

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

TELEPHONIC MEETING OF THE
FINANCE COMMITTEE

OPEN SESSION

Thursday, June 16, 2011

11:05 a.m.

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

COMMITTEE MEMBERS PRESENT:

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

OTHER BOARD MEMBERS PRESENT:

John G. Levi, Board Chairman
Charles N.W. Keckler
Victor B. Maddox
Laurie I. Mikva
Gloria Valencia-Weber

STAFF AND PUBLIC PRESENT AT THE CORPORATION'S OFFICES:

James J. Sandman, President
Kathleen Connors, Executive Assistant to the President
Victor M. Fortuno, Vice President for Legal Affairs,
General Counsel, and Corporate Secretary
David L. Richardson, Treasurer and Comptroller
John Constance, Director, Office of Government
Relations and Public Affairs
Stephen Barr, Communications Director, Office of
Government Relations and Public Affairs
Treena Aziz, Government Affairs Representative, Office
of Government Relations and Public Affairs
Sean Driscoll, Special Assistant, Office of Government
Relations and Public Affairs
Lora M. Rath, Deputy Director, Office of Compliance
and Enforcement
Jeffrey E. Schanz, Inspector General
David Maddox, Assistant Inspector General for
Management and Evaluation, Office of the
Inspector General
Charles Greenfield, Program Counsel III, Office of
Program Performance
Holly Mowforth, Helaine M. Barnett Summer Fellow

Don Saunders, National Legal Aid and Defenders
Association (NLADA)
Robert Stein, American Bar Association Standing
Committee on Legal Aid and Indigent Defendants
(SCLAID)
Rebekah Diller, Brennan Center for Justice

C O N T E N T S

OPEN SESSION	PAGE
1. Approval of agenda	N/A
2. Approval of minutes of the Committee's meeting of April 15, 2011	4
3. Public Comment regarding LSC's fiscal year 2013 "budget mark"	5
<p>Presentation by Robert Stein on behalf of the American Bar Association's Standing Committee o Legal Aid and Indigent Defense (SCLAID)</p> <p>Presentation by Don Saunders on behalf of the National Legal Aid and Defender Association</p> <p>Comments by other interested parties</p>	
4. Consider and act on other business	46
5. Consider and act on adjournment of meeting	46
Motions:	47

1 PROCEEDINGS

2 (11:05 a.m.)

3 CHAIRMAN GREY: The minutes have been
4 distributed. Are there any corrections or additions?5 MR. RICHARDSON: Robert, if I may, the minutes
6 were not distributed. They will be handed out and
7 included in the July Finance Committee meeting.8 MR. SANDMAN: They've been circulated by
9 e-mail this morning.

10 MR. RICHARDSON: This morning? Okay.

11 MS. BROWNE: This is Sharon Browne. I
12 received a copy of the minutes.

13 CHAIRMAN GREY: Yeah. Me, too.

14 MR. SANDMAN: This is Jim Sandman. I'd make a
15 suggestion. The draft of the minutes, as circulated,
16 makes reference to several resolutions, written copies
17 of which, I believe, were distributed at the meeting,
18 but which are not attached to the minutes.19 And I think the minutes will make more sense
20 and we'll have a better record of what the Committee
21 decided if we were to append the written resolutions to
22 the minutes before they're approved.

1 CHAIRMAN GREY: That's a good point. Why
2 don't we just table those until we meet in Seattle and
3 approve the minutes at that point. Is that okay with
4 everybody?

5 DEAN MINOW: Yes.

6 MS. BROWNE: Yes.

7 FATHER PIUS: Yes.

8 CHAIRMAN GREY: Fine. Item No. 3 is public
9 comment regarding LSC's 2013 budget mark. And do we
10 have Robert Stein and Don Saunders on?

11 MR. STEIN: It's Bob Stein. I'm here.

12 MR. SAUNDERS: Don Saunders. How are you?

13 CHAIRMAN GREY: Good. How are you all? Thank
14 you for joining us.

15 Are you prepared to go forward?

16 MR. STEIN: I am.

17 MR. RICHARDSON: Robert, if I may, is Rebekah
18 Diller on line from the Brennan Center?

19 (No response.)

20 MR. RICHARDSON: She is not. Okay. Because
21 she had sent a message that she would only be available
22 for the first half hour of the meeting. But evidently,

1 she's not been able to make that.

2 MS. DILLER: Hello?

3 MR. RICHARDSON: Yes? Is that Rebekah?

4 MS. DILLER: This is Rebekah. I'm here. I
5 was just unmuting my line.

6 MR. RICHARDSON: Okay. Robert, if you don't
7 mind, why don't we ask Rebekah to go first?

8 MR. STEIN: That's fine.

9 MR. SAUNDERS: All right.

10 CHAIRMAN GREY: Is that okay with everybody?

11 DEAN MINOW: Sure.

12 FATHER PIUS: Fine.

13 CHAIRMAN GREY: Rebekah, you've got the floor.

14 MS. DILLER: Well, thank you so much, and
15 thanks for letting me go first. I submitted some
16 written comments which hopefully were distributed to
17 you all, the thrust of which is just basically, as you
18 all know, the need continues to be tremendous.

19 At the Brennan Center, we've been gathering
20 examples of some of the impact of recent cuts, and we
21 detail these in our written submission, going into
22 layoffs and closed offices and more clients being

1 turned away.

2 And our concern is that in the FY '13 budget
3 request, we would hope that LSC would not come in at a
4 number lower than it did for FY '12 because our concern
5 was that to do so would signal that the situation was
6 somehow not as dire as it is for all the grantee
7 programs.

8 The other thing that we talk about in our
9 written submission is that we think it's important that
10 LSC use its bully pulpit role here to just make clear
11 just how dire the need is and how much the programs are
12 hemorrhaging under both federal cuts and IOLTA drops
13 and state cuts.

14 So I think the rest of -- I think that's
15 pretty much a summary of what we've submitted in
16 writing. And I'm happy to answer any questions, if
17 folks have them.

18 CHAIRMAN GREY: Thank you, Rebekah, and thank
19 you for your time and energy and being on the call.

20 Are there any questions for Rebekah?

21 (No response.)

22 CHAIRMAN GREY: All right. Mr. Stein?

1 MR. STEIN: Thank you. And thank you again
2 for the opportunity to let me come in and make a
3 recommendation on behalf of the ABA and SCLAID. As
4 with Rebekah, you have our memo, so I only want to
5 cover a couple of point.

6 First, I think Terry Brooks and Anne
7 Carmichael are on the call, so if you have any tough
8 questions, please ask them, not me, after I finish.

9 To cut to the quick, based on the current
10 overall resource environment, it is our view that LSC
11 should seek a minimum -- and I want to emphasize that
12 word -- of \$450 million for FY 2013. If the resource
13 environment were not as dire as it was, we certainly
14 would have recommended a much, much hire appropriation,
15 but believe that this would be both unrealistic and not
16 credible. And at this point, we think it's important
17 to make a credible recommendation.

18 In the memo, we offered two perspectives on
19 how LSC might calculate the amount that is required to
20 fulfill its mission. And I think both are worthy of
21 your consideration.

22 First is a look at a legal needs study, to

1 leverage some of the empirical work which has been done
2 in states by the Brennan Center and others in examining
3 the legal needs of the poor. Studies have been done
4 using many different methodologies and by many
5 different researchers, but I think it's clear that all
6 have come to the same conclusion, and it's hard to
7 argue with those findings: The need is far, far
8 greater than our ability to meet it at this time.

9 There's another way to possibly think about
10 this, which is to begin to assess what the demand is
11 for the services. And that would emulate in some way
12 what is being done in the business world, which goes
13 beyond assessing the need, and before a business
14 invests in something, they examine what the actual
15 demand for the product or services will be in the real
16 world.

17 And I think that LSC might look to some
18 analogous enterprises to estimate the demand for the
19 services. In our memo, we talk about prepaid legal
20 services as one analogy for that.

21 We hope that LSC will pursue the collection of
22 data so that it will enable it to more accurately

1 predict the real world demand. And again, by any
2 measure, the resources needed are going to be much
3 larger than the amount currently available.

4 One question which is frequently asked in
5 conjunction with the budget, and I've been asked this
6 when I've appeared before the Finance Committee in
7 years past, is can't we use pro bono as a way to bridge
8 the gap between the amount of federal funding that can
9 be obtained and the amount of resources that are really
10 needed. And some have argued that pro bono
11 contributions by private lawyers can fill the gap.

12 I think that is a flawed argument. I'm sure
13 the bar can do more. Pro bono is already an important
14 component of the delivery system. But even with all of
15 the current contributions of pro bono, we are at best
16 meeting 20 percent of the need for service. So even if
17 we doubled the amount of pro bono, we'd only make a
18 small dent in the overall problem.

19 And, moreover, this doesn't mean that LSC can
20 step down its funding or services because a robust
21 legal aid structure is needed if communities are
22 providing the infrastructure, training, and expertise

1 so that LSC provides an administrative layer, if you
2 will, and LSC funding provides that, to match needy
3 clients with willing volunteer lawyers to make pro bono
4 work. And we need an adequate LSC budget so that this
5 can continue.

6 At the same time, state and local bar
7 associations also immense amounts of funding and
8 in-kind support to keep the pro bono system going, and
9 I believe it will continue to do so.

10 Just one other brief mention about pro bono.
11 The ABA is convening a national summit next fall to
12 examine how to make this component of the system more
13 effective. And one other reference we make in our
14 memo, where we highlight several specifics within the
15 \$450 million request, is that we support the
16 continuation of the LSC LRAP program. Even though it
17 is small, it is important as a step to make it clear
18 that LSC is supportive of lawyers not just joining
19 legal services organizations but making it a career,
20 and the removal of some of their debt will help this.

21 Thank you, and again, I'd be happy to answer
22 any questions.

1 CHAIRMAN GREY: Thank you, Bob, for that very
2 comprehensive analysis. And it's always a pleasure to
3 have you do that.

4 Don?

5 MR. SAUNDERS: Thank you, Robert. And I beg
6 your indulgence with my laryngitis this morning, but I
7 think I can get through.

8 On behalf of all of my colleagues at NLADA and
9 our 1900 members, I want to really express our
10 gratitude to the Committee, the Board, and to your
11 terrific staff for, really, the aggressive advocacy
12 you've demonstrated during your tenure around the
13 essential federal support that provides the basic
14 framework for our nation's system of legal aid.

15 We, like the Brennan Center, urge you to stand
16 firm with regard to your budget request for 2013. The
17 \$516.5 million that you sought last year in our view
18 remains clearly justified and sends a strong signal of
19 support in what we too recognize to be a very, very
20 difficult funding situation in the Congress. But now,
21 more than ever, it's important for LSC to send that
22 strong signal of need, given the growing number of

1 clients that your grantees are seeing and the huge
2 number of problems that are going unserved in this
3 country.

4 I have had the opportunity in prior years to
5 discuss with you many ways of looking at the justice
6 gap in this country, particularly related to some of
7 the findings in the earlier LSC report. Today I just
8 want to spend a moment in really outlining one other
9 way of looking at what has happened over the last 30
10 years in this country with regard to federal support
11 for legal services, and share with some of the Board
12 members who may not be as familiar with the history of
13 federal support for legal aid how we got to where we
14 are today and how far behind we are.

15 As I think you all know, both Senator Harkin
16 and Representative Scott introduced legislation in the
17 last session of Congress that would have reauthorized
18 LSC at a funding level that was equated to the funding
19 level that existed in 1981, \$321 million. I want to
20 talk about why the approach that was taken in 1981 that
21 was the lodestar for the Harkin legislation is still
22 relevant today, and how it illustrates just how far

1 behind we have fallen in our nation's commitment to the
2 cause of equal justice.

3 We've talked a lot lately, and I think very
4 appropriately, about the promise, the constitution's
5 promise, to establish justice. The idea in 1976
6 through 1980 was brought to fruition in this country by
7 definition of our commitment to a national foundation
8 of a minimum access delivery system. It set a
9 benchmark and a definition for the federal commitment
10 to equal justice, and it was tied to factors that are
11 still relevant today.

12 The concept, in expanding legal services from
13 its creation, was to create a very minimal core
14 infrastructure to support the delivery of legal aid in
15 every county in the United States. As you know, before
16 the creation of Legal Services, LSC, great parts of the
17 country, huge parts of the country, had no access to a
18 legal aid program whatsoever.

19 In defining how the government would create
20 that fundamental foundation, the formula was created to
21 fund two lawyers, including the supervisory and support
22 capacity that two lawyers would need, for every 10,000

1 eligible clients. That construct was based upon what
2 had worked in existing programs prior to LSC.

3 The New England programs, for example, were
4 funded a little over \$7 per poor person. If you take
5 that approach, that \$7 per poor person generates enough
6 funding for an office to have two lawyers and support
7 personnel for 10,000 people, you've got a core level of
8 \$70,000.

9 That again was never seen, even in 1976
10 through 1981, as providing anything other than the
11 infrastructure upon which a system could be built. But
12 it was very successful in expanding the reach of your
13 grantees nationally to cover rural New Mexico, or the
14 mountain West, or many, many parts of the country that
15 had never had access to legal services prior to the
16 federal commitment.

17 If you look today, by any measure of how far
18 we have come as a country in terms of the erosion of
19 that federal infrastructure, I mean, you've seen the
20 figure, I'm sure, that if you just inflate to today's
21 dollars the \$321 million appropriation for LSC, you
22 would be looking at almost \$800 million in today's

1 dollars. Again, that would just support the basic core
2 infrastructure as it existed in '81.

3 The other big change, obviously, is there were
4 43 million eligible clients for your services in 1981.

5 That has grown, unfortunately grown, to 63 million
6 eligible persons today. That is one in five Americans
7 is eligible for your service.

8 If you equate both inflation in terms of the
9 value and purchasing power of the dollar and add almost
10 a 50 percent growth in the client population that is
11 eligible for your services, the equivalent
12 funding -- again, I'll remind you, to fund just the
13 basic core function of a national system -- would be
14 well over a billion dollars.

15 Another way of looking at the erosion over
16 time, over the last 30 years, in the federal component
17 of legal aid is that if you look at the 4400-some
18 lawyers that now work for your grantees combined with
19 the number of eligible clients, rather than having a
20 two-lawyer office responsible for 10,000 clients, that
21 figure has grown to over 28,000. The equivalent of the
22 availability of legal services to the non-poverty

1 population in this country is one for every 273 folks.

2 So what we have seen since 1981 is a system
3 where federal support has fallen by a factor of two,
4 while the number of eligible clients has grown by
5 nearly 50 percent. You can make extrapolations among
6 the number of cases that have been closed by those
7 equivalent units over time, and it really demonstrates
8 how far we need to go to just get back to the level
9 that was created there.

10 I think if you're struggling, which we have to
11 do, with 63 million people eligible for our services,
12 that to try to figure out what the actual need is, if
13 you think through that unit of 10,000 people being
14 served by two folk, that would be the equivalent of
15 4,000 households. Even the most conservative studies
16 would suggest that a household would have one legal
17 problem a year. The legal needs studies assume a whole
18 lot more.

19 That would be in the nature of 4,000 cases
20 that would be potentially eligible for service by your
21 grantees. And currently, your figures -- admittedly,
22 we need to work on our data-gathering -- but you're

1 closing somewhere around 250 to 275 cases per client
2 unit, per household.

3 So by looking at those numbers, by
4 understanding the history of that, I think you can see
5 the enormous erosion in federal support. Whether you
6 look at the concept of people who are unable to be
7 served by your grantees, the legal needs studies, or,
8 really, an analysis of the roots of the federal
9 commitment to equal justice, as evidenced by the Legal
10 Services Corporation, we certainly see that the need is
11 overwhelming, and more than justifies a continuing
12 request for \$516.5 million.

13 We have anecdotally, and it's quite prevalent
14 now -- we are seeing that programs are having to lay
15 off significant numbers of staff, advocacy staff,
16 through attrition or through direct layoffs. We fear,
17 with further cutbacks, we're going to get to the point
18 where offices are going to be closed. Access to your
19 grantees is going to be ever more limited. Intake is
20 going to be ever more limited. So clearly, we urge you
21 to be aggressive, even though we fully understand the
22 challenges you'll face in the current atmosphere in

1 Congress.

2 Just a few ancillary points. We, too, support
3 the continuation of the LRAP program. Particularly
4 with the demise of the Department of Education program,
5 we think it's important that LSC stay involved in this.

6 We would suggest you might look at ways in which the
7 program could be reconsidered in light of some of the
8 other existing LRAPs that exist, but we very much
9 support the continuation of that and the technology
10 program.

11 With that, Mr. Chairman, I would want to
12 reiterate our appreciation for all your work and the
13 Committee's work, and commit to you, as you know, the
14 full efforts of NLADA to support and work with LSC as
15 it pursues funding for 2013.

16 CHAIRMAN GREY: Thank you, Don. Thank you to
17 Bob and Rebekah for your continued support and
18 commitment, your very thoughtful comment and
19 suggestions. It is great to know that there are allies
20 of LSC that follow closely the important work that is
21 done, and that we can count on you for your guidance
22 and counsel. So thank you for being here.

1 Is there anyone else on the phone or on the
2 conference that would like to address the Committee?

3 (No response.)

4 CHAIRMAN GREY: I am in receipt of a letter
5 addressed to Vic Fortuno from Lisa Rickard, who is the
6 president of the U.S. Chamber Institute for Legal
7 Reform. Her letter indicates, in response to the
8 notice, that the Chamber and the Institute for Legal
9 Reform would recommend that the LSC request for 2013
10 appropriations be consistent with or below the 2010
11 funding levels. And they've indicated there a
12 long-term interest in not removing the limitation of
13 class actions as a way to better manage the litigation
14 in this country.

15 Any other comments or suggestions regarding
16 the budget that anyone else has received that they
17 would like to share?

18 PROFESSOR VALENCIA-WEBER: Mr. Chairman, this
19 is Gloria Valencia-Weber.

20 CHAIRMAN GREY: Hey, Gloria.

21 PROFESSOR VALENCIA-WEBER: How are you doing?

22 CHAIRMAN GREY: Fine. I hope you are.

1 PROFESSOR VALENCIA-WEBER: I'm looking at the
2 letter from Lisa Rickard, and in terms of the text, I
3 was wondering if in the past or even recently, the
4 Chamber had identified specific cases or activities
5 that fit the terminology they use, "speculative or
6 activist-inspired private litigation." That's their
7 terminology of what they do not think LSC should be
8 involved in.

9 I'm just curious as to have we had specific
10 identification of those kinds of litigation or
11 activities?

12 CHAIRMAN GREY: Is anyone on the call from the
13 staff or other able to answer Gloria's question?

14 MR. CONSTANCE: This is John Constance. For
15 the record, I'm director of Government Relations and
16 Public Affairs.

17 Gloria, no. I don't know that there have been
18 specifics. The letter that was created in the 2011
19 cycle, as I recall, also made these kinds of relatively
20 broad charges, but no specifics as to those were
21 brought forward.

22 PROFESSOR VALENCIA-WEBER: Thank you.

1 MR. LEVI: And does anyone ever meet with the
2 Chamber to understand their position better or to
3 really, in a sense, deal with some of the myths that
4 seem to be central to that letter? And is that not
5 inappropriate? John?

6 MR. CONSTANCE: John again, John Constance. I
7 believe that the previous board did have a delegation
8 that met with the Chamber at one point. I would also
9 like to -- given the fact that I've got the floor, I'd
10 like to point out that the Chamber is recommending an
11 increase in funding for LSC for 2013.

12 We're currently at 404. If we went to the
13 2010 level, we would restore our level to \$420 million,
14 which is the highest that the Corporation has reached
15 in history. So while they are making these charges,
16 the core recommendation that they are making is an
17 increase and not a decrease in our funding.

18 MR. LEVI: I understood that. I do think
19 there's a surprising, still -- and it's not surprising,
20 given the limited ability of a few Board members and of
21 a small staff to cover all the bases. But more
22 information is better than less.

1 FATHER PIUS: I think if you look at the
2 Institute for Legal Reform's website, they have a
3 fairly extensive section on class actions, with all
4 their research and news and their position. I mean,
5 their positions are rather broad, but they do have a
6 number of research papers they cite to. So that's
7 probably where they're getting the information from.

8 MR. LEVI: Yes. And we can't help them on
9 that front. But we can certainly articulate what's
10 happening in our grantees and their attempts to deal
11 with the population that they're seeing in record
12 numbers.

13 MR. MADDOX: John, this is Vic Maddox. I
14 haven't seen the letter that --

15 MR. LEVI: Oh, it's in the packet.

16 MR. MADDOX: All right. I haven't seen it.
17 I'm actually in my car listening.

18 MR. LEVI: Well, then, be careful. Don't
19 drive off the road.

20 MR. MADDOX: I'm on a Bluetooth. It's fine.
21 I just wanted to mention that Louisville Legal Aid
22 Society has just recently filed a complaint against the

1 Jefferson County, Kentucky School District alleging
2 disparate impact of disciplinary procedures in the
3 schools, and claiming that the assignment of students
4 who have been disciplined to special schools that are
5 designed to deal with that kind of student is
6 discriminatory, and alleging all manner of violations
7 of civil rights and the like.

8 And the lawsuit was filed as co-counsel with
9 the Southern Poverty Law Center. And I have to tell
10 you that it troubles me that our grantees are using
11 legal aid services, Legal Services Corporation dollars,
12 to pursue litigation of that sort which I think is
13 inconsistent with the primary purpose of the grant for
14 legal aid societies around the country.

15 I haven't spoken with the executive director
16 about it yet, but I plan to. I want to mention this
17 because, frankly, the use of the word class is
18 troubling. When I see legal aid grantees like the
19 Louisville Society using federal dollars for litigation
20 that I think really takes away from serving the needs
21 of women who are abused, or children who are denied
22 child support, or people who have their homes

1 foreclosed on, and the like.

2 And again, I don't have all the facts. I
3 haven't spoken to the director yet. I plan to. But
4 the lawsuit is a matter of public record. It's been
5 filed with the Department of Education in Washington,
6 and it asks for a broad range of affirmative relief
7 against the school district that would ultimately cost
8 millions of dollars.

9 So it's troubling to me as a Board member, and
10 I just wanted to point that out.

11 CHAIRMAN GREY: Any other comments with regard
12 to LSC funding?

13 DEAN MINOW: It's Martha, Robert, Martha
14 Minow. This is a longer term issue. But I very much
15 appreciate the support from NLADA and others. But I
16 think it must be clear that simply repeating any kind
17 of formula about how need is assessed is not persuasive
18 to those who are critical. And it makes me think that
19 we have a much greater need for developing the kind of
20 research that indicates the effectiveness of legal
21 representation and, as Vic just said, in different
22 domains, in particular areas.

1 So this is not necessarily for this Committee,
2 but it is raised by the questions that are on the
3 table.

4 CHAIRMAN GREY: Thank you.

5 Any other comments or thoughts?

6 FATHER PIUS: Can I just ask -- this is Father
7 Pius -- just a quick question, just on the scheduling
8 of the -- I know this is all part of -- this conference
9 call is in lead-up to our FY '13 fiscal recommendation.

10 What's the rest of the schedule on that? Will
11 the Committee then make its recommendation to the Board
12 at our July meeting? Or can you just remind me of how
13 we're going forward?

14 CHAIRMAN GREY: Is Vic Fortuno on?

15 MR. FORTUNO: Yes, I am.

16 CHAIRMAN GREY: Vic, we just had an e-mail
17 exchange. Could you share that with Father Pius?

18 MR. FORTUNO: Yes. The substance of the
19 exchange was that you've heard some proposals today,
20 and that you might want to consider taking some time to
21 study these proposals carefully and scheduling a
22 meeting for the very near future so that you could

1 actually discuss the competing proposals, and to do
2 that before the management recommendation is submitted
3 so that that discussion might help to inform the
4 management recommendation.

5 That recommendation would be made -- I think
6 the discussions so far have been -- on the 27th. You
7 would get it some time shortly before that, and on the
8 27th be able to take up management's recommendation,
9 the hope being that the Committee be in a position to
10 settle on a recommendation to make to the full Board at
11 the meeting in Seattle next month.

12 MR. LEVI: But the Finance Committee would
13 have its meeting, but its recommendation would not be
14 forwarded to the Board -- I guess it would be
15 forwarded, but the Board would not expected to act on
16 that at that meeting.

17 FATHER PIUS: When were we thinking of acting
18 on it, John? Have we set a date?

19 MR. LEVI: We would be acting on it later on.
20 I promised people we would not do the two-step type of
21 dance, and I'll schedule either a phone call or we'll
22 do it at another time, in September or, I guess,

1 traditionally when they have acted.

2 MR. CONSTANCE: John, this is John Constance.

3 By virtue of the fact that, I think appropriately, you
4 had moved up the schedule for our deliberations this
5 year, we're on the hook for on or about Labor Day
6 having this submitted to OMB.

7 MR. LEVI: Okay.

8 MR. CONSTANCE: So that's the end point of the
9 process that we have, that we're kind of on the hook
10 for at this point. It also -- and I don't want to
11 obviously get into it now -- it also would be the same
12 time that OMB would be expecting to receive a
13 legislative recommendation regarding language on the
14 census issue.

15 So they have informed us that both of those
16 would be timely the first week in September.

17 MR. LEVI: Well, my point, though, is that in
18 July, which is what I hoped, the Finance Committee
19 would deliberate and come up with a recommendation. It
20 would be forwarded to the Board. The Board would study
21 it, and we'd take it up a few weeks later, probably by
22 phone call.

1 MS. BROWNE: This is Sharon Browne. When the
2 management comes up with its recommended budget for
3 2013, and if it changes, could we make sure that any
4 changes are backed up with some justification, and not
5 just an increase in the budget but I'd like to know how
6 the money would be spent and why.

7 CHAIRMAN GREY: Yes. Sharon, this is Robert.
8 I don't want to presume anything, but I do think that
9 it is our responsibility to be able to justify what
10 we're doing. So whatever we decide to do, we ought to
11 be able to justify. It's not if it goes one way or the
12 other. I think it's time for us, with the present
13 group assembled, that that's something we do every
14 time, for anything that we do.

15 MS. BROWNE: Okay. I appreciate that.

16 CHAIRMAN GREY: I appreciate the comment.

17 MR. CONSTANCE: Robert, this is John
18 Constance. Speaking just out of sheer personal
19 interest and personal terror as the guy that's going to
20 be the one carrying this eventual message to Capitol
21 Hill, I just wanted to say this, that I think it was a
22 very, very good decision on your part and on Chairman

1 Levi's part to flip this around in some way and have
2 the public input today, prior to management putting
3 together our proposal.

4 I think it would be very, very helpful,
5 though, to have some sense, before management puts
6 their proposal together, of what your reaction was to
7 what you heard today and what kind of input you're
8 going to find persuasive for management, particularly
9 in the area of basic field.

10 I mean, obviously we're going to be able to
11 craft recommendations and a structure as to what
12 happens at 3333 K Street. But in terms of the grant
13 program itself, and while I would completely support
14 what Martha said regarding that old formulas may not be
15 as persuasive as we'd like them to be, what the
16 formulas are or what the metrics you all are going to
17 be looking for in evaluating management's proposals
18 would be very, very helpful, I think, going forward.

19 CHAIRMAN GREY: John, this is Robert. I think
20 we're on the same page. And we're not going to
21 put -- we're going to do this with -- John, I think,
22 has laid out a very constructive approach that will

1 fully inform the decision-making on this process of
2 budgeting. And we're going to take all the steps that
3 are necessary to inform each other, the give the
4 maximum amount of information to be digested for an
5 informed decision.

6 So that's a long way of saying we'll do the
7 preliminary discussion that Vic Fortuno outlined, and
8 then we'll be prepared to make a recommendation for the
9 Board's consideration. And as everyone has indicated,
10 we're going to do that in a very thoughtful manner and
11 be able to back up whatever it is we are going to
12 suggest.

13 MR. LEVI: One other thing I'd like to mention
14 for management's consideration. I would ask them to
15 make a phone call to David Stearn, who let me know of
16 the fact that in the mid-'90s, LSC had a program that
17 was called the Rural Legal Corps.

18 And it used \$200,000, and then that was
19 matched by Equal Justice Works and others, that then
20 supported a year-long fellowship that, like a
21 clerkship, got recent graduates of law schools to go
22 out in rural America and spend a year. And the results

1 from that were dramatic in terms of helping rural
2 America deal with the lack of lawyers available, and
3 some actually ended up living where they worked.

4 This is the kind of program that I know, even
5 in talking with Republican members, they would be
6 interested in knowing that it's leveraging a federal
7 dollar. That we're coming up with initiatives of this
8 kind is a matter of great interest to them, too. And
9 many of their states are affected by this.

10 So I'd like to understand whether this isn't
11 something we could, even in this budget, put a small
12 amount in to restart something like that. We need help
13 from you all, though, to -- and this is a little ahead
14 of our strategic planning process.

15 But because I've become aware of this, I don't
16 want to wait another year to have it considered. And
17 we have to talk to Equal Justice Works. Would they be
18 willing to match it, and what number are we talking
19 about? It doesn't have to be a particularly big
20 number. But that's the kind of thing I would like to
21 see consideration of.

22 The other thing I'd like to see consideration

1 of from management is the kind of thing that we all
2 understand. Take, for example, the Chicago office.
3 When is the last time they had a raise? How many
4 people were laid off? What's happening with their case
5 load? Maybe you could give us a snapshot of what's
6 happening in a couple of our grantees so that, in a
7 sense, the number isn't so global but has some
8 grounding in addressing concerns at a local level.

9 And I think that, to me, would be helpful. I
10 know what Martha's talking. We can't accomplish all of
11 what Martha's talking about in this short period of
12 time, but can we do some of it?

13 So those are two questions for management.

14 MR. SANDMAN: This is Jim Sandman. We'll
15 follow up on both.

16 MR. LEVI: And happy birthday, Jim.

17 MR. SANDMAN: Thank you, John.

18 MR. LEVI: That was a heck of a present,
19 wasn't it? It is his birthday today, folks.

20 CHAIRMAN GREY: Happy birthday, Mr. President.

21 DEAN MINOW: Maybe the present is we won't
22 sing.

1 (Laughter.)

2 MR. SANDMAN: I appreciate that.

3 MR. LEVI: But I think that will help people
4 understand. When we hear from these programs about the
5 fact that their salaries have been cut, they're the
6 lowest-paid in the profession, they haven't had a raise
7 in years -- well, that's the kind of message that
8 Congress wants to hear. And when I've talked to -- I
9 won't name names, but both sides of the aisle, they
10 don't know this.

11 CHAIRMAN GREY: John, as always, you make a
12 lot of sense. But I was surprised, when I had the
13 conversation I had with Eric Cantor, how little he
14 knew.

15 MR. LEVI: Yes. Right.

16 CHAIRMAN GREY: And I think it is important
17 that our story -- that we have a way of informing
18 people, in a very cogent manner, what is happening on
19 the ground. And that ought not ever be stale, and
20 ought to always be current and vital to our mission and
21 our discussions with others.

22 MR. LEVI: And it's become clear to me that if

1 we don't do this, nobody is.

2 CHAIRMAN GREY: Well, I think that's
3 right -- well, there are a lot of people out there --

4 MR. LEVI: No. I don't -- look.

5 DEAN MINOW: Let me make a suggestion as far
6 as --

7 MR. LEVI: I shouldn't -- I don't mean nobody.
8 That's unfair.

9 DEAN MINOW: -- as to John Constance has a
10 question, what metrics would the Board be looking to to
11 assess management's recommendation. And my
12 suggestion -- it's not global -- but among the metrics
13 we're interested in, as these comments indicate, is an
14 ability to talk in a finer grain detail about rural
15 versus urban needs and the special difficulty where
16 there are no possible pro bono services. That's one.

17 And second is this idea of leveraging,
18 matching, as well as finding ways to recruit and retain
19 younger staff people; and therefore, the importance of
20 dimensions of the program that do that.

21 And a third, to the extent that it's possible,
22 is to -- without going all the way in the direction

1 that I indicated, could nonetheless talk about those
2 areas where there's no dispute. There's no
3 partisanship about need, instead of these global,
4 per-person legal needs.

5 MR. LEVI: Yes.

6 FATHER PIUS: Yes. This is Father Pius. And
7 I might even ask that the total funding picture,
8 especially the way in which federal funding has taken a
9 larger share of the funding for our grantees and to
10 help us understand how that's changed, especially over
11 the last two or three years.

12 MR. LEVI: Yes. For example, when John
13 prepares me, or any of us, for visits with
14 congressional members, and you give us, for example,
15 the last three years of IOLTA data, I think, if I
16 recall correctly, from 2008 to 2010 it went from 110 to
17 68 million, something like that, and projected to go
18 even lower this year.

19 And then what you've been showing when -- it
20 doesn't matter what district I'm going to -- what
21 congressional district, that is -- the facts seem to be
22 almost uniformly the same: less money coming in to the

1 entity, more need going out, more pressure on the
2 grantee.

3 I had a conversation with Governor Thornburgh,
4 who's going to be on our pro bono task force. He'd
5 gone up to the Pittsburgh grantee, where he as a young
6 lawyer, I think, did some work. And he was stunned at
7 the pressure they were under.

8 I think these stories are not unique. I think
9 these are the stories of almost every single grantee.
10 Somehow, the budget proposal needs to reflect that.

11 CHAIRMAN GREY: John -- by the way, all of
12 you, Father Pius, Dean Minow, John -- those are very,
13 very important comments you all made.

14 John and I had a long conversation about this
15 formula concept, and a lot of these issues were raised
16 in our discussion that was a part of an earlier
17 discussion he had with the ABA and folks.

18 And so, John, I think what you're hearing,
19 maybe you and David, with Jim and Vic, can take the
20 very, I think, salient points and give that back to us
21 in that discussion that we're going to have on the 27th
22 or thereabouts so that we might feel like we're on the

1 same page going forward.

2 MR. CONSTANCE: We can certainly do that,
3 Robert. Not a problem.

4 CHAIRMAN GREY: I mean, you get the same
5 impression that I get, that this is very much the
6 direction that we were discussing?

7 MR. CONSTANCE: Yes. I think it is. The
8 challenge that we have -- and again, I think that one
9 of the approaches, and certainly it's the approach that
10 ABA has presented today as well as NLADA, is to look at
11 a number that is well out there, clearly, in terms of
12 what the total need is.

13 And I think one can argue about how you
14 accomplish that or how you get there. Then there are
15 two other numbers in play. One is something a lot
16 closer to what the President's request has been over
17 the last several years, which is probably a number
18 that, certainly in political terms, is within the realm
19 of the possible.

20 And between those two goalposts, between those
21 two numbers, is the number out there in the 500 million
22 plus, which I'm often asked, what is that number? What

1 does that number represent? What do we buy for that
2 number?

3 And so that's what I mean regarding the
4 metrics. I think the number of these percentages, the
5 number of these things that we can do -- but I think
6 the dilemma that this Board has, and I think previous
7 boards have had, is that, is that in-between number and
8 what does it really represent?

9 CHAIRMAN GREY: Well, that's not for this
10 meeting.

11 MR. CONSTANCE: Oh, I understand.

12 CHAIRMAN GREY: Yes. Well, and what I think
13 we are looking for is a very thoughtful and informed
14 conversation with the staff, now that we have the
15 comments from the public and the suggestions from the
16 organizations of interest. I think then we can work
17 towards some of the -- not work, we can be better
18 informed and make a thoughtful recommendation.

19 But without deciding next time, let's have a
20 vigorous, informed discussion about how we get there.

21 MR. LEVI: Yes. And Robert --

22 MR. MADDOX: John, I'm sorry. Victor Maddox

1 here. I have to ring off. But I just want to say I
2 think this has been a very helpful meeting. I
3 appreciate the public comments and the discussion among
4 the Board. It's been extremely informative and
5 helpful. And I'm looking forward to continuing the
6 discussion.

7 So thanks for putting this together this way.
8 And I'll be hanging up.

9 MR. LEVI: And Vic, thank you. I'm sorry
10 you're having to hang up. I'm not going to say
11 anything you would be upset about, I promise.

12 (Laughter.)

13 MR. MADDOX: All right. Take care.

14 MR. LEVI: What I am going to say is it
15 occurred to me that we're getting together in Cambridge
16 as a Board on the 2nd of August, and that if the Board
17 has questions -- the Board could decide in Seattle that
18 it likes the presentation, or it wants questions, or
19 whatever -- it has questions, it wants more
20 information.

21 We might be able to figure out a way to use
22 some of the time there, when we're all together to

1 address that as a part of the budgeting process as
2 well. It might extend the meeting an hour, but it
3 might be well worth it.

4 So I just throw that out there. I just
5 realized, in terms of the scheduling, that we are
6 coming back together again ten days later. And maybe
7 that would be helpful in the process.

8 CHAIRMAN GREY: That's a good thought, John.
9 And just make sure we make -- if we decide to go that
10 route and --

11 MR. LEVI: Well, what it means is that, based
12 on the Board's and the Committee's questions that might
13 come up in Seattle, that there you would have
14 basically -- it's not even two weeks, but it's
15 something like that -- the following week to really see
16 if they could get dealt with, or at least progress made
17 and the Board given some sense of where it's going by
18 the 2nd, that it would feel comfortable that we don't
19 have to get together in person again, at least, to
20 handle the budget thereafter.

21 But I just think, in terms of people's
22 schedules, if that seems realistic, we might want to

1 consider adding -- I want people to be able to get home
2 the night of the 2nd. But I will talk with Mattie and
3 the strategic planning folks and see if it's possible
4 that we can take an hour from somewhere for the finance
5 end of things.

6 CHAIRMAN GREY: Thank you, John.

7 PROFESSOR VALENCIA-WEBER: This is Gloria. I
8 want to also propose -- not necessarily for that August
9 meeting -- but we need to talk about what is behind the
10 number we're requesting. And certainly we have to deal
11 with the metrics that we tell our story for the
12 ultimate number we request.

13 What I also want us to spend some time in the
14 future discussing that which cannot be reduced to a
15 metric or arithmetic or even demographic analysis.
16 We've already touched on some of this in the materials,
17 the letters submitted today and John's discussion about
18 the potential for a rural legal fellowship.

19 And that is that there are some very important
20 and substantive qualitative issues that do not lend
21 themselves to counts, to formulas. And this is true of
22 all of our rural areas. We have a number of counties

1 in which there are your lawyers, even if you had the
2 money to buy the services. And it's part of what has
3 evaded, from my looking at the past materials, for
4 instance, analyzing the Native American needs. I have
5 not yet delved into the migrant needs analysis.

6 But there are some things that are going to
7 defy metric measures but that are substantive and
8 important and justify our providing those legal
9 services.

10 CHAIRMAN GREY: Thank you, Gloria. Those are
11 very important comments that we will be sure to factor
12 in as we consider this. Very important.

13 Any other comments?

14 FATHER PIUS: Just a very quick one. Father
15 Pius. In terms of, especially, the management's
16 report, if there's an increase that's proposed, what
17 might be helpful is what does that increase give us in
18 concrete terms. I don't know if you've done that
19 before, but if you give X million dollars more to these
20 grantees, how many more lawyers does this mean? How
21 many more cases does this mean that's handled? That of
22 thing. That might make a good presentation.

1 Anyway, just something to think about.

2 CHAIRMAN GREY: Not something to think about,
3 something we've got to do if we're going to do it.

4 MR. LEVI: I mean, when we heard from the
5 fellow in Western Virginia that, well, that 15 million
6 cut may not seem like a lot to us, but it caused him in
7 a program that had only a handful of FTEs to lose a
8 half FTE, that 30,000, that's what it means.

9 See, that staff, we -- for budgeting, those
10 are the stories we need to --

11 FATHER PIUS: Yeah. And it's that kind of
12 concrete detail, I think, that's important for
13 making -- you know, we're talking, what does this mean
14 in terms of lawyers hired? How much more are we
15 getting out of this for this amount of money? And if
16 we can make the case that we're getting a lot more than
17 we realize, that's going to make a difference.

18 PROFESSOR VALENCIA-WEBER: I think
19 that -- this is Gloria -- that's very important,
20 including, possibly, some of the stories of our more
21 recently hired cohort of lawyers. Why, given the
22 disparity between our salaries and what's otherwise

1 available both in private or governmental employment,
2 why they're choosing that.

3 I recently had a conversation with two of my
4 recent New Mexico graduates, each of whom is now
5 working for a legal services grantee. And their
6 decision-making process was interesting to me. The
7 potential for LRAP relief was possible, but their views
8 about what they hope to do at this point are certainly
9 aspirational and they're trying to live up to them.

10 Why are the lawyers in the new cohort making
11 this decision, and what we can do to make this become a
12 career choice for them, is critical.

13 CHAIRMAN GREY: Very good. Thank you.

14 Any other thoughts or comments?

15 MR. LEVI: Thank you, Mr. Chairman. You're
16 doing a great job.

17 CHAIRMAN GREY: Well, no. Thank you. This
18 has been -- I think this is very helpful, and the
19 staff. And I hope that this will be of great help in
20 where we want to go as a Board and as the Finance
21 Committee of the Board. We'd like to understand what
22 we think is important, and we want to hear what you

1 think is important from a staffing standpoint or for
2 the negotiation process to be successful.

3 So who's going to contact -- Jim, you're going
4 to make sure that we get realigned with a meeting to
5 have this discussion?

6 MR. SANDMAN: Yes.

7 CHAIRMAN GREY: And I think at that point we
8 will have a good idea of what we want to do when we get
9 to -- after that meeting, we should have a pretty good
10 idea of what we want to do when we get to Seattle.

11 Anything else?

12 PROFESSOR VALENCIA-WEBER: Just thank you for
13 the meeting.

14 CHAIRMAN GREY: Great. Thank you.

15 There being -- so let's see. No. 4 is
16 consider and act on other business. Is there any other
17 business?

18 (No response.)

19 CHAIRMAN GREY: If not, I'd entertain a motion
20 to adjourn.

21 //

22 //

1 M O T I O N

2 FATHER PIUS: So moved.

3 MS. BROWNE: Second.

4 CHAIRMAN GREY: It's been moved and seconded.

5 All in favor say aye.

6 (A chorus of ayes.)

7 CHAIRMAN GREY: Have a good weekend. Thank
8 you.

9 (Whereupon, at 12:00 p.m., the Finance
10 Committee meeting was adjourned.)

11

12 * * * * *

13

14

15

16

17

18

19

20

21

22