1 As we look at that, we see that legal needs
2 are growing. We see that foreclosures are up, as has
3 been discussed earlier. We see domestic violence
4 issues. We see scams, people going out with the poor,
5 the elderly, the disabled, and some way working a loan
6 that they can't pay back, where homes are being seized
7 or foreclosed on. And it's something that our grantees
8 have developed an expertise in as to how to help these
9 individuals as they go to the court system.

10 You heard Mr. Stein talk about the pro bono
11 efforts. The prior board had a pro bono initiative,
12 and we sought throughout America to encourage attorneys
13 to step in the gap, take on more pro bono efforts, to
14 take on more cases to help clients. And from what
15 we've heard today, we think that has happened.

16 But there's some other things that are now
17 affecting us also. With the Gulf Coast, the oil spill,
18 we don't know what that's going to do to us in the long
19 run. BP tells us they'll step in the gap. But when it
20 comes to people being unable to return to work, facing
21 evictions, the foreclosures, the unemployment, the debt
22 crisis, the debt collections, these folks are going to

1 eventually need some help from our legal services
2 grantees.

3 So we are putting forth in this, thinking that
4 this money for basic field will help increase the
5 number of attorneys who are down there who will be
6 helping these folks.

7 IOLTA funding: John will give you a few more
8 (sic) information and stats about that. But let me
9 just tell you, this week I was looking at our bank
10 account. We have \$4 million in the bank. One day, we
11 receive \$5 interest on that money. If we were
12 averaging that much in the bank, it would be less than
13 \$2,000 a year interest income.

14 The interest rate has just fallen off the
15 page. It's just nonexistent. And that, of course,
16 there's no homes -- the interest rates are down.
17 There's no homes being sold to speak of. So the IOLTA
18 funding is slowly drying up.

19 We also come to you thinking, with our
20 proposal, that we do have a very good technology
21 program. We'd like to see it expanded. We've seen
22 things replicated that are helping our grantees provide

1 more and better services. We last year received \$3
2 million, and we're asking that to be increased to \$7.5
3 million so that we can help other grantees in that
4 particular regard, and to help their technology, to
5 improve their technology.

6 Within the Herbert S. Garten Loan Repayment
7 Assistance Program, we're asking for a \$500,000
8 increase there, for the amount to increase to \$1.5
9 million. We're hoping to expand the program to provide
10 additional loans. We're hoping to see our current loan
11 amount of \$5600 increase to \$6,000 for the recipients.

12 And we know that this helps to increase the
13 likelihood that our attorneys will stay. It helps with
14 recruiting. And we're just hoping that this small
15 amount of increase will continue to show improvement in
16 staff recruitment and retention as we move forward.

17 When you look at management and grants
18 oversight, we have had a program in place the last
19 couple of years trying to improve quality within the
20 legal services community. We have our quality
21 initiative with folks from program performance
22 traveling.

1 This particular budget increases the number of
2 folk -- or the number of people that will be traveling.

3 It doesn't increase staff, but it will put them in the
4 field more, training people. It provides money for us
5 to do some video-type training, YouTube stuff, anything
6 that we can provide additional training and support in
7 the field.

8 We also are seeing that we need a greater
9 presence within the compliance. This budget also
10 supports 60 trips to the grantees to look over their
11 books, look over their internal controls, work with
12 governance, all of the issues that you have dealt with
13 in the last few years as a board, so that we can
14 improve the operations of those grantees.

15 It does provide for six new staff members. In
16 the past we have had a special counsel or special
17 assistant to the president in prior years' budgets.
18 The last few years we have not included that. In this,
19 with an incoming new president, with the possibility of
20 the need to support the new president coming in, we
21 have included a position for that.

22 We have included an additional attorney in our

1 legal affairs group. Human resources, with the efforts
2 that have been successful unionizing some of our
3 employees, we feel that there's going to be a need for
4 additional support in our human resources area, so
5 there's two additional people there. And there's
6 actually two additional people in the program
7 performance as we look at increasing the training that
8 is going into effect.

9 The inspector general is here with me. I've
10 got some notes also with his operations. And they're
11 certainly looking at continuing their efforts to look
12 at LSC operations, look at improving grantee Pink
13 Sheet. They also have funds in there to support the
14 OIG's efforts to ensure that the grantees' independent
15 auditors, the accountants, meet the relevant standards.

16 It allows the OIG to conduct large-range fraud
17 and compliance investigations as well as what they call
18 fraud vulnerability assessments. They travel to the
19 field and identify those. And once they do, they put
20 out a nationwide, "This is something we've seen in the
21 field," and to bring it to the board of directors of
22 the grantees, the executive directors, that this is

1 something that they need to be on the lookout for.

2 And this budget also -- this year, the IG with
3 the 2011 has 30 staff members, and this proposal
4 freezes at the 30 staff level. It also includes some
5 mandatory training in the IG's office to keep the
6 auditors and investigators up to speed with new and
7 improved methods of doing their work.

8 Would you like to add anything?

9 MR. SCHANZ: Yes. This is a very distorted
10 Jeff Schanz, the inspector general. Thank you, David,
11 for the introductory comments, and I'll shortly turn
12 this over to Dave Maddox, who worked with me in
13 preparing the budget.

14 What you'll see is we capped, froze, stagnated
15 our budget request to be consistent with what the board
16 approved for 2011. We feel like, at the 30 positions,
17 we will be sufficiently staffed to help the Corporation
18 ferret out fraud, waste, and abuse, and then provide
19 more efficient and effective operations, which are the
20 two pillars of the IG Act.

21 We have sufficient funding through carryover
22 that Congress saw fit to give us a \$1.2 million

1 increase in 2009, and we're working on spending down
2 that carryover. So therefore, we don't feel like we
3 need any additional funding for 2012.

4 And with that, that's about as good as I can
5 do right now. I'd like to have Dave Maddox supplement
6 those introductory remarks and any questions directed
7 to him, if that's appropriate.

8 CHAIRMAN GREY: Thank you.

9 MR. SCHANZ: Thank you.

10 MR. DAVID MADDOX: There's not much left to be
11 said, but I'd just like to provide a little bit of
12 perspective here.

13 The OIG request is less than 1 percent of
14 LSC's total request, and the OIG's request is 21
15 percent of the management and grants oversight request.

16 So just to give you a relative size.

17 Much has already been said. One of the things
18 we're truly looking to do in the future is to augment
19 our oversight of the independent public accountants
20 that are out there doing the audits of the grantees.
21 We have a procurement in process to look at ramping up
22 using contract staff to increase those numbers in the

1 future, so to get more people out in the field to take
2 a look at the IPAs, look at potential fraud issues,
3 look at internal control issues.

4 So that is part of this request, as well as it
5 maintains the OIG field presence, an important
6 deterrent to fraud, waste, and abuse. As David said,
7 it has level staffing. It includes the requisite pay
8 increases as well as training needs into the future.

9 Any questions?

10 CHAIRMAN GREY: Questions? Vic?

11 MR. VICTOR MADDOX: I have a question for the
12 inspector general. How much was the carryover from the
13 last fiscal year?

14 MR. DAVID MADDOX: If I could answer that,
15 carryover from last year was approximately \$1.9
16 million.

17 MR. VICTOR MADDOX: Okay. And what percent of
18 the budget for that year did that represent?

19 MR. DAVID MADDOX: Roughly 37 percent.

20 MR. VICTOR MADDOX: I'm wondering why was
21 there such a substantial excess over the budgeted
22 amount versus the expended amount.

1 MR. RICHARDSON: If I can, we received our
2 appropriation the last week in March. The inspector
3 general had asked for \$3 million in their appropriation
4 request. Congress gave them \$4.2 million.

5 MR. DAVID MADDOX: Unsolicited.

6 MR. RICHARDSON: So mid-year, they had a large
7 increase, and it has just taken time to increase the
8 staffing in the office and ramp up to be able to spend
9 the money effectively. And what you see before you is
10 basically a two-year plan. While David is talking
11 about 4.35 for 2011 and 2012, it's a two-year plan to
12 spend down that carryover.

13 CHAIRMAN GREY: Further questions?

14 In terms of -- well, I want to ask Dave a
15 question or the IG, Jeff, whoever's appropriate. In
16 terms of your focus on the outside auditing groups for
17 the local offices, you've indicated that you may want
18 to use contract folks to do some of the work.

19 Could you explain that a little bit? And
20 also, how many visits do you expect to -- how many
21 visits did you have last year and how many visits are
22 you looking to have with that additional support this

1 year?

2 MR. DAVID MADDUX: I can talk about what's in
3 the budget. I can't tell you what was done last year.

4 And unfortunately, our head auditor is not in the room
5 with us right now.

6 What we've looked at is, in terms of this
7 budget, basically, of the 137 grantees, reviewing 20
8 percent of the field on kind of an annual basis. So it
9 would be ultimately -- if you extrapolate that, that's
10 a five-year plan to kind of overview all the IPAs.

11 Now, one issue with IPAs is lots of times you
12 have an IPA that supports more than one grantee. So we
13 have a few of those. So ultimately, you have -- I
14 believe the number is roughly 120 IPAs that support
15 LSC-funded programs out there.

16 CHAIRMAN GREY: So you don't know what your
17 goal is at this moment?

18 MR. DAVID MADDUX: That procurement is very
19 early on. We're just starting to sit down and write an
20 RFP at this point. So it's a little bit undefined.
21 And again, Dutch has not shared the details of his
22 overall plan with me. I've just gone through and done

1 the actual budgeting of how much we're looking per trip
2 and how much we're looking for travel for each one of
3 these engagements.

4 MR. SCHANZ: If I might add, what we do, Mr.
5 Chairman, is we don't turn a blind eye towards the
6 IPAs. And you'll see in our semiannual reports that we
7 do what's called audit suitability reviews, where
8 generally we've combined field trips to grantees.

9 While we're on site, we also go to the CPA
10 firm who performed the annual audit and we talk with
11 the CPA firm to identify any issues that they found
12 that weren't reported, or were reported that need to be
13 further reviewed. And we issue a report on that, and
14 they're called audit suitability reviews.

15 What we do have the authority to do is to go
16 to the state board of accountancy if we find deficient
17 work. And we have a couple instances where we will
18 probably be doing that in the immediate future,
19 where -- and you could use -- I would suspect you're
20 familiar with the LAB review, why some of those issues
21 as far as the fraud, the \$1.5 million fraud, were not
22 identified in a timely manner.

1 CHAIRMAN GREY: So I see you've got your -- I
2 see Dutch is here. How many visits were undertaken
3 last year by the IG to the field, and how many of those
4 resulted in combined discussions with the IPA?

5 MR. MERRYMAN: I don't have the numbers in
6 front of me, sir. But I can tell you generally we try
7 to schedule the IPA now when we go out to the field.

8 CHAIRMAN GREY: Right.

9 MR. MERRYMAN: And we try to do both at the
10 same time. And we try to do it in the same general
11 time frame, within a week or two of each one.

12 CHAIRMAN GREY: If you don't have an exact
13 number, is it more than ten?

14 MR. MERRYMAN: IPA visits? Not this year, it
15 has not been. We had two big audits that combined to
16 take up about 40 to 50 percent of our resources that
17 did not allow us to get out to as many field visits or
18 as many IPAs.

19 We have started a contracting process to try
20 to supplement our ability to go to the IPAs so that we
21 can get on a more fixed schedule and try to get into a
22 rotation -- we haven't established whether it will be a

1 four- or five-year rotation -- to try to hit all, but
2 also to maintain a capability to hit special needs,
3 IPAs with special problems.

4 In addition, we're looking at supplementing
5 our ability to contract certain types of audits that we
6 don't have -- for instance, technical audits that
7 require a lot of special expertise. We're in the
8 process of contracting that.

9 In addition, we're looking at contractings for
10 the very problematic IPAS, as Jeff indicated, so that
11 we can address very specific issues. Now, until we
12 complete those, we can't make any conclusions about the
13 individuals or anything like that. So we are very
14 close to having an RFP out on the street for at least
15 three of those, and then we'll continue with our
16 contracting processes to try to get the other ones up
17 and running as quickly as we can.

18 CHAIRMAN GREY: So in a perfect world, if you
19 had that --

20 MR. MERRYMAN: In a perfect world? Okay.

21 CHAIRMAN GREY: -- how many visits do you
22 think you'd try to do this year?

1 MR. MERRYMAN: In a perfect world -- if we're
2 talking IPAs, or we're talking grantees, or both?

3 CHAIRMAN GREY: Both.

4 MR. MERRYMAN: In a perfect world, I would
5 like to see us try to shoot for between eight to twelve
6 grantees, depending on the significance of the problems
7 that we come up with the grantees. I would like to see
8 at least us conduct eight to twelve, obviously, IPA
9 visits during that time.

10 In addition, the initial look we're trying to
11 get to is about 25, to start off with, with
12 contractors. So we might look at 30 to 35 IPAS, try
13 to, over the next year, with contracting support, not
14 within the staff of six staff auditors and two team
15 leaders.

16 CHAIRMAN GREY: And you've allotted about how
17 much for contractors? About?

18 MR. MERRYMAN: I'm sorry. Funds?

19 CHAIRMAN GREY: Funds?

20 MR. DAVID MADDOX: About \$260,000 for the
21 contracts, and then an additional \$100,000 for travel
22 funding.

1 CHAIRMAN GREY: Thank you. Any other
2 questions?

3 (No response.)

4 CHAIRMAN GREY: Thank you.

5 MR. RICHARDSON: Thank you, sir.

6 CHAIRMAN GREY: John?

7 MR. CONSTANCE: Thank you, Mr. Chairman. For
8 the record, I'm John Constance, director of government
9 relations and public affairs. I am not now nor never
10 have been a member of the IG staff at LSC, though I
11 feel an honorary member up here during their
12 presentation.

13 Let me just say this. In terms of what you've
14 heard this morning as to need, we have put together a
15 president's letter that Vic has signed out to the
16 committee and to the Board. I think it largely speaks
17 for itself, but let me supplement it with just a couple
18 of observations, and particularly in light of what
19 we've heard this morning.

20 First of all, the new census data that came
21 out last week, when you're in my line of work, you
22 certainly appreciate the support and advocacy that a

1 report like the census report last week provides you.
2 It was headline news. It was story one on all three
3 major networks, it was story one on CNN, it was story
4 one on Fox, it was headline news in every major daily,
5 that 18.7 percent of the U.S. population is now living
6 below 125 percent poverty in 2009, nearly a 6 percent
7 increase from 2008.

8 This is the largest number of people eligible
9 for LSC services in the Corporation's history, the
10 largest number of people in the history of the
11 Corporation eligible for our services. That is not an
12 insubstantial fact, and one that we did not have
13 available when we put together Vic's letter to all of
14 you.

15 One of the other statistics that I think jumps
16 out, we've looked at some leading indicators of poverty
17 as a staff and we're putting those forward. More
18 Americans are receiving food stamp benefits than in the
19 history of that program, 12 million more people in the
20 last two years, or a 44 percent increase in food stamp
21 eligibility and receipt.

22 One of the things that I noted this week in

1 the press clips was a very, very excellent article from
2 the Chattanooga Times. And the headline is, "Legal
3 Lifeline Strained." The subhead is, "Clinics
4 Scrambling to Find Funds to Aid the New Poor."

5 Russell Fowler, a lawyer in our Legal Aid of
6 East Tennessee Program, said the following: "Today
7 we're helping the 'new poor.' They don't fit the
8 profile of the poverty client. They've worked all
9 their lives. All of a sudden there's no work, the
10 house is being foreclosed on and the car is getting
11 repossessed. The fear is paralyzing."

12 The Chief Justice of the Tennessee Supreme
13 Court, Janice Holder, said also in the same article,
14 "We think in terms of a lack of healthcare as having
15 consequences that are life-threatening. But in truth,
16 the inability to access the legal system in a
17 meaningful way can have every bit as devastating an
18 effect as the absence of healthcare."

19 So the demand is out there. The numbers are
20 up. As has also been noted, the IOLTA numbers across
21 the board are down, 57 percent. With our programs,
22 they're down approximately 24 percent. And the

1 material impact of that, as we've noted in the letter,
2 is such things as New Jersey Legal Services system,
3 which has six LSC programs, has reduced staffing and
4 services. They have gone from a high of 113 staff a
5 year ago to 70, including 41 attorneys, this year.

6 IOLTA has had a devastating impact on their
7 program, on Georgia Legal Services, on New Mexico Legal
8 Aid. So right at the time where demand is up and the
9 folks that need our services are coming to our doors in
10 record numbers, the other support systems are just not
11 there.

12 We looked at reasonableness as to our request.

13 And I would say this, that I must say that previous
14 boards have looked at reasonableness as follows, that
15 this Board has the responsibility to convey to Congress
16 what the need is.

17 Congress at that point is fully capable of
18 sorting out that need against other needs, so we don't
19 have to worry as an organization about reasonableness
20 as long as we are looking at what the true need and the
21 true demand is. And I think previous boards have taken
22 that and run with it in a very, very appropriate way.

1 Two comments on some of the sub-items in the
2 budget request. On the TIG grants, I would certainly
3 reiterate that the House of Representatives, in House
4 language, two years ago suggested to the Corporation
5 that we ask for more money for TIG.

6 I've been in this business a long time. It's
7 the first time I have had report language, bipartisan
8 report language, say to any of my programs, why don't
9 you ask for more money for this? So we have done that.
10 They have been aware of the scope of the TIG program.
11 They have been aware of the implementation, and they
12 suggested to us we ask for more money.

13 We had previously asked for 3.4; we asked for
14 6.8 for 2011. And I would note that the House has
15 already accepted that particular number at 6.8 and
16 reported that out.

17 I have made it a habit in this job of thanking
18 NLADA and ABA for their support, and I take this
19 opportunity again to thank them. I have never in my
20 career had the kind of advocacy and support on the Hill
21 that they have provided to this particular program.

22 That being said, and taking under advisement

1 that all always give me, never disagree with Don
2 Saunders in public, I would just want to say one word
3 about the LRAP program. And while I understand the
4 sensitivity in the field about that program growing and
5 that program going too far beyond its current funding
6 level -- I understand that, and I understand the need
7 for local control -- I would also point out a couple of
8 things.

9 One is both of the reauthorization bills
10 presented in the House and Senate supported a five-year
11 authorization for our LRAP program beyond the pilot
12 stage. The Harkin bill suggested it. I went back to
13 Senator Harkin at that point and said to his staff, is
14 this intentional? You obviously have the Harkin bill
15 over here that is supporting an LRAP program
16 government-wide. Is that intentional? And the answer
17 came back, absolutely that that's intentional.

18 When we had suggested a couple of years ago to
19 possibly stop the LRAP program, we heard from the ABA,
20 we heard from law schools across the country, we heard
21 from other associations, basically saying, don't do
22 that. You are in a leadership role, and all these

1 other LRAP programs look to you for that support.

2 Also, in one minor technical area, unlike
3 LSC's LRAP, federal loans do not provide relief from
4 private student loans, and treat forgiveness payments
5 as taxable income. So we are different. We are still
6 different in that one way.

7 So again, I would say that I would hope that
8 this committee would support the overall request. I
9 hope that this committee finds our request reasonable
10 in terms of looking at the demand, and that the
11 sub-items of TIG and LRAP, as well as MGO, are all
12 supported as well. Thanks very much.

13 CHAIRMAN GREY: John, thank you very much.
14 And to David, Jeff, and the other David, thank you for
15 your presentations today.

16 It would be appropriate to ask the members of
17 the committee if they have any questions or comments
18 with regard to the presentation of management. Tom?

19 MR. FUENTES: John, I wonder if you could
20 return to the microphone for a moment. Could you put
21 in context for the committee the calendar of this
22 process? We're --

1 MR. CONSTANCE: That's the hardest question I
2 might be asked today, Mr. Fuentes.

3 MR. FUENTES: Good. We are in September.
4 There's an election on November 2nd. This is going to
5 go to the Hill. It's going to go to the Congress. But
6 is it this Congress that's going to view this, or is it
7 the next Congress that's going to view this?

8 MR. CONSTANCE: It will be the next Congress.

9 MR. FUENTES: And about when would that
10 happen?

11 MR. CONSTANCE: The President's budget always
12 goes up at or about the 1st of February. We will be
13 submitting the recommendation of our Board to the
14 Office of Management and Budget as a courtesy. The
15 President's budget will include a mark for LSC, but we,
16 as a private 501(c)(3), an independent 501(c)(3), have
17 the ability to submit our numbers separately.

18 We have typically done that prior to the
19 President's budget going up. So I would estimate that
20 toward the end of January, in regular order, is when we
21 would go up.

22 MR. FUENTES: Thank you.

1 MR. RICHARDSON: If I can add also, we talk
2 regularly to our OMB budget examiner. And in the last
3 two weeks, we have received a number of calls because
4 we provide this budget mark, once it is passed, to OMB
5 for consideration. So they are asking for that mark
6 now. They want it just as quick as possible.

7 So while it goes -- we have bypass authority
8 to go straight to Congress. We do advise OMB so that
9 they can take it in consideration for the budget
10 request, or President's request.

11 CHAIRMAN GREY: Vic?

12 MR. VICTOR MADDOX: Thank you, Mr. Chairman.

13 John, I have a couple of questions and
14 observations. One, you say we need not consider
15 reasonableness, and presumably management took that
16 view in making the recommendation to the Board that
17 it's for Congress to decide what the available funds
18 are, and that what we should do is tell Congress what
19 the real need is.

20 But you've told us that the real need is \$750
21 million, and yet you apparently don't have the courage
22 of your conviction to tell Congress that the real need

1 is \$750 million. That's an observation.

2 The second question has to do with the
3 President's budget message of February 2010, where he
4 said -- and I don't often agree with much of what
5 Barack Obama has said, but I do think that this is
6 quite cogent -- "In addition to closing
7 loopholes" -- I'm sorry. "To put our country on a
8 fiscally sustainable path, we will freeze non-security
9 discretionary funding for three years. This freeze
10 will require a level of discipline with Americans' tax
11 dollars and a number of hard choices and painful
12 tradeoffs not seen in Washington for many years. But
13 it is what needs to be done to restore fiscal
14 responsibility as we begin to rebuild our economy."

15 And you've been in Washington a long time. I
16 haven't. My question is, were the President's words,
17 which he reiterated in his State of the Union
18 address -- was that really all for nothing? Did that
19 have absolutely no meaning at all? And is there a
20 freeze in the budget? I mean, is there any meaning at
21 all to be imparted to what the President told us?

22 MR. CONSTANCE: Let me start with the second

1 question first.

2 My orientation toward the budget of LSC is
3 that it is not an insubstantial amount of money, but it
4 is a rounding error in the federal budget in terms of
5 its size. I know that this group has a responsibility
6 to be careful stewards of those requests and those
7 dollars, as do we.

8 But I think when the President speaks to that
9 kind of need, for people to take a little bit more
10 pain, he's not referring to a roof over someone's head,
11 or being beaten again by one's husband, or having a
12 child custody issue determined only by the fact that
13 one party is represented in the case.

14 I do not feel that the President, when those
15 kinds of statements are made, is referring to the most
16 vulnerable members of our society having to suffer even
17 more pain than they have already suffered. That's my
18 personal orientation. I certainly can't speak for the
19 intent of the President's statement.

20 As to the first item, of the courage of our
21 convictions, \$750 million is a five-year authorization
22 level that's proposed. And in normal circumstances of

1 authorization levels, one never assumes that you're
2 going to get there in one year.

3 I would say that that is really what we can
4 look to or as a reference point at this point. We
5 certainly could have asked for 750; but reasonableness
6 and prudence aside, I would say this, that I still
7 think that is the need. And I think our request is
8 recognizing that that is a five-year goal and not a
9 one-year goal.

10 CHAIRMAN GREY: Further questions? Laurie?

11 MS. MIKVA: I wondered if someone could
12 provide some historical perspective on adding or
13 subtracting the line item appropriations. How have
14 they come to be in the past? How has Congress
15 responded to them?

16 MR. CONSTANCE: When you say a line item
17 appropriation, Laurie, what do you mean? Within
18 our -- inside of our budget, or --

19 MS. MIKVA: The additional ones -- TIG, LRAP.

20 MR. CONSTANCE: Well, again, I would say
21 that -- I would turn to Dave on the history of those
22 requests. I would only say this, that there is an

1 understanding within the appropriators that I have
2 talked to, and I would say this would be both true for
3 House and Senate and both majority and minority, that
4 there's an understanding that both TIG and our LRAP
5 funding have largely to do with the efficiency and
6 effectiveness and capability of our programs to spend
7 the money, and spend the money appropriately, that is
8 received in the basic field grants. I mean, you need
9 staffing. You need recruitment. You need retention.
10 That's very clear. And there's been a challenge in
11 that area.

12 As to TIG, there's an understanding of the
13 delivery of services being improved through the use of
14 technology, and I think there's a great deal of support
15 for that. So there has been an understanding of these
16 being complimentary and not really separate directions
17 in that regard.

18 As to the history of their arrival on the
19 scene, I would turn to my historian friend for that
20 perspective.

21 MR. RICHARDSON: Certainly the way that the
22 current ones have come about is through the advocacy of

1 the Board and the Corporation. We used to get basic
2 field money, management and grants oversight, and IG.
3 When we went forward a number of years ago and asked
4 for a transfer of IG money to set up a loan repayment
5 assistance program, Congress approved that.

6 We also went through the same process with the
7 technology. It was something that was supported on the
8 Hill. We put it in our particular request because we
9 did see that there was a need to bring our grantees
10 greater capabilities in serving clients, so we
11 advocated for it and the Congress approved it.

12 If there was another line that we wanted to
13 interject here, it's a matter of us going to the Hill
14 and advocating for that line and getting their
15 approval. It's how persuasive we are with our
16 approach.

17 MS. MIKVA: I guess, in that context, could
18 you respond to the request for a specific grant for
19 training?

20 MR. CONSTANCE: Well, again, this is an area
21 that I would -- I don't really claim to have any
22 background in what the needs are or what the requests

1 are individually from grantees. I would only say this,
2 that when we talk about funding within the MGO budget
3 for training, what we are talking about is the kind of
4 training that we as a Corporation can provide
5 effectively and efficiently across the entire system.

6 We are using training as a piece of the
7 justification of the MGO budget, but not as a line item
8 or a separate part of that. That is a portion of the
9 MGO request, recognizing that board training, as the
10 individual boards out there as somewhat the first line
11 of defense in terms of oversight, require that kind of
12 training.

13 Also, that oversight has basically two
14 aspects -- one is teaching those that you are providing
15 the oversight to what the expectations are under law
16 and regulation, and then going back and finding out
17 whether they in fact are complying. But without the
18 former, the latter can be a lot less effective. So
19 that was the concept behind that.

20 CHAIRMAN GREY: Vic?

21 MR. VICTOR MADDOX: David, can you tell me,
22 what's the fully loaded cost on the new positions

1 you're proposing in the budget request, the six new
2 positions? Do you have that number, roughly?

3 MR. RICHARDSON: Not exactly, but let me give
4 you an idea. If there was a position that was funded
5 at \$80,000, it's basically 32 percent for benefits on
6 top of that. So you're looking at about \$105,000.

7 MR. VICTOR MADDOX: And is that roughly the
8 salary range for those positions?

9 MR. RICHARDSON: As I recall, it is, because
10 in that particular -- actually, the training officers
11 are a big higher because we wanted people with
12 experience. And I think they were in the neighborhood
13 of 130.

14 MR. VICTOR MADDOX: So overall, maybe \$700,000
15 or so for those six positions?

16 MR. RICHARDSON: Yes, sir.

17 MR. VICTOR MADDOX: All right. So overall
18 \$700,000. Thank you.

19 CHAIRMAN GREY: For those on the phone, do you
20 have any questions or comments that you would like to
21 share at this time?

22 DEAN MINOW: Mr. Chair, it's Martha. I would

1 like to ask John Constance a question.

2 CHAIRMAN GREY: Go ahead.

3 DEAN MINOW: John, do you work with the staff
4 of any of the members so that the budget request that
5 we make is in line with their expectations?

6 MR. CONSTANCE: Well, "expectations" is a
7 difficult word in that context, Dean Minow. I would
8 just say this, that they clearly understand the role
9 that the Corporation and the Board have played, at
10 least in the past, with coming forward and talking
11 about demand.

12 I mean, I think they respect that. They
13 understand that. I think they are troubled often by
14 their inability to, in many cases, reach that demand as
15 quickly as they would prefer to as well. But I do
16 think they understand, and we were very clear to them,
17 the philosophy that goes into the request, and we work
18 with them to justify as much of that request as we
19 possibly can provide justification for in terms of real
20 dollars.

21 So I would say this, that I do think that
22 there is a clear understanding of that on the Hill.

1 DEAN MINOW: Thank you.

2 CHAIRMAN GREY: Further comments or questions?

3 (No response.)

4 CHAIRMAN GREY: Gentlemen, thank you very
5 much.

6 That brings us to the final item on the
7 agenda, and that's the consideration of Resolution
8 2010-016, a resolution adopting LSC's FY 2012 budget
9 request to Congress. That is behind a tab similarly
10 marked. And just for the record, I'll read the
11 resolution.

12 :WHEREAS, the Board of Directors of the Legal
13 Services Corporation has received and CDR testimony
14 regarding the Fiscal Year 2012 appropriation request
15 for LSC; and

16 "WHEREAS, the Board has determined that LSC is
17 a program in vital need of additional funding to
18 provide for the legal services needs of people in
19 poverty; and

20 "WHEREAS, the appropriations have not been
21 sufficient to keep up with the rate of inflation since
22 the 1980s, when delivery of legal services by LSC

1 grantees were at their apex; and

2 "WHEREAS, the Board recognizes the serious
3 financial condition facing the country as a whole and
4 poor people in particular; and

5 "WHEREAS, the Board recognizes the crisis in
6 non-federal funding and the continued effort to bring
7 as much pro bono assistance to the delivery of legal
8 assistance as possible; and

9 "WHEREAS, the Board believes that it should
10 strive to meet the \$750 million funding level for LSC
11 found in both House and Senate reauthorization bills
12 within a four-year period;

13 "NOW, THEREFORE, BE IT RESOLVED that the
14 Corporation shall submit to Congress a request for an
15 FY 2012 appropriation in the amount of \$525 million,
16 comprised as follows:

17 "\$490,650,000 for Basic Field;

18 "\$7,500,000 for Technology Initiative Grants;

19 "1,500,000 for Loan Repayment Assistance
20 Program;

21 "\$21,000,000 for Management and Grants

22 Oversight; and

1 \$4,350,000 for Office of the Inspector
2 General," would be the composition of the budget.

3 The resolution is before you. Are there any
4 comments with regard to it by members of the committee?

5 (No response.)

6 CHAIRMAN GREY: Is there a motion that it be
7 recommended to the Board?

8 M O T I O N

9 JUDGE SINGLETON: This is Sarah Singleton. I
10 so move.

11 CHAIRMAN GREY: Is there a second?

12 DEAN MINOW: Martha Minow. I second it.

13 CHAIRMAN GREY: Thank you. All in favor of
14 the resolution --

15 MR. FUENTES: Mr. Chairman, I think comments
16 are appropriate after the movement of the resolution.

17 CHAIRMAN GREY: They certainly are.

18 MR. FUENTES: Thank you so much.

19 Mr. Chairman, this is a resolution and not a
20 motion; of course, it's a motion of this body to
21 recommend to the Board the adoption of the resolution.

22 I wish it was such that we could divide the question,

1 but I don't see that actually very functional in the
2 context of the way this is presented.

3 If it was a divided question, I would have
4 more opportunity to participate and offer support for
5 those elements which I concur with, and be able to be
6 more definitive in that which I disagree with.

7 If it was a matter where a question could be
8 divided, I would be supportive of the portion of
9 funding for the Office of the Inspector General because
10 I think that does respond to the crises in the
11 Corporation and in the programs of our Corporation. It
12 says that the Board did indeed take notice of the
13 scandal in Maryland, the \$1 million-plus fraud in
14 Baltimore, and other abuses which have occurred. And I
15 think we need to make that statement.

16 But as to the overall budget and its numbers,
17 I cannot support those numbers. I don't think they are
18 reasonable. I think they are outlandish. I don't buy
19 into the concept that this Board, and therefore this
20 committee, does not have an obligation of
21 reasonableness. I don't hang up my hat as an American
22 citizen and a taxpayer when I come to these meetings.

1 I think that LSC, year after year, plays this game. We
2 send numbers to Congress. They get cut down because
3 they are not reasonable.

4 My problem with this process is that we look
5 to dollars first when our priority should be pro bono
6 first and its advocacy. We have a new management team
7 on the horizon. I'm hoping that new management team
8 will bring some new direction to the LSC. I think that
9 it will have its hands full in the transition,
10 transition within the scope of the size of the
11 organization presently.

12 I don't see that this is the right moment in
13 time to suggest an increase in the budget as proposed
14 here. So because I am not supportive of what I think
15 is a number that has no -- is dead on arrival, I'm not
16 going to support this resolution. But I want to make
17 it clear for the record that I do support funding
18 levels for the Office of the Inspector General, as
19 suggested. Thank you very much.

20 CHAIRMAN GREY: Thank you, Tom.

21 Are there any other comments or questions?

22 (No response.)

1 CHAIRMAN GREY: Let me close by -- I don't
2 think there's any --

3 STAFF MEMBER: There's a door that's not
4 closing all the way. It's got a malfunction.

5 MR. LEVI: I just wonder what day we're going
6 to be able to have an uninterrupted meeting. I'm
7 waiting for it, but maybe that's related to the budget.

8 CHAIRMAN GREY: With that --

9 MR. LEVI: Sorry.

10 CHAIRMAN GREY: That's all right. Let me say
11 this. First of all, I feel very privileged to have the
12 opportunity to serve in this capacity. And, Mr.
13 Chairman, thank you for the opportunity to chair the
14 Finance Committee of the Board.

15 I will tell you I am very proud of what the
16 staff has done in this case. I think they have taken a
17 very thoughtful approach to a very difficult problem.
18 And I believe that having had the opportunity to be a
19 lobbyist, I appreciate the understanding of our
20 organization's relative position in the budget to what
21 is being considered on the Hill.

22 And I think they go -- I think our staff takes

1 great pains in understanding their responsibility not
2 only to those who we seek funding to serve, but also in
3 regard to their credibility on the Hill with regard to
4 who they must talk to convincingly to support this
5 budget and budgets requested in the past.

6 I will tell you that having had the
7 opportunity to do other budgets with the opportunity to
8 understand that balance is critical. It is both a
9 matter of integrity and it's a matter of confidence.
10 And I am convinced that we have both of those
11 characteristics present in the way in which this budget
12 was crafted.

13 With that, I would call for a vote on the
14 motion to recommend the resolution.

15 MR. FUENTES: Roll call, Mr. Chairman.

16 CHAIRMAN GREY: That would be fine.

17 Mr. President, would you do a roll call for me
18 of the members of the committee so that we might be
19 able to record those votes by individual?

20 PRESIDENT FORTUNO: The chairman of the
21 committee?

22 CHAIRMAN GREY: Aye.

1 PRESIDENT FORTUNO: Sarah Singleton, I
2 believe, is also on the committee?

3 JUDGE SINGLETON: Aye.

4 PRESIDENT FORTUNO: Martha Minow is on the
5 committee.

6 DEAN MINOW: Aye.

7 PRESIDENT FORTUNO: Tom Fuentes is on the
8 committee.

9 MR. FUENTES: No.

10 PRESIDENT FORTUNO: And is it -- that's it.

11 CHAIRMAN GREY: The motion to recommend the
12 resolution to the Board is adopted, and I thank
13 everyone for their attention to this matter.

14 Is there any other business to be considered
15 by the committee?

16 JUDGE SINGLETON: May I ask a question?

17 Because I couldn't quite hear --

18 CHAIRMAN GREY: Hold on one second. Sarah,
19 hold on one second. We needed to record one more vote.

20 PRESIDENT FORTUNO: The chairman is an ex
21 officio voting member of all committees.

22 JUDGE SINGLETON: Thank you.

1 CHAIRMAN GREY: Mr. Chairman?

2 MR. LEVI: I vote yes.

3 CHAIRMAN GREY: Sarah, I'm sorry. Go right
4 ahead.

5 JUDGE SINGLETON: That was my point. I wanted
6 to make sure that the chairman had been given an
7 opportunity to vote because he is a voting member.

8 MR. LEVI: Thank you.

9 CHAIRMAN GREY: He got so excited about the
10 door, we forgot to ask him about the budget.

11 MR. LEVI: I don't know if you've been able to
12 hear it over the phone, but we've been having a door
13 situation here that has been squeaking for about the
14 last 30 minutes.

15 CHAIRMAN GREY: Is there a motion for a new
16 door?

17 (Laughter.)

18 CHAIRMAN GREY: No, I'm sorry. I'd consider a
19 motion to adjourn.

20 M O T I O N

21 MR. FUENTES: So move.

22 DEAN MINOW: So move.

1 CHAIRMAN GREY: Is there a second? Thank you.

2 All in favor say aye.

3 (A chorus of ayes.)

4 CHAIRMAN GREY: Opposed, no.

5 (No response.)

6 CHAIRMAN GREY: The motion carries.

7 (Whereupon, at 11:38 a.m., the meeting of the
8 Finance Committee was adjourned.)

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