

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

TELEPHONIC MEETING OF THE
FINANCE COMMITTEE

OPEN SESSION

Tuesday, June 11, 2013

12:03 p.m.

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

COMMITTEE MEMBERS PRESENT:

Martha L. Minow, Acting Chair
Laurie Mikva
Father Pius Pietrzyk, O.P.
Robert E. Henley Jr. (Non-Director member)
John G. Levi, ex officio

OTHER BOARD MEMBERS PRESENT:

(None)

STAFF AND PUBLIC PRESENT IN THE CORPORATION'S OFFICES:

James J. Sandman, President
Lynn Jennings, Vice President for Grants Management
Wendy Rhein, Chief Development Officer
Ronald S. Flagg, Vice President for Legal Affairs,
General Counsel, and Corporate Secretary
Katherine Ward, Executive Assistant, Office of Legal
Affairs
David L. Richardson, Comptroller and Treasurer,
Office of Financial and Administrative Services
Jeffrey E. Schanz, Inspector General
Laurie Tarantowicz, Assistant Inspector General and
Legal Counsel, Office of the Inspector General
Carol A. Bergman, Director, Office of Government
Relations and Public Affairs

Don Saunders, National Legal Aid and Defender
Association (NLADA)
Terry Brooks, American Bar Association Standing
Committee on Legal Aid and Indigent Defendants
(SCLAID)
Ann Carmichael, SCLAID
Lisa Woods, SCLAID

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P R O C E E D I N G S

(12:03 p.m.)

1
2
3 ACTING CHAIR MINOW: This is Martha Minow, and
4 I am chairing in the absence of Robert Grey.

5 The first question is do we have a quorum, and
6 the answer is yes. And the next question is, do we
7 have an approval of the agenda?

M O T I O N

8
9 FATHER PIUS: So moved.

10 MR. LEVI: So moved.

11 ACTING CHAIR MINOW: Great. Now about the
12 minutes, approval of the minutes? Anybody have any
13 comments?

M O T I O N

14
15 MS. MIKVA: Move to approve.

16 FATHER PIUS: Second.

17 ACTING CHAIR MINOW: Great.

18 Well, our chief reason for meeting is to talk
19 about the budget mark, if we could turn to that now.
20 Does that make sense?

21 FATHER PIUS: Yes.

22 MR. LEVI: Yes.

1 ACTING CHAIR MINOW: Everybody sees that there
2 is a range of recommendations that have already been
3 submitted to us, as well as the letter from the Chief
4 Justices and Conference of State Court Administrators.

5 We also have the reminder today from Carol
6 Bergman of the general recommendation for government
7 agencies to produce 5 percent reductions in requests.
8 But we are being pressed very much, given the increase
9 in the poverty rate and therefore the eligible
10 clientele, to seek an increase. So I'd like to hear
11 people's views.

12 MS. MIKVA: This is Laurie Mikva. I wonder
13 what the OMB memo looked like for 2014.

14 MR. LEVI: Well, aren't we supposed to be just
15 receiving today public comment, not our comment but
16 public comment?

17 ACTING CHAIR MINOW: Is that right?

18 MR. LEVI: Yes. Yes.

19 ACTING CHAIR MINOW: Okay. It's just public
20 comment, so that's what I've asked for.

21 MR. LEVI: Yes. But it's really the
22 presentations of the two groups here, I think, that are

1 prepared to go.

2 ACTING CHAIR MINOW: Oh, okay. Thank you.

3 MR. LEVI: And I think in terms of the
4 distribution of that note, we're not there yet, I mean
5 of the OMB circular that came today because there's a
6 whole context that we would have to discuss.

7 ACTING CHAIR MINOW: Got it. Okay. Thank
8 you, that's helpful.

9 So we'll turn medically to public comment,
10 then.

11 MS. CARMICHAEL: And would you like -- I'm
12 just looking at the agenda that was posted in the
13 Federal Register. Do you want the American Bar
14 Association to begin, then?

15 ACTING CHAIR MINOW: Sure. That would be
16 great.

17 MS. CARMICHAEL: Okay. And I will be brief
18 because we did send a letter, as we always do. But
19 just let me give the highlights, and I'm also happy to
20 respond to any questions.

21 We are recommending that the LSC Board seek
22 funding of not less than \$492.8 million for the fiscal

1 year 2015 year. And our rationale is as follows. We
2 took a look at the most recent Census Bureau report,
3 which indicates a year-over-year increase in poverty of
4 1.4 percent, and we used that number to come up with
5 our recommendation.

6 Of course, we recognize that this increase
7 would not begin to fill the need. But we also
8 recognize the budget realities that we're all
9 confronting. So we tried to come up with a measured
10 recommendation in light of that.

11 In addition to the dramatic increase in
12 poverty, the other indicators that support an increased
13 request are as follows. And I haven't seen what the
14 Chief Justices submitted to you, but I'm predicting
15 that they reported on the dramatic increase in pro se
16 representation, which we are hearing about from judges
17 with whom we work.

18 The combination of that increase in pro se
19 representation with dramatic cutbacks in the funding
20 for the judiciary has resulted in further cutbacks in
21 court services for self-represented persons, which just
22 makes the need for legal services all the more

1 dramatic.

2 Also, the sources of funding for legal aid
3 other than LSC continue to decline. State funding has
4 fallen by 7 percent, other public funding by 2 percent.

5 We go into more detail in our letter. And of course,
6 the IOLTA program, which has historically been a good
7 source of funding for legal services, has not come back
8 from its dramatic drops after the economic crisis
9 began.

10 Another rationale is that LSC is a very
11 important part of the overall delivery system with its
12 efforts to support pro bono lawyering as well. Pro
13 bono lawyering certainly can't make up or close the
14 justice gap. It's an important part of the delivery
15 system.

16 But we need the infrastructure that LSC-funded
17 programs provide in order to most effectively leverage
18 pro bono talent. And we go into more detail in our
19 letter about the survey we just completed in collecting
20 data on how much pro bono work is being done in the
21 United States right now by lawyers and what kind of
22 work they're doing. So I won't summarize that on the

1 call.

2 In making this budget recommendation, we have
3 two more specific requests. We urge that LSC continue
4 to request at least a million dollars in funds for its
5 program providing loan repayment assistance for
6 selected lawyers in LSC-funded programs. We think this
7 is very important to attracting and retaining legal
8 services talent. And we endorse the continuation of
9 the TIG program and hope that that would be included in
10 your budget request.

11 That is the end of my report.

12 ACTING CHAIR MINOW: Thank you, and thank you
13 for your written report as well.

14 Does anyone on the call have questions?

15 (No response.)

16 ACTING CHAIR MINOW: One question I guess I
17 have is in your discussions -- and I understand the
18 tethering to the percentage increase in the poverty
19 level -- did you consider any other numbers or any
20 other rationale for a figure?

21 MS. CARMICHAEL: Well, yes and no. The
22 numerical basis for the increase comes from that data.

1 There's lots of other data that supports it. And then
2 the other indicators support an increased request, so I
3 guess those are other data points that are perhaps not
4 as precise. They wouldn't give you the 1.4 percent
5 increase, but they certainly support the idea of an
6 increase.

7 In addition to that, certainly the fact that
8 past research has demonstrated that approximately 50
9 percent of low income households face legal needs at
10 any time; so if you are talking about an increase in
11 the poverty population, there is data to support the
12 claim, which seems fairly common-sensical. But in any
13 event, there is data to support the claim that their
14 needs are increasing.

15 Then certainly the data that we have on what's
16 happening in our courts with pro se representation
17 continuing to increase, and there is a fair amount of
18 data that is discussed on pages 2 and 3 of our letter.

19 In certain kinds of cases, we are up to,
20 nationally, something between 60 and 90 percent of
21 cases involve at least one self-represented party. And
22 while there is some geographic range, that is something

1 that you're going to hear from judges across the
2 country, which of course is evidence of a huge unmet
3 need for legal services.

4 Judges can also talk about how, when people
5 aren't represented, it's very difficult to secure
6 justice, and there's lots of data on that. And as
7 someone who also is in private practice and represents
8 paying clients in our court system, the stress of pro
9 se litigation on the courts has an impact on everyone.

10 Certainly all of us would hope that people
11 have access to a lawyer. But when our courts are
12 burdened with dealing with this burgeoning pro se
13 population, it makes it all the more difficult for
14 anyone's needs to be met in the court in an efficient
15 way.

16 ACTING CHAIR MINOW: That's very helpful. And
17 on the two specific areas, the loan forgiveness/ loan
18 repayment and the TIG grants, I notice you didn't have
19 a figure for the TIG grant.

20 MS. CARMICHAEL: Yes. I'm noticing that, too,
21 in the letter. And I may, if Terry Brooks is on the
22 phone and has a specific figure to offer or some

1 context to explain there, I'd appreciate his assistance
2 because I think we do need more detail on that.

3 MR. BROOKS: We have not specified a
4 particular figure there, and thought that we should
5 rely on the discretion of the Board, but merely wanted
6 to underscore the importance of that program. LSC
7 staff has made various presentations to the Board,
8 which we know have made clear to the Board the
9 importance of the innovation that's supported through
10 these grants. And we think that LSC staff and the LSC
11 Board are in a better position to evaluate the size of
12 that program going forward.

13 ACTING CHAIR MINOW: Thank you very much.

14 Any further questions for ABA?

15 FATHER PIUS: Can I ask a question? Father
16 Pius, Martha.

17 ACTING CHAIR MINOW: Please.

18 FATHER PIUS: Just a quick question here.
19 Your baseline, if I understand it, for this upcoming
20 2015 budget request is our 2014 budget request rather
21 than the current funding level?

22 MS. CARMICHAEL: Correct.

1 ACTING CHAIR MINOW: Any further? Yes? No?

2 (No response.)

3 ACTING CHAIR MINOW: Okay. Then maybe we
4 turn --

5 MR. LEVI: Thank you.

6 ACTING CHAIR MINOW: Thank you so much, and
7 thanks for the efforts that you put in and for your
8 collaborations on the pro bono work that you all do and
9 that we try to do, and also the recognition that it
10 will never beat the gap, fill the gap. So very
11 important work.

12 Now from NLADA?

13 MR. SAUNDERS: Dean Minow, this is Don
14 Saunders. I'm vice president of civil legal services
15 for NLADA. We appreciate, as always, the opportunity
16 to speak with you, Chairman Levi and members of the
17 Finance Committee, about the critical work that you're
18 engaged in in bringing the message to the Congress and
19 to the Administration about the need experienced by
20 your grantees across the nation.

21 I'm speaking today on behalf of NLADA's board,
22 which is chaired by Lillian Johnson, the CEO of

1 Community Legal Services in Phoenix; Dennis
2 Groenenboom, who's the chair of our civil policy
3 group -- Dennis is the executive director of Iowa Legal
4 Aid, your statewide grantee in Iowa; and Steve
5 Eppler-Epstein, who's the chair of our committee on
6 resources -- Steve is the director of Connecticut Legal
7 Services in Middletown.

8 As Lisa did, I will refer you to our written
9 submission in support of an FY 2015 budget mark in the
10 amount of \$560 million. That recommendation was
11 developed by NLADA in consultation with our leadership
12 and with many LSC grantees and other stakeholders in
13 every part of the United States.

14 As we discussed with this Committee last year,
15 while federal resources available to your grantees to
16 seek a full measure of justice for the communities they
17 serve have never been close to adequate to meet the
18 challenges they face, we see a particular level of
19 stress among your grantees that reflects truly trying
20 times.

21 I've personally heard from many experienced
22 leaders in the field over the past year who are

1 convinced that the circumstances they face today are
2 the worst they have ever seen in careers devoted to
3 ensuring equal justice under the law.

4 With less than a third of the effective
5 federal support that Congress provided your grantees in
6 1981, they are expected to address the legal needs of
7 the poor in every county in the United States. The
8 level of funding provided in 1981 was seen then as
9 minimal to meet those needs.

10 As you well know, today's grantees operate in
11 an environment that is frequently a source of enormous
12 unmet need. Sadly, over 60 million Americans remain
13 eligible for legal services from grantees of the
14 Corporation, and funding relative to that need has
15 never been tighter.

16 While every one of your grantees is
17 aggressively seeking support from other public and
18 private sources, there can be no mistake that the
19 fundamental commitment of adequate resources at the
20 federal level through the LSC network is the critical
21 building block upon which other revenue streams depend.

22 The federal commitment to a consistent

1 infrastructure is likewise critical to the continuing
2 healthy growth of the capacity to involve the private
3 bar in the delivery of legal assistance, as Lisa
4 referenced.

5 Your own data has indicated a connection
6 between funding for LSC and the ability of your
7 grantees to leverage the resources of pro bono
8 attorneys. The impressive accomplishments of LSC's Pro
9 Bono Task Force and your plans to improve delivery
10 through a Pro Bono Innovation Fund are greatly enhanced
11 by the core commitment of federal support to your
12 network of grantees.

13 This commitment is especially essential in the
14 poorest regions of the United States. LSC funding for
15 the Deep South and Rocky Mountain areas, for Native
16 Americans and agricultural workers, for returning
17 veterans living on the street, is often the only
18 resource available to address basic human needs.

19 Your grantees often cover a large, isolated
20 rural area and are increasingly meeting the needs of a
21 growing number of cultural or linguistic minorities in
22 regions in which few alternative resources exist to

1 support the civil justice system.

2 States that have historically enjoyed
3 significant outside financial support continue to
4 experience an erosion in non-LSC resources that is
5 severely undercutting their ability to meet the growing
6 need. Lisa put some detail on that, and I won't go
7 into that. But I think everybody on the committee is
8 aware of the outlook with regard to other funding
9 sources.

10 LSC's data indicates that your grantees have
11 had to lay off over 10 percent of their staff in just
12 the last two years. Seventy-one percent of your
13 offices are having to cut back on client service. You
14 must send the strongest message to the Administration
15 and to the Congress regarding the need to reverse this
16 trend.

17 And you have quite a message to send. Every
18 day, LSC grantees are making a critical difference in
19 preserving or obtaining housing for families living in
20 poverty, in helping mothers escape an abusive and
21 violent environment with their children, in putting the
22 lives of clients back together after natural or manmade

1 disasters such as the foreclosure crisis or the recent
2 wonderful work your grantees performed around
3 Superstorm Sandy and the Oklahoma City tornadoes.

4 Your grantees are also playing an increasingly
5 important role in meeting the enormous legal needs of
6 returning veterans. A recent survey by the VA shows
7 that three of the top ten most critical needs facing
8 returning veterans are legal in nature.

9 An investment in legal aid is an investment in
10 a healthy future for millions of Americans. We are
11 obviously aware of the enormous fiscal pressures facing
12 Congress and our country as a whole. Of course, there
13 are many other worthy programs deserving of federal
14 support.

15 However, providing simple justice to every
16 American is not simply a goal to compete with a wide
17 array of other federal allocations. It is a bedrock
18 promise of our democracy, as Chairman Levi has pointed
19 out on numerous occasions.

20 I suggest, Dean Minow, that the most important
21 job played by the LSC Board is to articulate that
22 promise before the Congress, state stakeholders, and

1 everyone within shouting range of the bully pulpit you
2 occupy. We urge you to send this message in a loud and
3 clear voice. We believe that a request of \$560 million
4 sends the bold signal that is needed to address the
5 difficult challenges you face along with your grantees.

6 Finally, on behalf of NLADA, the 15,000
7 justice workers in our affiliate programs, and the
8 entire equal justice community, I want to express our
9 deep gratitude for the strong support evidenced in the
10 past LSC requests from this Board. Every member of
11 this Committee and the Board, as well as Jim, Carol,
12 Lynn, and your entire staff, has shown a deep and
13 abiding commitment to their roles as stewards of this
14 program.

15 We urge you to continue that commitment as you
16 go forward into FY 2015. I can assure you that your
17 strong support is recognized and deeply appreciated,
18 not only in Washington but in every legal aid outpost
19 in the nation.

20 We all appreciate your time, your openness to
21 hear from NLADA in the field, and we stand ready to
22 help LSC in pursuing FY 2015 funding in any way that we

1 can. Thank you very much for your time.

2 ACTING CHAIR MINOW: Don, thanks so much for
3 that eloquent statement and for the work that you do,
4 not only in the written presentation but every day. I
5 have a question, and then we'll open it up to others.

6 I wasn't entirely clear where the number \$560
7 million came from. Is this related to the relative
8 drop in funding by 300 percent compared to the increase
9 in eligible clients? Or what was your process for
10 developing that recommendation?

11 MR. SAUNDERS: Had we gone there, as Father
12 Pius pointed out at the Committee last year, we would
13 have been coming in with a figure of over a billion
14 dollars, which even we recognize is a little bit out of
15 touch with political reality.

16 ACTING CHAIR MINOW: Right.

17 MR. SAUNDERS: We began last year at a level
18 of \$516 million, which reflected NLADA's long-term
19 strategy of gradual, measured growth. And in fact, LSC
20 several years ago had requested \$516 million from the
21 Congress. We feel it's our obligation on behalf of
22 your grantees in the field to be very aggressive, to

1 continue a goal of growth.

2 The 560 does not tie neatly, as the ABA figure
3 did, to any particular data set. It does continue the
4 measured growth we've suggested to LSC over the last
5 number of years. And in our view, based upon where we
6 ended up last year, this is a reasonable request.

7 We recognize that over the last two years LSC
8 funding has been cut by Congress from 420 to 340.8.
9 That's almost a 20 percent increase. We
10 understand -- I'm sorry, decrease. Pardon me. We
11 understand that our goal is aspirational, but it's our
12 intent to signal, within political reality, what we
13 think a reasonable need is. And I wish I could tie it
14 better to a longer-term data set.

15 But we think the need is so much beyond this
16 that this is reasonable in light of where LSC's Board
17 was last year at 486. Again, it represents measured
18 growth over time.

19 ACTING CHAIR MINOW: Thank you. Just one more
20 question.

21 You did supply a number for the TIG grants,
22 \$3.4 million. Is there any rationale for that?

1 MR. SAUNDERS: That is existing funding, and
2 that is a minimum that we support. Assuming funding
3 stays relatively static, we continue to support a
4 special line for technology innovation.

5 It has been NLADA's policy, and it remains a
6 strong value of ours, that most funding from LSC should
7 be addressing the needs of basic field funding, that
8 national earmarks are not necessarily something that we
9 support. We do feel the need for a loan repayment
10 program and technology initiative grants. It's
11 certainly compelling at any level.

12 Obviously, at \$560 million, we would suggest,
13 if that were a real figure, that the amount dedicated
14 to technology innovative and loan repayment would
15 likely increase on a pro rata basis.

16 We are not prepared to discuss the Pro Bono
17 Innovation Fund at this point till we see the outcome
18 of 2014. Obviously, we're very supportive of the work
19 you and all the Board has done around pro bono. But
20 there have been some concerns about, whenever the final
21 allocation comes out, whether or not that particular
22 fund will again be added onto the top or will become a

1 dedicated line in the LSC budget.

2 We're very, very supportive of the initiative.

3 And obviously, at the level of your 2014 budget
4 request, we support the Pro Bono Innovation Fund and
5 Technology Initiative Grant and the LRAP.

6 ACTING CHAIR MINOW: Thanks very much.

7 Are there other questions?

8 (No response.)

9 ACTING CHAIR MINOW: No one?

10 PRESIDENT SANDMAN: Thank you, Don. Thank you
11 all.

12 ACTING CHAIR MINOW: Are there any other
13 public comments?

14 (No response.)

15 ACTING CHAIR MINOW: Okay. Hearing none, I
16 think that means that we now can consider and act on
17 other business.

18 (No response.)

19 ACTING CHAIR MINOW: Hearing none, shall we --

20 MR. RICHARDSON: If I may, let me add. We had
21 originally scheduled the Finance Committee meeting for
22 June 24th for Management's recommendation. We have

1 modified that to change the date to July 9th at 11:00,
2 is the plan at this point.

3 MS. MIKVA: I'm sorry, David. I missed that.

4 MR. RICHARDSON: The next Finance Committee
5 meeting is to hear Management's recommendation.

6 MS. MIKVA: Yes. Right.

7 MR. RICHARDSON: We had originally scheduled
8 it for the 24th of June, and we have changed it to July
9 9th.

10 MS. MIKVA: Ninth.

11 MR. RICHARDSON: It's at noon; it would be at
12 11:00.

13 ACTING CHAIR MINOW: And is that a discussion
14 or simply receiving the Management recommendation?

15 MR. LEVI: That's both.

16 MR. RICHARDSON: That's just to receive
17 Management's recommendation.

18 PRESIDENT SANDMAN: No. At that point, there
19 will be discussion of it as well. We're open to
20 discussion on it. We'll present the recommendation at
21 that time, and we'll have time for Board discussion,
22 with further discussion at the meeting of the Committee

1 and Board meeting in Denver.

2 ACTING CHAIR MINOW: Anyone else have further
3 questions?

4 (No response.)

5 ACTING CHAIR MINOW: Okay. Is there a motion
6 to adjourn?

7 M O T I O N

8 FATHER PIUS: So moved.

9 MS. MIKVA: So moved.

10 ACTING CHAIR MINOW: I take that as a motion
11 and a second.

12 MS. MIKVA: Yes.

13 ACTING CHAIR MINOW: All in favor?

14 (A chorus of ayes.)

15 ACTING CHAIR MINOW: Thank you all very much.
16 Thanks for everyone's time.

17 (Whereupon, at 12:29 p.m., the Finance
18 Committee was adjourned.)

19 * * * * *

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