

LEGAL SERVICES CORPORATION  
BOARD OF DIRECTORS

ANNUAL PERFORMANCE REVIEWS COMMITTEE

Friday, June 27, 2003

1:30 p.m.

The Latham Hotel  
3000 M Street, N.W.  
Washington, D.C.

COMMITTEE MEMBERS PRESENT:

Lillian R. BeVier, Chair  
Herbert S. Garten  
Thomas R. Meites  
Thomas A. Fuentes  
Frank Strickland, ex-officio

BOARD MEMBERS PRESENT:

Maria Luisa Mercado  
Michael D. McKay  
Ernestine P. Watlington  
Florentino A. Subia

## STAFF &amp; PUBLIC PRESENT:

Victor M. Fortuno, Vice President for Legal  
Affairs, General Counsel & Corporate Secretary  
Randi Youells, Vice President for Programs  
Mauricio Vivero, Vice President for Governmental  
Relations & Public Affairs  
John Eidleman, Acting Vice President for Compliance  
& Administration  
Leonard Koczur, Acting Inspector General, Office of  
the Inspector General  
Laurie Tarantowicz, Assistant Inspector General and  
Legal Counsel  
David Maddox, Assistant Inspector General for  
Resource Management  
David Richardson, Treasurer & Comptroller  
Mattie C. Condray, Senior Assistant General Counsel  
Alice Dickerson, Director, Office of Human  
Resources  
Lisa Rosenberg, Congressional Liaison  
Linda Perle, Senior Attorney-Legal Services, Center  
for Law and Social Policy (CLASP)  
L. Jonathan Ross, Chairman, ABA's Standing  
Committee for Legal Aid & Indigent Defendants  
(SCLAID)  
Melville D. Miller, Executive Director, Legal  
Services of New Jersey  
Harrold Creasy, Legal Services of New Jersey  
Julie Strandlie, ABA, Grassroots

C O N T E N T S

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Consider and act on future activities for  
the committee

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

CHAIR BEVIER: I'd like to convene the Annual Performance Reviews Committee. The members of this committee are Tom Fuentes, Herb Garten, and Tom Meites.

And really, our first and only order of business today is to find out what we're supposed to be doing in the future. And so I've asked Vic Fortuno to come and give us a bit of a heads-up about what our job is, and how we ought to perhaps think about going about doing it, and when we should actually get down to work.

So Vic, if you'll come and --

MR. FORTUNO: Madam Chair, with your permission, I've asked Mattie Condray to sit up here with me. Mattie, I thought, would be helpful to have here, because Mattie, in fact, has staffed the committee the past two or three years, so she's thoroughly familiar with the process.

I take it that all members of the committee, although I'm not sure that all members of the Board, have received copies of some background materials. I'd be happy to make those available to everyone on the

Board. What we did was -- just thought we'd spare a couple of trees, or at least a branch or two, and not generate any more paper than absolutely necessary. But I am happy to send out copies to everyone.

The materials consist of a Guide to Performance Reviews and a timetable. The generic timetable may be useful to you in planning, scheduling future activities. I think that they -- let's see if I have a copy here -- show the tasks and target dates, and I think that the initial target date is early October. That would be the time when you'd be reviewing and finalize an occupational profile and critical element to performance standards for the president and the inspector general.

There are a series of steps, but they culminate in the committee making a recommendation to the Board as to the evaluation. Of course, as is true with any committee of the Board, all directors are free to attend, and in the past, most have, in fact, participated in the review process.

The review process does incorporate input from

■ both the inspector general and the president, so that  
■ they were given an opportunity at the very outset to  
■ provide their own report as to their activities and  
■ progress during the year, and they're given an  
■ opportunity to expand upon that and answer questions at  
■ an interview. And then they are given another  
■ opportunity when a draft report is prepared, they can  
■ comment on it before it's presented to the Board for  
■ final consideration. So throughout the process,  
■ there's an opportunity for input by those being  
■ evaluated.

■ And something to add is that, of course, this  
■ is a process that's been utilized in the past, but it's  
■ by no means something that you have to do. If you're  
■ inclined to modify it in some way, shape, or form, then  
■ certainly you're free to do so. And if anything,  
■ that's what you might do if you chose to do that before  
■ October.

■ Otherwise, I think that the process that is in  
■ place is comprehensive. It strikes me as fair. It's  
■ one that no one has taken issue with. Everyone seems

■ to have been comfortable with it and the way it works.

■ So if you are inclined to follow the process  
■ that's in place, your earliest task is, as I said,  
■ sometime in the fall.

■ And while I've got Mattie here, if Mattie has  
■ any comments she'd like to make to supplement that, I'd  
■ ask if it would be okay for her to do so.

■ MS. CONDRAY: No, I think you've covered the  
■ ground pretty well. The Guide -- I'll just make a note  
■ to anybody who hadn't read the Guide to Performance  
■ Reviews. It's a brief paper with a little bit of a  
■ discussion of kind of the function of performance  
■ reviews in organizations generally, and it also has a  
■ brief summary of the process as it has been used at LSC  
■ over the last several years. And the generic time line  
■ I developed basically off of the time lines we've used  
■ over the last three years.

■ We try to do -- the interviews have been held  
■ during the November Board meeting, trying to culminate  
■ the process by the January Board meeting. That's how  
■ it has worked in the past.

CHAIR BEVIER: Mattie, the summary makes reference to a number of forms, and I'm wondering if it would be possible for us to have a look at those so that we can --

MR. FORTUNO: Oh, yes.

CHAIR BEVIER: You might want to send those to each member of the committee so that we can have a look at them. And I take it that we can sort of evaluate them ourselves and see whether there's any kind of information that we would like in addition to what is already there.

MR. FORTUNO: Certainly.

MS. CONDRAV: Absolutely.

MR. FORTUNO: We can have those out to you this week. Next week, I should say, I guess. It's Friday now. We'll send those out to the committee next week. And if the Board would like, we'll send the background materials to everyone on the Board. And anyone on the Board who would like, in addition to the general background materials -- that is, the Guide to Performance Reviews and the generic time line -- if



■ you'd like something more than that, as in the specific  
■ forms that have been used in the past, just let either  
■ one of us know, and we'll make sure you get those as  
■ well.

■ CHAIR BEVIER: You know, what I might suggest  
■ is that we leave it to individual board members who are  
■ not on the committee to request that specifically.  
■ Because I guess my own sense is the reason you have  
■ committees is to divide the labor. And, you know, I'm  
■ delighted to have other members of the Board help us  
■ and participate and so forth, but the notion that they  
■ have an obligation to do that seems implicit in sending  
■ them the information. So I guess I prefer to have them  
■ take the initiative if they want it, if they want the  
■ information.

■ MR. MEITES: Lillian?

■ CHAIR BEVIER: Yes.

■ MR. MEITES: Since this deals with evaluation  
■ of personnel, I would expect that perhaps not the  
■ entire process is under the public meeting zone; is  
■ that true? Or are all our deliberations throughout

■ this in the public meeting zone?

■ MR. FORTUNO: Well, it is subject to the  
■ federal Freedom of Information Act, but portions of it  
■ may come within provisions that allow for holding a  
■ portion of the meeting in executive sessions. And  
■ while there is some tension, lower level employees, the  
■ expectation of privacy -- actually, there's a provision  
■ in the Sunshine Act that speaks to unwarranted invasion  
■ of personal privacy. And whether or not that invasion,  
■ if you will, is unwarranted in part depends on the  
■ status of the individual.

■ With the lower level individual, it's presumed  
■ that they have a greater expectation of privacy, and  
■ that there is a lesser public interest than for the  
■ higher level individuals. And since here, you're  
■ talking about the president and the inspector general,  
■ who head up the corporation at the IG's office, it's a  
■ tougher question.

■ But because of the nature of these kinds of  
■ interviews, there does seem to be a privacy element to  
■ it, so that the interviews themselves have been in

■ executive session, with the recognition that  
■ conceivably, some part of the interview might later  
■ have to be made public if it's found that it didn't  
■ qualify for executive session treatment because it  
■ didn't involve anything that was of a personal nature.

■ But since the target can't conduct an  
■ interview by having part of it in open, part of it in  
■ closed, the practical approach is to have the entire  
■ interview in executive session. And then if a question  
■ arises as to whether it was all appropriate for  
■ executive session, it's reviewed. And if some small  
■ portion of it was not, then that can be made public.

■ But the interviews are in executive session.  
■ And I don't know of any instance in the past where any  
■ portion of the interviews was actually made public.

■ MR. MEITES: What about the deliberations  
■ about a four-person committee? Are they all -- even  
■ though we're dealing with personnel evaluations,  
■ nonetheless, are they all in open session?

■ MR. FORTUNO: In the past, the deliberations  
■ have been in executive session. And then the

■ recommended report, the committee's recommendations are  
■ made to the Board in writing and taken up by the Board  
■ in open session. And the final evaluation adopted by  
■ the Board is adopted in open session.

■ MS. CONDRAV: If I can also add that  
■ typically, a lot of the work in the development of the  
■ draft report, that's typically done via fax and e-mail.

■ How the process has worked the last three years is  
■ that each individual director fills out his or her  
■ evaluation form, and they are collected, and then I  
■ have taken those and created a draft report  
■ incorporating all of the comments, which then gets  
■ individually circulated.

■ Any additional comments that come in, or, you  
■ know, recharacterizations, that sort of thing, gets  
■ taken into account in the development of the report.  
■ That's then circulated from the committee to the Board.

■ So all of that tends to take place on an  
■ individual basis via e-mail and faxes. And the  
■ committee meetings generally take up -- are consistent  
■ with the interview, and then the presentation and

■ adoption -- the last thing that the committee does is  
■ adopt the report to make recommendation to the Board,  
■ and then the Board has the report presented to it and  
■ adopts it.

■ MR. FORTUNO: Now, in the past, the practice  
■ has been, certainly in recent years, to commence the  
■ process in the fall, in October. The interviews  
■ themselves take place in November. The recommendation  
■ of the committee is presented to the Board for Board  
■ consideration at the January meeting, the annual  
■ meeting. There is nothing that requires that specific  
■ time table. That's the way it's been done, but there's  
■ nothing that requires it be done on that particular  
■ schedule.

■ Clearly, since it's an evaluation for the year  
■ -- in this case, it would be the year 2003 -- you don't  
■ want to delay it too much beyond the annual meeting.  
■ But certainly there was no reason why, if the Board  
■ elected to, it could start the process in December or  
■ January and conclude it in March. But the time frame  
■ that's been used in the past is starting October,

ending with a Board consideration of an evaluative report in January.

CHAIR BEVIER: Yes.

MS. MERCADO: I was just going to say that since all the Board members are required to do separate evaluation of the inspector general and the Board, that it would be more helpful, especially for all of the new Board members, to actually have the background information and the formatting to be used to evaluate the inspector general and the president to sort of give you a feel for what you would be doing. I mean, I guess I'd always rather err on having the information than not.

Obviously, for me, you wouldn't have to send it, but for other new Board members they will have to evaluate anyway.

CHAIR BEVIER: Isn't that what --

MS. CONDRAY: I'm sorry. Go ahead.

CHAIR BEVIER: No, you go ahead.

MS. CONDRAY: I was going to say that part of the package -- that at the beginning of the process,

■ the package that is sent out to each of the Board  
■ members contains the Guide to Performance Appraisals,  
■ the occupational profiles, the critical elements, and  
■ the forms. We didn't include it at this stage just on  
■ figuring that there's a bit of paper overload going on  
■ and information overload at this meeting, anyway, so we  
■ chose to kind of downplay the amount of information  
■ being provided. But obviously, it's there, and anybody  
■ who wants it will be provided it now.

■ And everybody can rest easy knowing that when  
■ the process gears up whenever the committee chooses to  
■ begin the process, all of that information will be  
■ provided at that time, along with a description of what  
■ the deadlines are going to be, what the specific  
■ deadlines are going to be when we anticipate holding  
■ the interviews, et cetera, et cetera.

■ CHAIR BEVIER: Good. Yes, Herb.

■ MR. GARTEN: How practical is this with a new  
■ president and a new inspector general coming in here,  
■ that going through the process of being hired and  
■ interviewed and whatnot? To me, an October date,

■ aren't we putting an undue burden, assuming you have  
■ the people by that time? Should we be proceeding under  
■ this kind of timetable under those circumstances?

■ MR. FORTUNO: Well, no. I think that surely,  
■ you have to exercise some judgment in terms of when you  
■ have new folks and whether it's reasonable to conduct a  
■ full-scale evaluation. It may be that if you get them  
■ soon enough, that the evaluation will be useful in  
■ terms of making clear what your expectations are and  
■ having an opportunity for exchange and feedback.

■ So it may be that you elect to go forward  
■ because you find it a useful management tool. But it  
■ may be that if it takes longer, that it's going to be  
■ of not much value to you at that point, and that you're  
■ going to want to postpone it for a while.

■ So yeah, there's nothing that requires that  
■ you -- especially if you're going to have a new  
■ inspector general and president, that you -- and if  
■ they come in early fall, that you initiate the process  
■ in early fall. But if you choose to do so, this is the  
■ process that's been followed in the past. But I can



■ certainly understand that it may not be appropriate  
■ this time around.

■ CHAIR BEVIER: Maria Luisa?

■ MS. MERCADO: Just to follow up on Victor's  
■ statement. I think that with the prospect that you're  
■ going to have a new inspector general or a new  
■ president, that you can still employ part of the  
■ process, and the process would be that part of the  
■ evaluation that you do with the president and the  
■ inspector general is to look at their plan for a year,  
■ for two years, three years, and what they expect to do  
■ with the Corporation of Legal Services. And part of  
■ your evaluation a year later is to see how much of what  
■ they said they were going to do they've been able to  
■ accomplish.

■ And so in that sense, the first part of it  
■ anyway, to see what their road map is going to be, you  
■ know, for that coming year, and what they expect  
■ they're going to do would still be helpful for the  
■ committee and the Board to see.

■ MR. FORTUNO: That's true. I think, for

■ example, I have typically prepared a personal  
■ performance plan, where I set out my major objectives  
■ for a coming year and then discuss that with the  
■ president. The president can revise it as he or she  
■ deems appropriate, and we can agree on this is what you  
■ should be looking to accomplish this year. And then  
■ that makes it easier at the end of the year to  
■ determine whether or not you did what you're supposed  
■ to do. There's something -- there's a baseline there  
■ to measure anything.

■ So I think Maria Luisa is right, that, you  
■ know, that's something we may want to consider.

■ CHAIR BEVIER: Right. That's a helpful way of  
■ putting what we're doing in sort of perspective.

■ Although I guess my own sense is it sort of leaves up  
■ in the air when the right time for us to initiate our  
■ performance review would be. Because to my mind, it  
■ turns on when we have -- are lucky enough to have  
■ finally settled upon a new president and inspector  
■ general and have them in place so that it is  
■ appropriate to begin to ask them what their goals are.

■                   And so I guess maybe what we ought to do is  
■ leave that in abeyance and kind of see what happens.

■                   MR. FORTUNO: You certainly -- I don't think  
■ you'd be scheduling your next meeting just yet. When  
■ the matter is ripe, it seems to me you would then  
■ discuss scheduling of a meeting and take it from there.

■                   CHAIR BEVIER: Right. If we don't even have  
■ the opportunity to say when we're going to start our  
■ work, I nevertheless have concluded that I think the  
■ business of this committee for right now is at an end.

■ Does anybody have any additional comments or  
■ questions?

■                   (No response.)

■                   CHAIR BEVIER: Well, thank you, Victor and  
■ Mattie, very much, for helping us out, and I declare  
■ the meeting adjourned.

■                   (Whereupon, at 2:00 p.m., the meeting was  
■ concluded.)

■                   \* \* \* \* \*

