

LEGAL SERVICES CORPORATION

BOARD OF DIRECTORS MEETING

OPEN SESSION

Monday, September 21, 2009

1:09 p.m.

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

BOARD MEMBERS PRESENT:

Frank B. Strickland, Chairman  
Michael D. McKay  
Thomas A. Fuentes  
Sarah Singleton  
Herbert S. Garten  
Jonann Chiles (telephonic)  
Bernice Phillips-Jackson (telephonic)  
Laurie Mikva

ALSO PRESENT:

Helaine M. Barnett, President

## STAFF AND PUBLIC PRESENT:

Treefa Aziz, Government Affairs Representative,  
Government Relations and Affairs Office

Steve Barr, Government Relations and Public Affairs  
Office

Terry Brooks, American Bar Association

Julie Clark, NLADA, National Legal Aid and Defenders  
Association

Mattie Cohan, Senior Assistant General Counsel, Office  
of Legal Assistance

Kathleen Connors, Executive Assistant, Government  
Relations and Public Affairs Office

John Constance, Office of Government Relations and  
Public Affairs

David de la Tour, Office of Compliance and Enforcement

Sean Driscoll, Office of Government Relations and  
Public Affairs

Karen M. Dozier, Executive Assistant to the President

Victor M. Fortuno, Vice President for Legal Affairs,  
General Counsel, and Corporate Secretary

Joel Gallay, Special Counsel, Office of Inspector  
General

Michael Genz, Program Counsel III, Office of Program  
Performance

## STAFF AND PUBLIC PRESENT: (continued)

Charles Jeffress, Chief Administrative Officer

David Maddox, Assistant Inspector General for  
Management and Evaluation, Office of Inspector General

Ronald "Dutch" Merryman, Assistant Inspector General

John Meyer, Director, Office of Information Management

Linda Perle, CLASP

Julie Reiskin, LSC Board nominee

David Richardson, Treasurer and Controller

Don Saunders, NLADA, National Legal Aid and Defenders  
Association

Jeffrey Schanz, Inspector General

Cynthia Schneider, Deputy Director, Office of Program  
Performance

Daniel Sheahan, Program Evaluation Analyst, Office of  
Inspector General

Robert Stein, SCLAID

Julie Strandlie, American Bar Association

Laurie Tarantowicz, Office of Inspector General

Evora A. Thomas, Program Counsel III, Office of Program  
Performance

Katherine Ward, Office of Legal Affairs

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Motions: 5, 9, 21, 24, 30, 34, 36, 43, 46

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

2 CHAIRMAN STRICKLAND: Good afternoon,  
3 everyone. We will now convene a meeting of the Board  
4 of Directors of the Legal Services Corporation, called  
5 pursuant to notice published in the Federal Register.  
6 Today is September 21, 2009.

7 CHAIRMAN STRICKLAND: The first item to be  
8 considered is approval of the agenda. Is there a  
9 motion to approve the agenda?

## 10 M O T I O N

11 MS. SINGLETON: So moved.

12 MR. FUENTES: Second.

13 CHAIRMAN STRICKLAND: Any discussion?

14 (No response.)

15 CHAIRMAN STRICKLAND: Hearing none, all in  
16 favor, please say aye.

17 (Chorus of ayes.)

18 CHAIRMAN STRICKLAND: Opposed, nay.

19 (No response.)

20 CHAIRMAN STRICKLAND: The ayes have it and the  
21 agenda is approved.

22 First, let me acknowledge the presence of

1 Julie Reiskin, one of the nominees to our Board. We  
2 welcome you today, Julie, and hope you're learning a  
3 lot while you're here.

4 MS. REISKIN: I am. Thank you.

5 CHAIRMAN STRICKLAND: The next item on the  
6 agenda is to consider and act on adoption of LSC's 2009  
7 Justice Gap Report. Who will be the presenters on  
8 that item?

9 MS. BARNETT: I will.

10 CHAIRMAN STRICKLAND: Welcome, Helaine. We're  
11 glad to hear your presentation.

12 MS. BARNETT: Thank you very much. We  
13 distributed to the Board a red-lined version of the  
14 Justice Gap Report reflecting changes that we are  
15 proposing for the Board's consideration based on  
16 discussion of the members of the Board at the September  
17 8 meeting where we discussed the justice gap.

18 I will say you will find various minor  
19 corrections that we have made to this draft, but the  
20 significant incorporation in this draft is a  
21 recognition of pro bono efforts. There is a  
22 substantive discussion beginning on page 22 under the

1 third methodology.

2           Accordingly, we have also added to the  
3 executive summary at page three a recognition of pro  
4 bono contributions, and again, we have added to our  
5 conclusion beginning on page 30 the recognition that  
6 this is a multi-faceted approach to closing the justice  
7 gap, which will include partnerships among the Federal  
8 and state governments, the organized Bar, individual  
9 lawyers, private funders and concerned parties.

10           I would just open up the discussion with  
11 pointing out that major substantive addition and be  
12 happy to answer any questions related to any of the  
13 other suggested changes.

14           CHAIRMAN STRICKLAND: I want to first thank  
15 Helaine and the management team and others for their  
16 good work in making modifications to the first draft  
17 that we saw at a previous meeting, and with that  
18 comment, I will entertain any questions Board members  
19 may have about the revised draft we have before us.

20           MR. MCKAY: Mr. Chairman, I do thank the staff  
21 for their good work in response to our comments from  
22 the Board at our meeting earlier this month.

1           I do have a problem with a couple of entries,  
2     inviting your attention to page 22, footnote 30. This  
3     is the study that Mr. Stein referenced earlier today.  
4     I did not have a chance to look at the ABA's study.  
5     It's cited here.

6           I have to tell you, I feel very uncomfortable  
7     with that number. I am sure the study reflects that.  
8     I just don't believe 73 percent of the attorneys in  
9     this country donate their time to pro bono services.  
10    Maybe it's how they define "pro bono," those who  
11    responded to this question. That might be a problem.

12           I just have to tell you, I feel uncomfortable  
13    for LSC to put that in its report. It's certainly  
14    inconsistent with my experience in the greater Seattle  
15    area, and that happens to be one of the stronger pro  
16    bono areas in the country.

17           I would propose that we delete footnote 30.

18           Since I have the floor, I'll just make a  
19    similar observation relating to a sentence you can find  
20    on page 23, the end of the first paragraph, the last  
21    sentence, which reads "Even if we could quantify the  
22    private attorney pro bono contribution to low income



1 individuals and families, it would not dramatically  
2 change the ratio of lawyers serving the poor."

3           It has been my personal belief that if we  
4 could get every attorney to donate time, and that's not  
5 just attorneys in private practice but attorneys in  
6 Government service, in-house attorneys for  
7 corporations, law school faculty members and so forth,  
8 I think it would dramatically change the ratio.

9           I don't think we need to debate it today. I  
10 just feel uncomfortable for us to put that sentence in  
11 the report. I would propose that we delete footnote 30  
12 and the last sentence of the first paragraph on page  
13 23.

14           CHAIRMAN STRICKLAND: Let's get all comments  
15 before we proceed with a motion or is that a motion?  
16 How would you prefer to proceed? Item by item?

17                                   M O T I O N

18           MR. MCKAY: You're the Chair. I guess I would  
19 make a motion if you would entertain a motion.

20           MR. FUENTES: Second the motion.

21           CHAIRMAN STRICKLAND: So moved. Is there any  
22 discussion on the motion made by Mike McKay?

1           MS. SINGLETON: I would prefer that it be  
2 broken out. I think we could fix footnote 30 by saying  
3 LSC cannot comment on the methodology used by the ABA,  
4 but here are the statistics the ABA reports, so we are  
5 not in effect adopting their numbers.

6           I guess I agree -- I don't mind taking out the  
7 last sentence on page 23.

8           CHAIRMAN STRICKLAND: Is that acceptable to  
9 you, Mike, with that notation?

10          MR. MCKAY: If this were an one member Board,  
11 I say no, I would not put it in there because even if  
12 we say geez, it's there, but we can't comment on its  
13 accuracy, by putting it there, we're suggesting it  
14 might be accurate.

15          I have a real problem with that, but I will  
16 admit, and I said at the beginning of my comments, I  
17 haven't carefully studied the study, so I don't mean to  
18 suggest that there is anything wrong with it. It's  
19 just really inconsistent with my experience.

20          I would propose we drop it, but I certainly  
21 don't want to quibble.

22          CHAIRMAN STRICKLAND: I would also say in my

1 experience in Atlanta, Georgia, I don't believe 73  
2 percent of the lawyers in the Atlanta Bar contribute  
3 significant pro bono work.

4 MR. GARTEN: I'd have to agree with that also.

5 CHAIRMAN STRICKLAND: I think it's an  
6 unusually high number and I don't know why it's so  
7 high. To me, that is inconsistent with my experience  
8 in Atlanta.

9 MR. GARTEN: With the qualification in the  
10 footnote that the study reports as follows, what is  
11 wrong with that?

12 MR. MCKAY: The only problem I have with that  
13 is that it somehow suggests that we agree with that,  
14 and I think several of us now have problems with the  
15 accuracy of that number.

16 We as a Board for the last two or three years  
17 have really been focusing on the importance of getting  
18 the private Bar more involved. If people look at this  
19 footnote without carefully looking at the language as  
20 we carefully describe our role or our view of this  
21 study, they will think, geez, you have 73 percent  
22 already involved, that's pretty darn good.

1           I think that undermines really our role. It  
2 is something I've personally been involved in and very  
3 concerned about for my entire legal career, getting  
4 more attorneys to donate their time.

5           I guess I'm just concerned about the message  
6 it would send if we put this in our report.

7           CHAIRMAN STRICKLAND: Laurie?

8           MS. MIKVA: That's exactly my point, I think  
9 it sends the wrong message, oh, we have all the  
10 attorneys involved, we have accomplished our mission.  
11 I think that's not so.

12           CHAIRMAN STRICKLAND: Or stated differently,  
13 if you can achieve 73 percent, that's probably as good  
14 as you're going to be able to get. You're not going to  
15 get to 100 percent. Several of us are saying in our  
16 own experience, that's not the level of participation  
17 we see in our own communities, which are large  
18 metropolitan areas.

19           MS. MIKVA: I'm not sure what the footnote  
20 says either. For that reason, I would take it out as  
21 well.

22           CHAIRMAN STRICKLAND: We are back down to

1 consideration of Mike's motion.

2 MR. GARTEN: I'll second the motion.

3 CHAIRMAN STRICKLAND: I think it was seconded.

4 Is there any further discussion on Mike's  
5 motion, which as I understand it is to delete footnote  
6 30 in its entirety and the last sentence of the  
7 paragraph that begins on page 23, beginning with "Even  
8 if" and ending with "serving the poor?"

9 (No response.)

10 CHAIRMAN STRICKLAND: Let's proceed to a vote  
11 on that motion. All those in favor of the motion,  
12 please say aye.

13 (Chorus of ayes.)

14 CHAIRMAN STRICKLAND: Opposed, nay.

15 (No response.)

16 CHAIRMAN STRICKLAND: It's an unanimous vote  
17 that those two items will be deleted.

18 Any other discussion on the revised draft of  
19 the Justice Gap Report? Tom?

20 MR. FUENTES: Mr. Chairman, thank you, and  
21 thank you to all those who participated in this  
22 revision. I think that good and wholesome and open

1 dialogue which we had at our last meeting began with  
2 concerns about the initial draft of the Justice Gap  
3 Report.

4 I continue to have a concern about the tone of  
5 the document in the overall. That concern, I think,  
6 could be relieved with some language change.

7 I generally believe that all of us around this  
8 table share a common concern to meet the legal needs of  
9 the poor, but we always seem in the language of this  
10 document to put Government first, Washington first,  
11 then the states, then the local, then maybe organized  
12 Bar, then maybe corporations, and then finally we get  
13 down to the lawyers of the nation. Of course, it is  
14 only the lawyers of the nation who can themselves  
15 render legal assistance in the way that is our  
16 direction and concern.

17 For instance, I would ask you to turn to page  
18 three. In red, you see "a multi-faceted approach which  
19 will include a partnership of," and there it is,  
20 "Federal and state governments, private funders, the  
21 organized Bar, individual lawyers and concerned private  
22 parties."

1           It seems to me that we could send a wonderful  
2 message to the nation and to our nation's lawyers that  
3 our first concern is to stimulate and encourage their  
4 involvement by putting them first and to reorganizing  
5 this enumeration and language.

6           LSC has a role of moral, consequential  
7 leadership to be a voice for the poor, like few others  
8 in that position in America, to send the message lawyer  
9 friends, please be concerned about the plight of your  
10 poor neighbor.

11           Likewise, it says at the end of that paragraph  
12 "The Legal Services Corporation bears responsibility  
13 for leading the way." Well, maybe it is more  
14 encouraging the way, encouraging those who can do it by  
15 the reality they are members of the Bar to first take  
16 on this burden and task of serving the poor, and then  
17 delivering our portion of that role, I think  
18 "encouraging" would be better terminology there.

19           I would ask the sense of the Board to suggest  
20 a simple re-ordering of our priorities and in terms of  
21 more major text, where we might also emphasize that  
22 first priority, that we would consider that.

1           CHAIRMAN STRICKLAND:  You asked for the sense  
2 of the Board, are there others who have comments on  
3 Tom's suggestions?  Sarah?

4           MS. SINGLETON:  I think if we change the  
5 sentence on page three to say "include a partnership of  
6 the organized Bar, individual lawyers, Federal and  
7 state governments, private funders, and concerned  
8 private parties, that would be fine.

9           If Tom thinks it sends a good message, that's  
10 fine.  I don't mind sending the message that we need  
11 more help from the private Bar -- the organized Bar and  
12 from individual lawyers.

13           I think to rewrite the whole report is  
14 something that's not necessary because we have that  
15 idea throughout the report now, I think, that pro bono  
16 is an important part of meeting the justice gap, and if  
17 it's in the introduction, stated that way, I would  
18 think that should be sufficient.

19           I do think just as Tom said, Legal Services  
20 has a moral obligation here.  Part of its moral  
21 obligation is to lead the way.  I like the last  
22 sentence.  I think whether it's talking up for pro bono



1 or whether it's talking about funding sources, Legal  
2 Services should be leading the way.

3 It is the single biggest appropriator of legal  
4 help for poor people in America. It should be a  
5 leader, not a follower. It should be doing more than  
6 just encouraging.

7 CHAIRMAN STRICKLAND: It should be leading, in  
8 other words.

9 MS. SINGLETON: Yes. I like the word  
10 "leading."

11 CHAIRMAN STRICKLAND: All right. Other  
12 comments?

13 MS. CHILES: Mr. Chairman, can you hear me?

14 CHAIRMAN STRICKLAND: Can you speak up just a  
15 little?

16 MS. CHILES: Yes; sorry.

17 CHAIRMAN STRICKLAND: Go ahead. We can hear  
18 you now.

19 MS. CHILES: I just want to point out that  
20 last year in May, I appeared with Wayne before the  
21 Justice Committee -- before the Judiciary Committee.  
22 The subject of the discussion before the Judiciary

1 Committee was closing the justice gap, providing civil  
2 legal assistance to low income Americans.

3 My portion of that session was -- can you hear  
4 me? I'm getting horrible feedback.

5 MS. PHILLIPS-JACKSON: I am, too, Jonann. I'm  
6 hearing every other word.

7 MS. CHILES: I don't know how to get a better  
8 connection.

9 MR. FUENTES: Jonann, the Board can hear you.

10 MS. CHILES: The Board can hear me? Okay.

11 Here's my point. I told Senator Cardin and  
12 the members of the Judiciary Committee "I am here to  
13 assure you on behalf of the Board that we are dedicated  
14 to closing the justice gap through the efficient and  
15 effective use of resources that are available to us."

16 That statement was made as a follow up to the  
17 findings that were made by the GAO, and I was  
18 addressing what the Corporation had done and what the  
19 Board had done specifically to deal with the GAO  
20 findings, but LSC had very weak controls over grants  
21 management and other oversight monitoring functions.

22 It bothers me that there is absolutely no

1 sentiment in the Justice Gap Report about trying to  
2 achieve efficiencies and make sure our grants are being  
3 monitored effectively so as to make sure that the money  
4 goes to the people who need it.

5           There is no expression of the dedication on  
6 the part of the Board or the Corporation to making sure  
7 that the grant monies are spent properly.

8           CHAIRMAN STRICKLAND: Do you have some  
9 suggestions?

10           MS. CHILES: -- grant monies translate  
11 directly into legal services that are not provided.

12           CHAIRMAN STRICKLAND: Do you have anything  
13 else, Jonann? Are you going to propose some suggested  
14 language changes?

15           MS. CHILES: In our last conference call, I  
16 had asked that my concerns be addressed perhaps in the  
17 conclusion of the Justice Gap Report. I was  
18 disappointed to see they weren't. I don't have  
19 specific language prepared.

20           CHAIRMAN STRICKLAND: We will come back to  
21 you, Jonann. Are there any other comments from Board  
22 members either on the phone or in the room today?

1           MR. FUENTES: Mr. Chairman, I think that  
2 Bernice was trying to get in with a comment, and I hope  
3 that I'm not stepping in front of her.

4           My concern from the outset of this report is  
5 the manner in which information was collected to get to  
6 this report. I'm aware of those who contributed to it.

7           Some of those participants have agenda's. Some of  
8 those have inside perspective.

9           I'm wondering if we could take a breath and  
10 direct the report to the Office of the Inspector  
11 General to give us his evaluation on the manner in  
12 which the information was collected for sake of  
13 independence/accuracy.

14           You raise a very good question when it's  
15 brought up by several members here of their concern  
16 about a quote from the ABA that we're not fully  
17 comfortable with.

18           I don't believe that we as a Board have had  
19 the cognitive, intellectual presentation made to us  
20 about the manner in which all that we attest to here  
21 has been gathered, and we have the Office of the  
22 Inspector General as a instrumentality at the disposal

1 of this Board, which we should be using in such matters  
2 of critique and research.

3 I as one Board member before giving my  
4 approval to this statement which is quoted constantly  
5 as a reason for our existence, to have an evaluation of  
6 those resources, information, that brings us to this  
7 report from the Office of the Inspector General.

8 CHAIRMAN STRICKLAND: Are you putting that in  
9 the form of a motion?

10 MR. FUENTES: I guess I'm informing the Board  
11 that as a member of this Board, I am requesting that of  
12 the Office of Inspector General to assist me in my  
13 decision making because I find it uncomfortable to move  
14 forward uninformed.

15 CHAIRMAN STRICKLAND: What we have before us  
16 is to consider and act on whether to adopt this revised  
17 report. If we are going to do something different,  
18 then you need to make a motion of your liking so we can  
19 discuss it and either vote it up or down.

20 M O T I O N

21 MR. FUENTES: To quantify that, I would move  
22 that the Board refer this second draft copy of

1 "Documenting the Justice Gap in America Report" to the  
2 Inspector General of the Corporation for his report and  
3 evaluation and comments of the figures, process, means,  
4 by which this information is brought to us and included  
5 in the document.

6 CHAIRMAN STRICKLAND: You have heard the  
7 motion. Is there a second to that motion?

8 MS. PHILLIPS-JACKSON: I second.

9 CHAIRMAN STRICKLAND: The motion fails for  
10 lack of a second.

11 MS. PHILLIPS-JACKSON: Hello? I seconded the  
12 motion.

13 CHAIRMAN STRICKLAND: Bernice, go ahead.

14 MS. PHILLIPS-JACKSON: I seconded the motion.

15 CHAIRMAN STRICKLAND: All right; fine. It has  
16 been moved and seconded. You have heard Mr. Fuentes'  
17 motion and his rationale for it. Is there any further  
18 discussion of the motion?

19 (No response.)

20 CHAIRMAN STRICKLAND: Hearing none, let's  
21 proceed to a vote. All those in favor of the motion,  
22 please say aye.

1 (Chorus of ayes.)

2 CHAIRMAN STRICKLAND: Opposed, nay.

3 (Chorus of nays.)

4 CHAIRMAN STRICKLAND: The motion fails. Any  
5 other comments on the revised Justice Gap Report?

6 MR. MCKAY: I neglected to ask that the Board  
7 review another sentence with which I have a problem.  
8 Page 23, second sentence. "A substantial number of  
9 lawyers practicing solo or in small firms do not have  
10 the financial ability to make the magnitude of  
11 contribution that is necessary to meet a major portion  
12 of the unmet need."

13 It somehow suggests or implies that attorneys,  
14 solo practitioners or attorneys in small firms cannot  
15 contribute in a significant way to pro bono services.

16 I do disagree with the possible perception of  
17 that sentence. I propose it be deleted. I believe,  
18 speaking as someone who started two firms which at the  
19 beginning were certainly small firms, and it was not a  
20 function of the economics, it was a function of the  
21 desire to provide pro bono services that we were able  
22 to do it from the very beginning of the creation of our

1 firms -- I recognize the changing economics. I've been  
2 in practice for 35 years. I know things change.

3 There are more pressing concerns, financially,  
4 on law firms, particularly small ones. It still can be  
5 done.

6 M O T I O N

7 MR. MCKAY: For the same reason I have trouble  
8 with the suggestion in footnote 30 and the last  
9 sentence that we have agreed to delete, that we ought  
10 to delete that sentence as well. I so move.

11 CHAIRMAN STRICKLAND: Second?

12 MR. FUENTES: Second.

13 CHAIRMAN STRICKLAND: Herb?

14 MR. GARTEN: I do believe that a substantial  
15 number of lawyers are under stress to support their  
16 families, to send kids to college, and that the amount  
17 of time they can give to pro bono activities is  
18 limited.

19 I think it's primarily probably the solo and  
20 small firms. In Maryland, 80 percent of the lawyers  
21 are from small firms.

22 MR. MCKAY: That donate time?



1           MR. GARTEN: Sole practitioners. They are  
2 still giving 50/60 percent or 40 percent of their time.

3       In fact, in the small counties, they are probably  
4 doing a greater percentage of pro bono than the lawyers  
5 in the metropolitan areas.

6           Would you be satisfied if you just struck out  
7 "practicing solo" or "in small firms?"

8           MR. McKAY: I have trouble with "a substantial  
9 number."

10          MR. GARTEN: How about "many lawyers?"

11          MR. McKAY: Who do you have in mind who are  
12 not in a position to donate time?

13          MR. GARTEN: Here, they say the magnitude of  
14 contributions that are necessary to meet a major part  
15 of the unmet need, and that is exactly what I pointed  
16 out with Tom and his suggestion that every lawyer get  
17 involved. Not everybody can give the time or effort.  
18 They may not give the 40 hours but they may give five  
19 hours.

20          MR. McKAY: I see what you are saying. By  
21 deleting the "solo" and "small firms," you are simply  
22 saying lawyers in general?

1           MR. GARTEN: Many lawyers; yes.

2           MR. McKAY: What is the point of that sentence  
3 with the change you propose?

4           MR. GARTEN: It points out that not every  
5 lawyer -- we don't have 100 percent for a good reason.  
6 We don't have 70 percent for a good reason. We may  
7 have 50 percent.

8           MR. McKAY: I think it's less. That's really  
9 what I'm troubled with. I just don't want us to create  
10 an excuse. I've heard the excuses over the years from  
11 people. I think those of us who are lawyers have been  
12 given this gift, this license to practice. I know  
13 there are financial pressures. I've experienced them.

14           I just think virtually everyone can find that  
15 opportunity to donate time. I just don't think  
16 we -- Sarah put it very well -- we are a leader in this  
17 area. I don't think we should be putting a sentence in  
18 there that in many ways gives someone an excuse unless  
19 you all are experiencing something that I have not.  
20 I'm certainly open to listen to it.

21           I happen to believe that just about every  
22 lawyer can find a way to donate their time.

1           MR. GARTEN: I think it is the amount of time  
2 that concerns me.

3           MR. McKAY: I agree with you. It could be  
4 just a small case, ten hours in a particular year. I  
5 recognize that.

6           MR. GARTEN: Tom would suggest that lawyers  
7 can fill the gap by themselves. It can't be. It's  
8 just impossible.

9           MR. McKAY: You heard me on the telephone  
10 conference and I believe it's somewhere in the middle.  
11 I think we and the private Bar and do a heck of a lot  
12 more but the Government needs to be the safety net. I  
13 just don't want us to have a sentence in here that is  
14 an excuse for small law firms or solo practitioners to  
15 not donate their time.

16           MR. FUENTES: Mr. Chairman, maybe it is a case  
17 of widow's might. I find when I get calls from the  
18 poor, Herb, friends who are poor, and I have many of  
19 them, and they are need of legal assistance, I'm most  
20 inclined to call sole practitioners and friends with  
21 little firms.

22           Often times, it's a matter of my young and

1 poor friends are intimidated to go to marble halls with  
2 mahogany desks, and they feel better at a store front  
3 lawyer.

4 I've never been turned down by any small  
5 practicing lawyer when I asked him to help a young or  
6 poor person in need.

7 I think it's very important that we don't send  
8 a message of providing a way to avoid or that we accept  
9 avoidance. We want to encourage, lead and bring one  
10 and all into giving.

11 MR. GARTEN: I'm impressed with your comments.  
12 I'll accept it.

13 MR. McKAY: Thank you.

14 CHAIRMAN STRICKLAND: Any other discussion on  
15 the motion to delete that sentence?

16 (No response.)

17 CHAIRMAN STRICKLAND: Hearing none, let's  
18 proceed to a vote. All those in favor, please say aye.

19 (Chorus of ayes.)

20 CHAIRMAN STRICKLAND: Opposed, nay.

21 (No response.)

22 CHAIRMAN STRICKLAND: The ayes have it. That

1 sentence is deleted.

2 MS. SINGLETON: Mr. Chairman, I think we as a  
3 group have not adequately considered Jonann's point.

4 MS. CHILES: I'm sorry. Thank you, Sarah.

5 MS. SINGLETON: I want to suggest that we add  
6 a sentence, and I'm not sure this gets to entirely what  
7 she is saying, but I think it goes to something that I  
8 think would help the report and might appeal to some  
9 people, open minded people in Congress.

10 On page 30, we have a paragraph that's been  
11 added toward the top of the page -- the whole paragraph  
12 hasn't been added. There has been substantial  
13 additions toward the top of the page.

14 We have a sentence that says "LSC has  
15 encourages justices of State Supreme Courts and leaders  
16 of state Bar Associations to support the provision of  
17 high quality legal services to low income populations,"  
18 and I think we could add a sentence that says something  
19 along these lines, "LSC has also encouraged its  
20 grantees to close the justice gap by carrying out their  
21 duties in the most efficient and economical way," and  
22 then carry on with what's there, "LSC has also urged

1 grantees to enhance their services," and so on.

2 I think that picks up on the theme of  
3 effective and efficient means of delivering legal  
4 services. It doesn't get to everything that GAO was  
5 looking into, but it does get to wise use of  
6 resources, I think. I would like to ask that we add  
7 that sentence.

8 M O T I O N

9 CHAIRMAN STRICKLAND: And you so move?

10 MS. SINGLETON: I so move.

11 MS. MIKVA: Second.

12 CHAIRMAN STRICKLAND: Moved and seconded that  
13 we add Sarah's suggested sentence. As a part of the  
14 discussion, let me ask Jonann to jump in and see if  
15 that will at least in part satisfy your comment.

16 MS. CHILES: I appreciate what Sarah has done  
17 and it does in part satisfy my concerns, but I will  
18 tell you, I am very disappointed after everything that  
19 we have been through, the Corporation, the Board, what  
20 have you, in dealing with the GAO, I am so very  
21 disappointed that the findings that were made by the  
22 GAO and our efforts to address those findings have not

1 been addressed at all as a means of closing the justice  
2 gap.

3 Better efficiency, better grants management,  
4 those should be serious tools for closing the justice  
5 gap. I just don't think they are viewed as such.

6 Thank you, Sarah. I appreciate what you did.  
7 I wish we were going further.

8 CHAIRMAN STRICKLAND: Any other comments?

9 MS. SINGLETON: My trouble is that I'm trying  
10 to think of how you say and LSC will also use better  
11 grants management to close the justice gap. It doesn't  
12 seem to me like it really fits into the report.

13 Yes, we should be using better grants  
14 management, but that's not necessarily to close the  
15 justice gap. That is just to make us better stewards  
16 of the Federal dollar. I guess maybe that's my  
17 problem.

18 MR. FUENTES: Mr. Chairman, we have a motion  
19 on the floor for this particular item. I intend to  
20 vote to support Sarah's motion and I think it's a fine  
21 recommendation by Jonann.

22 I think we are getting to a point here that a

1 camel is supposed to be a horse designed by a  
2 committee. I think there have been a lot of comments,  
3 very worthwhile ones, at this meeting, many of them  
4 nuanced and thoughtful.

5           There are authors of this report among our  
6 staff. I'm wondering if we shouldn't allow them the  
7 opportunity to take what information, input,  
8 contributions, tone that have been shared here and have  
9 one more go at this to bring us back something we can  
10 truly be proud of.

11           I think any rush to adopt this is an  
12 artificial rush. I don't think anyone is waiting with  
13 baited breath on Capitol Hill to receive this. I think  
14 it ought to be, since it is the signature document of  
15 the Legal Services Corporation, it ought to be refined  
16 to its best form.

17           While I'm going to support Sarah's change, I  
18 would also recommend it be sent back for one more final  
19 polish.

20           CHAIRMAN STRICKLAND: Let's take the motion  
21 that is on the floor first, and then we can come back  
22 if you want to put that in the form of a motion.



1           Any further discussion on Sarah's motion to  
2 add a sentence on page 30? I hope somebody took it  
3 down.

4           MS. SINGLETON: I wrote it down.

5           CHAIRMAN STRICKLAND: Any further discussion?

6           MR. GARTEN: Can she read it again?

7           CHAIRMAN STRICKLAND: All right. Please read  
8 it again.

9           MS. SINGLETON: I move that on page 30, we  
10 insert after "low income populations." and before "LSC  
11 also has urged" the following sentence, "LSC has also  
12 encouraged its grantees to close the justice gap by  
13 carrying out their duties in the most efficient and  
14 economical way."

15           CHAIRMAN STRICKLAND: All those in favor of  
16 the motion, please say aye.

17           (Chorus of ayes.)

18           CHAIRMAN STRICKLAND: Opposed, nay.

19           (No response.)

20           CHAIRMAN STRICKLAND: It's an unanimous vote.  
21 That sentence will be added.

22           Tom, if you want to make a motion.

1           MR. GARTEN:  If I may, you may recall that  
2 when we first discussed this previously, I pointed out  
3 that there were many fund raising initiatives at both  
4 state and local levels that I thought should be taken  
5 into account.

6           I would like to suggest that on page 30, the  
7 second paragraph, where it reads "In addition, during  
8 these years, many state IOLTA programs also adopted new  
9 revenue enhancement," that we insert after "IOLTA" the  
10 following, "and state and local legal service and  
11 private foundation programs," giving recognition to  
12 what I think has been something that in Maryland at  
13 least and I've seen it around the country, that these  
14 programs themselves are raising substantial money for  
15 legal services, and also a number of private  
16 foundations have come to the floor in this regard, and  
17 I think it would be nice to recognize that.

18           MS. SINGLETON:  What was your addition, Herb?  
19        Could you read the whole sentence?  I gave away my  
20 page 30.

21   M O T I O N

22           MR. GARTEN:  It's in the second paragraph on

1 page 30, after footnote 42.

2 "In 2005, seven states had no state  
3 legislative funding facilities for civil legal  
4 services; in mid-2009, there were only two. In  
5 addition, during those years, many state IOLTA" insert  
6 "and state and local legal services and private  
7 foundation programs also adopted new revenue  
8 enhancement measures that increased funding  
9 facilities" -- I can cite several examples in Maryland  
10 that I'm aware of. I know it's going on around the  
11 country.

12 The ABA does track these private funds that  
13 are available for civil legal services.

14 CHAIRMAN STRICKLAND: That's in the form of a  
15 motion?

16 MR. GARTEN: Yes, it is.

17 CHAIRMAN STRICKLAND: Is there a second to  
18 that motion?

19 MR. MCKAY: Second.

20 CHAIRMAN STRICKLAND: Any discussion?

21 MS. MIKVA: I think it's a really good idea.  
22 I'm wondering whether it should be a third sentence.

1 MR. GARTEN: I'll accept that.

2 MS. MIKVA: It sounds a little confusing.

3 MR. GARTEN: All right. I'll accept that.

4 CHAIRMAN STRICKLAND: With the same substance,  
5 you are proposing it be a separate sentence. Any  
6 further discussion on Herb's motion?

7 MR. MCKAY: It's almost like Lillian had never  
8 left.

9 (Laughter.)

10 CHAIRMAN STRICKLAND: All those in favor,  
11 please say aye.

12 (Chorus of ayes.)

13 CHAIRMAN STRICKLAND: Opposed, nay.

14 (No response.)

15 CHAIRMAN STRICKLAND: The ayes have it. That  
16 sentence will be added.

17 With all those amendments, is there a motion  
18 relative to the report itself? Tom, did you have a  
19 motion?

20 M O T I O N

21 MR. FUENTES: Mr. Chairman, I would like to  
22 move that the body return the draft with these

1 amendments and consideration of the dialogue which has  
2 taken place during this meeting to the drafters for a  
3 return to us of a refined draft.

4 MR. MCKAY: By when?

5 MR. FUENTES: When is our next meeting? It's  
6 Philadelphia. By Philadelphia time?

7 CHAIRMAN STRICKLAND: Is there a second to  
8 that?

9 MS. CHILES: Second.

10 MR. MCKAY: I would second it.

11 MS. SINGLETON: I have a question. I can't  
12 remember what date we were given last time we postponed  
13 this, when did you say you wanted it by, John?

14 MR. CONSTANCE: October 1.

15 MS. SINGLETON: That's what I thought.

16 MR. CONSTANCE: We promised September earlier  
17 to the Congress. Obviously, it hasn't been a secret  
18 that we have been collecting the information on this  
19 for some time. We testified last year, in fact, we  
20 testified before the Judiciary Committee, Senate  
21 Judiciary Committee, of our intention to upgrade or  
22 update the Justice Gap Report.

1           Obviously, we were questioned at that time and  
2 since then as to when it would be available. I think  
3 we had said September at one point, October right now.

4           There is consideration underway, we had not  
5 been invited, but we have received inquiries of the  
6 possibility of a hearing some time before Congress  
7 leaves, end of October, on the House side, to take up  
8 consideration of a number of things, possibly  
9 re-authorization, although a bill has not been  
10 introduced, and possibly this report.

11           Based on that, that was the reason for the  
12 October 1 hope for deadline that we had provided  
13 earlier.

14           MR. MCKAY: I generally understand what the  
15 problem is. Could you just explain it in more concrete  
16 terms the risks associated with our waiting until the  
17 end of October to review and approve this report? What  
18 could happen in this intervening period of time?

19           MR. CONSTANCE: That's a good question. If I  
20 could predict what could have happened a couple of  
21 years ago, my life would have been different as would  
22 this Corporation's, I'm sure.

1           In terms of what could happen in the  
2     intervening time, you know, I would just say we have an  
3     appropriations bill working through the process. I  
4     certainly have been hopeful personally that we could  
5     have gotten this done so that it could be on the table  
6     for consideration of the Committee on just the 2010  
7     budget, yet alone 2011.

8           I'm always looking for evidentiary material to  
9     support what I know to be the reality of the case.  
10    Would this be helpful to our discussion with Congress  
11    as they approach the Floor with the Senate bill and  
12    they approach the possibility of going to conference on  
13    our 2010 budget? Absolutely.

14           MS. SINGLETON: That could happen any time;  
15    right?

16           MR. CONSTANCE: Right now, the Department of  
17    the Interior bill is on the Senate Floor. We are  
18    hopeful that Commerce and Justice will be calendared  
19    shortly thereafter.

20           The leadership has indicated that Commerce and  
21    Justice is a bill that they want to complete in regular  
22    order through the Senate.

1           We are estimating it being done hopefully the  
2 end of this month/early October, and being conferenced  
3 thereafter.

4           It's difficult to say what the implications  
5 would be. I see what is before you as an honest  
6 indication on the part of LSC as what the world is  
7 today, and while we have gotten the Congress to clearly  
8 understand what the justice gap is, the ability to  
9 update that information from what has been a four year  
10 time period since the last report, obviously, is  
11 important.

12           CHAIRMAN STRICKLAND: Herb?

13           MR. GARTEN: I would strongly suggest we move  
14 ahead with adopting a plan. We haven't made that many  
15 more changes today. We have all spent a good deal of  
16 time reviewing it, both staff and us individually, and  
17 going over everything.

18           I think to delay would be a mistake.

19           CHAIRMAN STRICKLAND: Mike?

20           MR. MCKAY: I want to be respectful to Board  
21 members who have expressed concern, and that's one of  
22 the reasons why I seconded the motion, but after



1 listening to John, I frankly don't want to risk it, so  
2 I will vote to approve it today.

3 CHAIRMAN STRICKLAND: Any other discussion on  
4 the motion?

5 MR. FUENTES: Mr. Chairman, I am going to vote  
6 not to approve it. I am not proud of this document  
7 without those refinements. I don't think we have  
8 incorporated an appropriate priority of our focus where  
9 it should be. I think we are rushing it with undue  
10 need.

11 I believe we have denied ourselves the  
12 information, review and comment of the Inspector  
13 General, who is at the service of this Board, and I do  
14 not feel in that regard adequately informed, and I do  
15 not feel comfortable with the language presently, and I  
16 think with a little bit of time, it could be something  
17 that we could all be proud of.

18 Thank you.

19 CHAIRMAN STRICKLAND: I think that concludes  
20 the discussion on the motion, which is to refer the  
21 entire report back to the drafters. If you are voting  
22 in favor of the motion, it would be to refer it back.

1 If you are voting nay, you would be rejecting that  
2 motion.

3 Does everybody understand the vote?

4 MS. CHILES: No. Could you restate the  
5 motion, please?

6 CHAIRMAN STRICKLAND: The motion -- Tom  
7 Fuentes' motion is to refer the entire revised draft  
8 back to the drafters for further drafting. As I  
9 understand it, if you vote for that motion, then that  
10 is going to be what happens, and we will not adopt the  
11 report today. That is an aye vote.

12 A nay vote would be just that, a nay vote, and  
13 then we would move on to take up the report itself.

14 MR. GARTEN: You're not suggesting that it be  
15 sent to the Inspector General?

16 MR. FUENTES: No, that was declined.

17 CHAIRMAN STRICKLAND: That motion was  
18 declined.

19 MR. FUENTES: I'm only suggesting that those  
20 who drafted this document have the benefit of the  
21 conversation of today to refine it and make it a  
22 polished document that we can publish.

1           CHAIRMAN STRICKLAND: Let's proceed to a vote.

2       All those in favor of that motion, please say aye.

3           (Chorus of ayes.)

4           CHAIRMAN STRICKLAND: Opposed, nay.

5           (Chorus of nays.)

6           CHAIRMAN STRICKLAND: The nays have it. The  
7 motion fails.

8                           M O T I O N

9           MS. SINGLETON: Mr. Chairman, I move that the  
10 Board adopt the revised Justice Gap Report with the  
11 modifications that were made today and with the further  
12 addition of the sentence suggested by Mr. Garten.

13           CHAIRMAN STRICKLAND: Is there a second?

14           MR. MCKAY: Second.

15           MR. FUENTES: Mr. Chairman, at the time Sarah  
16 raised the point after my bringing it up, she offered  
17 some wording change to re-order the priorities. We did  
18 not move into a motion to make that specific change. I  
19 did not pursue that at that moment because I assumed  
20 that would be taken up in a more general fashion as the  
21 conversation was going, that we would come back to  
22 re-order that kind of language in a more general way

1 throughout the report.

2 I think it was a clear intent to make that  
3 change at that time, and I'm wondering, Sarah --

4 MS. SINGLETON: I'm going to put that into my  
5 motion because at the time it wasn't clear to me we  
6 were moving each change as we went along.

7 Including the change that we re-order the  
8 sentence on page three, to move the organized bar and  
9 the individual lawyers to follow the words "partnership  
10 of."

11 MR. FUENTES: Could we begin with "individual  
12 lawyers" and just reverse that order?

13 MS. SINGLETON: Okay. That would be fine with  
14 me, go from the individual to the collective.

15 CHAIRMAN STRICKLAND: It would read?

16 MS. SINGLETON: It is page three, first  
17 paragraph, "Closing the justice gap and securing  
18 necessary access to civil legal assistance will require  
19 a multi-faceted approach which will include a  
20 partnership of individual lawyers, the organized Bar,  
21 Federal and state governments, private funders, and  
22 concerned private parties."

1           CHAIRMAN STRICKLAND: You have heard the  
2 amended motion, which is to adopt the report as it has  
3 been amended today. All those in favor of that motion,  
4 please say aye.

5           (Chorus of ayes.)

6           CHAIRMAN STRICKLAND: Opposed, nay.

7           (Chorus of nays.)

8           CHAIRMAN STRICKLAND: Bernice, did you vote  
9 nay?

10          MS. PHILLIPS-JACKSON: Yes, I did.

11          CHAIRMAN STRICKLAND: The ayes have it and the  
12 resolution is adopted.

13          MR. FUENTES: Mr. Chairman, I thought I hear a  
14 nay from Jonann.

15          CHAIRMAN STRICKLAND: Yes. There were three  
16 nay votes.

17          MS. CHILES: Let me make clear, I do not deny  
18 there is a justice gap and that it is serious and the  
19 implications are serious, but this report, I'm not  
20 willing to vote in favor of, and I regret that, and I  
21 vote nay.

22          CHAIRMAN STRICKLAND: Okay. Motion passes.

1           The next item on the agenda is to consider and  
2 act on the election of a Vice Chairman of the Board of  
3 Directors.

4                                   M O T I O N

5           MR. FUENTES: Mr. Chairman, it was my motion  
6 earlier that we nominate Mike McKay to fill the vacancy  
7 created by the departure of our former colleague,  
8 Professor Lillian BeVier, and that it was on the agenda  
9 today, and with great pleasure, I now make that motion.

10           MR. GARTEN: I repeat my acceptance to that  
11 motion.

12           CHAIRMAN STRICKLAND: Mr. McKay had expected  
13 extensive debate on this motion. Are we going to let  
14 him down?

15           MR. FUENTES: I certainly have prepared  
16 biographical and --

17                                   (Laughter.)

18           MS. SINGLETON: I would suggest we do it by  
19 acclimation.

20           CHAIRMAN STRICKLAND: I'll be glad to accept a  
21 vote by acclimation that we elect Mike McKay as Vice  
22 Chairman of the Board of Directors. Is there a vote by

1 acclimation?

2 (Chorus of ayes.)

3 CHAIRMAN STRICKLAND: Any opposition to that?

4 (No response.)

5 CHAIRMAN STRICKLAND: By acclimation,  
6 congratulations, Mike.

7 MR. McKAY: Thank you so much.

8 CHAIRMAN STRICKLAND: Agenda number four is  
9 consider and act on other business.

10 We have a resolution that we want to consider.

11 I'm not sure this is the latest draft of the  
12 resolution. I know Herb and I did some work on the  
13 language. I don't think this is it.

14 MS. SINGLETON: Then how did it get signed?

15 CHAIRMAN STRICKLAND: I don't know how it got  
16 signed. Is Vic Fortuno in the room? Vic, is the  
17 latest?

18 MR. FUENTES: We don't have the Commonwealth  
19 of Puerto Rico in here. Will the delegate from Puerto  
20 Rico please speak?

21 (Pause.)

22 MR. FUENTES: I'm more concerned that the

1 language of the resolution should include such things  
2 that the Board extends good wishes and success and  
3 happiness in the future to Lillian. That seems to be  
4 missing.

5 MR. GARTEN: The "Now, Therefore" clause at  
6 the end does.

7 MR. FUENTES: "Profound appreciation" period.  
8 In somebody's retirement from a Board, the Board  
9 should extend good wishes for all good things to come.

10 MR. GARTEN: You have before you Resolution  
11 2009-007, and it has been suggested by counsel and the  
12 President that the reference to the United States and  
13 its territories, and counsel is satisfied that Puerto  
14 Rico can be under that, and our report includes Guam,  
15 Micronesia, Puerto Rico and the Virgin Islands.

16 We would just have a reference to the United  
17 States and then territories.

18 CHAIRMAN STRICKLAND: Right.

19 MR. GARTEN: No possessions, no Commonwealth.

20 CHAIRMAN STRICKLAND: Right.

21 MR. GARTEN: The amendment suggested by Tom,  
22 after "profound appreciation," adding the words "and



1 good wishes."

2 Does that satisfy you?

3 MR. FUENTES: I think you could be a little  
4 more elegant than that.

5 MR. GARTEN: Give me some language.

6 MR. FUENTES: "All good wishes for success in  
7 all future endeavors."

8 MR. McKAY: Continued success.

9 MR. FUENTES: Continued success.

10 MS. SINGLETON: We have an awful long  
11 "Resolved" clause. I would say at a minimum, you ought  
12 to put in "Further extends all its good wishes for"  
13 whatever you guys said. Good health, long life.

14 CHAIRMAN STRICKLAND: "Be it further  
15 resolved?"

16 MS. SINGLETON: Yes. To me, there are  
17 beginning to be too many clauses in that one "Resolved"  
18 thing.

19 CHAIRMAN STRICKLAND: This should be a lesson  
20 to us in writing letters by committee so to speak.

21 MR. GARTEN: Why don't we --

22 MS. SINGLETON: I would have voted for it as

1 it was presented.

2 MR. GARTEN: Why don't we do this, have the  
3 Board improve this, we know what the intent is, and  
4 give you the final authority on the exact language. We  
5 will break that up so it isn't altogether.

6 CHAIRMAN STRICKLAND: All right. With that  
7 suggestion made by Mr. Garten and others?

8 MS. SINGLETON: I'll second Mr. Garten's  
9 suggestion.

10 CHAIRMAN STRICKLAND: All right. All those in  
11 favor of the adoption of the resolution as amended,  
12 please signify by saying aye.

13 (Chorus of ayes.)

14 CHAIRMAN STRICKLAND: Opposed, nay.

15 (No response.)

16 CHAIRMAN STRICKLAND: It is adopted  
17 unanimously.

18 Is there any other business?

19 (No response.)

20 CHAIRMAN STRICKLAND: Next, we consider and  
21 act on adjournment of the meeting.

22 Is there a motion to adjourn?

1 MR. FUENTES: So move.

2 MR. McKAY: Second.

3 CHAIRMAN STRICKLAND: We are adjourned. Thank  
4 you.

5 (Whereupon, at 2:10 p.m., the Board of  
6 Directors meeting was adjourned.)

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