

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

OPEN SESSION

Thursday, July 21, 2011

10:50 a.m.

Davis Wright Tremaine, LLP
1201 Third Avenue, Suite 2200
Seattle, Washington 98101

BOARD MEMBERS PRESENT:

John G. Levi, Chairman
Martha L. Minow, Vice-Chairman
Sharon L. Browne
Robert J. Grey, Jr.
Charles N.W. Keckler
Harry J.F. Korrell, III
Victor B. Maddox
Laurie Mikva
Pius Pietrzyk, O.P.
Julie A. Reiskin
Gloria Valencia-Weber

STAFF AND PUBLIC PRESENT:

James J. Sandman, President
David L. Richardson, Comptroller/Treasurer
Mattie Cohan, Senior Assistant General Counsel
Victor M. Fortuno, Vice President Legal Affairs,
General Counsel & Corporate Secretary
Jeffrey Schanz, Inspector General
Kathleen Connors, Executive Assistant to the
President
Laurie Tarantowicz, OIG Counsel
David Maddox, Assistant Inspector General
for Management and Evaluation
Ronald "Dutch" Merryman, Assistant Inspector
General
John A. Constance, Director, Government
Relations
and Public Affairs
Thomas Coogan, Assistant Inspector General
for Investigations
Terry Brooks, ABA
Linda E. Perle, CLASP
Don Saunders, NLADA
Joel Gallay, OIG
Katherine Ward, Executive Assistant to the
Vice President for Legal Affairs,
General Counsel, and Corporate Secretary
Robert E. Henley, Jr., member of Finance
Committee
Reginald Haley, Office of Program Performance
Jim Bamberger
Cesar Torres, Executive Director,
Northwest Justice Project
Camille Holmes Woods, National Legal Aid and
Defender
Association (NLADA)
Janet LaBella, Director, Office of Program
Performance
Lora Rath, Office of Compliance and Enforcement
Bristow Hardin

C O N T E N T S

	PAGE
OPEN SESSION	
Approval of Agenda	5
Approval of Minutes of the Board's Open Session Meeting of April 16, 2011	5
Chairman's Report	6
Members' Reports	14
President's Report	15
Inspector General's Report	30
Consider and Act on the Report of the Promotion and Provision for the Delivery of Legal Services Committee	35

C O N T E N T S (Continued)

	PAGE
OPEN SESSION	
Consider and Act on the Report of the Finance Committee	36
Consider and Act on the Report of the Audit Committee	45
Consider and Act on the Report of the Operations and Regulations Committee	48
Consider and Act on the Report of the Development Committee	75
Public Comment	76
Consider and Act on Other Business	86
Consider and Act on Whether to Authorize an Executive Session of the Board to Address Items Listed Below, Under Closed Session	87
MOTIONS: 5, 6, 40, 72, 80	

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

2 CHAIRMAN LEVI: Could we take our
3 places? And as soon as I find the agenda, on
4 page 132, I would like to call the meeting of
5 the Legal Services Corporation board meeting to
6 order, as duly noted in the Federal Register,
7 and ask everybody to rise and join me in the
8 pledge of allegiance.

9 (Pledge of allegiance is recited.)

10 CHAIRMAN LEVI: Thank you. In the
11 board book there was an agenda.

12 M O T I O N

13 CHAIRMAN LEVI: Can I have a motion to
14 approve the agenda?

15 DEAN MINOW: So moved.

16 MS. BROWNE: Second.

17 CHAIRMAN LEVI: All in favor?

18 (Chorus of ayes.)

19 CHAIRMAN LEVI: And the minutes from
20 the April 16th board meeting were included in
21 your packet. Any changes? Issues?

22 //

1 M O T I O N

2 CHAIRMAN LEVI: Can I have a motion to
3 approve them?

4 DEAN MINOW: So moved.

5 FATHER PIUS: Second.

6 CHAIRMAN LEVI: In favor?

7 (Chorus of ayes.)

8 CHAIRMAN LEVI: I will just take a
9 minute, or a couple of minutes here, to offer
10 thanks to our hosts in Seattle. I don't see
11 Cesar here today, but the Northwest Justice
12 Project certainly helped put together quite a
13 day-and-a-half of events here: the panel
14 discussions, site visits. And, of course, we
15 have a big site visit this afternoon with
16 Gloria. And Cesar worked very hard on -- and we
17 are very grateful, Gloria, because I know how
18 hard you did personally work on it.

19 And I can't thank our board enough.
20 You have been asked to work hard. I don't think
21 any of us expected or knew that we were going to
22 have to work quite this hard. I certainly

1 didn't. It's been a challenging time, not just
2 around the country and in Washington, but the
3 kinds of issues that we have learned about in
4 our own roles here have caused us to have
5 to -- in order to really do our jobs -- to take
6 on tasks and responsibilities, roles that we
7 probably didn't fully anticipate when we came
8 here.

9 Harry, you and your firm have been the
10 consummate hosts -- and even provided a
11 beautiful view from -- occasionally.

12 (Laughter.)

13 CHAIRMAN LEVI: And even some sun. And
14 the facilities have been great, and we are very
15 grateful to you and your firm. The reception
16 last night was really quite something. So thank
17 you.

18 MR. KORRELL: Happy to do it.

19 CHAIRMAN LEVI: The Fiscal Oversight
20 Task Force just gave a report in closed session,
21 and we are so grateful to those folks who are
22 not on the board, but to our board chairs,

1 Robert and Vic, I think it goes without saying
2 that our -- that the board itself was very
3 impressed, not just by the consultant report,
4 Baker Tilly, their presentation, but also by
5 the -- just the sheer amount of work that you
6 have put in to get to the point that we are
7 nearing, the conclusion of this effort.

8 And I know it has been almost a year in
9 the making, so we are very grateful to you for
10 that. And that has, I think, encouraged our
11 board to believe that we are in the midst of
12 making some thoughtful decisions as we approach
13 our strategic planning process as well, which is
14 also underway. And for those of you in the room
15 who don't know this -- or on the phone -- the
16 first couple of hours of our meeting here
17 involved a strategic planning process which is
18 underway in an appropriate way.

19 As you probably know, the last
20 strategic plan for the corporation was for, I
21 think, the period 2006 to 2010, and we are,
22 therefore, in need of a new one. And that is

1 something that we are working on, and I think
2 going about in a very deliberate and thoughtful
3 way. And so, that continues.

4 A few weeks ago I happened to find
5 myself dropping a daughter off in England, and
6 so I took the opportunity to have a meeting with
7 Sir William Callaghan, who is the chairman of
8 the Legal Services Commission for England and
9 Wales. And their budget, I believe, is \$2
10 billion -- not \$2 billion, ,2 billion. And of
11 course, it is equally divided between criminal
12 and civil matters, the British system being
13 different.

14 But when I asked him, "Well, what about
15 unmet need," he said, "I would like to think we
16 don't have any unmet need." When I asked him
17 about pro se and individuals showing up in court
18 or in courthouses unrepresented, he looked at me
19 very quizzically, and suggested that British
20 jurists would take a fairly dim view of that.

21 And so, there are different mechanisms
22 around the country, but -- and

1 those -- actually, there isn't the outposts of
2 grantees there. In fact, as I understand the
3 British system -- and I probably may not get
4 this completely right -- they contract with
5 private firms and private lawyers individually
6 to take a basket of cases or a number of hours
7 that they commit to do in a region or on an
8 issue, and pay a somewhat reduced but contracted
9 hourly rate. And it's a completely different
10 approach to legal service for low-income
11 eligible folks.

12 Nevertheless -- and I think it is
13 always good -- people are in areas like this,
14 and when you're in your own home states you have
15 the opportunity to talk with people who are in
16 our field, and compare notes, get educated a bit
17 on how they are seeing the world. It helpful to
18 maybe get an idea or two. And actually, that
19 discussion has had me thinking about private
20 attorney involvement, and what does that mean,
21 and how do we look at it.

22 So, we are about to have a pro bono

1 task force begin looking at the arena of pro
2 bono. I can only hope that they do something
3 that approaches what the fiscal oversight group
4 did. Then we will certainly be in a great
5 place.

6 You may have heard me talk about a tech
7 summit. We are sort of moving -- the last time
8 there was one in this field was in the 1990s,
9 the late 1990s. It would have been something
10 that would have been great to do this year. I
11 don't want to disappoint people by saying I
12 think that's probably something that is going to
13 wait until early next year, only because we just
14 have our hands full with so many things.

15 And I -- if there is something -- I
16 hope we're impressing you in this respect:
17 whatever we do, we want it to be of a certain
18 quality. And I don't want -- and I have
19 already maxed out our board and our new
20 president. So I think we have to be patient
21 here, and allow this to evolve. We are also a
22 little bit behind on the development front, but

1 we are moving to try to put in place a
2 development consultant to help us take a look at
3 development.

4 This arena, the issue of
5 development -- and we heard it yesterday in the
6 meeting; I will report on it for a second
7 here -- it's the field nervous that we are
8 somehow going to compete with them. And as many
9 times as I say it, that we are not in this to
10 compete with them, there is still skepticism.
11 And so, it just -- we'll have to keep repeating
12 it.

13 But I think not to have a look at our
14 own development function or lack of it, and how
15 we could possibly be helpful -- a number of
16 grantees have actually asked us to help
17 them -- we would be remiss in our
18 responsibility, as a board.

19 Finally, I want to just say that, Jim
20 Sandman, I keep hearing from people all across
21 the country how impressed they are with him and
22 his work. He is certainly off to quite a start.

1 I am sure he too may feel that his plate is
2 fuller than what he might have anticipated. But
3 we are really, really lucky to have you, Jim,
4 and I am reminded of that almost every day of
5 the week. So thanks for all you are doing.

6 Somebody asked me about scheduling.
7 Maybe when we're -- we have a few minutes after
8 the -- on the bus, we will talk about where we
9 go, in which order. My impression is that next
10 year we ought to be going -- we kind of
11 committed, Jim and I, that we're going to go to
12 San Diego and California, and then to -- I think
13 to Michigan, and to North Carolina. I don't
14 know whether that is a change from something I
15 said a few months ago. I hope it isn't. I
16 think we might have talked about Pittsburgh, but
17 there is some feeling that we'll do Michigan
18 next year, and then maybe Pittsburgh the
19 following.

20 In any event, that is my report.
21 Members' reports. Any members want to -- Jim?
22 Oh, Julie?

1 MS. REISKIN: Oh, I just wanted to
2 report I went on behalf of LSC to a client
3 impact conference put on by NLADA last week that
4 was just phenomenal. I provided a write-up, I
5 believe, to you and to Laurie. And that can be
6 made available.

7 But what I got out of it is really -- I
8 think what I put in my report was that we are
9 sitting on a crown jewel of this country. There
10 were about 30 LSC program board members who were
11 clients who were at this, and were going to try
12 and do more reach-out to get more client board
13 members to the NLADA conference. And I am
14 hoping that we can do some introductions there.

15 But these are people that really want
16 to be -- first of all, they have a lot of skill
17 already, and they are people that are so
18 dedicated and committed and really want to be
19 engaged. It was just -- I wish I could
20 accurately describe what an incredible
21 experience it was, and how much they have to
22 give and want to give. So I just wanted to

1 report on that, and again, hopefully -- and
2 NLADA does seem willing to help in any way -- to
3 help facilitate, again, more training using
4 resources wisely, and all of that.

5 CHAIRMAN LEVI: I guess I should have
6 said, for the record, that Jim and I did meet
7 with the California directors Monday of this
8 week -- it's all merging -- on our way up here,
9 and that that was a very instructive meeting.

10 Jim?

11 MR. SANDMAN: Thank you, John. I would
12 like to report briefly on two of my goals as LSC
13 president, and update the board on where I stand
14 on filling some senior positions at the
15 corporation.

16 The board recently received the 2010
17 fact book, which is a summary of the data that
18 we collect from our grantees. Most of the
19 information in it comes from grant activity
20 reports that each grantee files with LSC in
21 March of each year.

22 The fact book contains information on

1 five different subjects: funding grantees not
2 only from LSC but from other sources; services
3 provided to clients by grantees; client
4 demographics; private attorney involvement; and
5 staffing at grantees, including salary and
6 experience information. One of my goals is to
7 do a better job of analyzing and using the
8 information that we collect from grantees, and a
9 second goal is to take a hard look at what we
10 are collecting from grantees, to see whether we
11 are collecting the right information, whether we
12 should be collecting more information, or not
13 collecting some information that we currently
14 are.

15 I have a brief Power Point
16 presentation -- 10 slides, so you can count how
17 long --

18 (Laughter.)

19 MR. SANDMAN: It's up on the screen
20 behind some of the board members, if you want to
21 turn around.

22 One of the pieces of data that we

1 collect, as I mentioned, is information about
2 funding of our grantees, funding that they get
3 not only from LSC but from other sources. What
4 this slide shows is that LSC funding has gone
5 from providing 88 percent of programs revenue,
6 on average, in 1980 to only 44 percent of
7 revenue in 2010. Between 1995 and 2000, LSC
8 went from providing the majority of funding to
9 its grantees to providing a minority of funding.
10 It's a pretty dramatic shift.

11 The non-LSC funding is diversified. We
12 have detailed data on other funding sources
13 going back only to about 1996. This slide
14 presents what we have in 1996, 2000, 2005, and
15 2010. There has been significant growth, as you
16 can see, in non-LSC funding over that period,
17 from \$209 million in 1996 up to \$542 million in
18 2010. The biggest growth in other funding has
19 been in the state and local category, which has
20 gone from 68 million in 1996 up to \$217 million
21 in 2010.

22 These numbers, though, mask wide

1 variations in the funding picture from one state
2 to another, and from one program to another. We
3 always talk in averages. We say that about 44
4 percent of our grantees' fundings come from LSC.
5 The actually story is much more nuanced than
6 that.

7 And this slide shows what the degree of
8 variation is across our programs. The
9 XX -- that's the axis along the bottom -- shows
10 the percentage of funding that a program
11 receives from LSC in bands, from 10 to 19
12 percent on the left, up to 90-plus percent on
13 the right. Vertical axis shows the number of
14 programs in each band. We still have 58
15 programs that are getting more than half their
16 funding from LSC. We have 34 programs that are
17 getting more than 60 percent of their funding
18 from LSC, 22 programs that are getting more than
19 70 percent of their funding from LSC, and 11
20 programs that are getting more than 80 percent
21 of their funding from LSC.

22 The reasons for the variations are

1 several. The principal reason is significant
2 variations across the country, and the extent of
3 state and local funding of civil legal services
4 programs. Another reason is the availability of
5 private resources. As you heard yesterday, in
6 Montana for example, there are only 3,500
7 lawyers in the fourth largest state in the
8 country. The legal profession there is not
9 going to be the same source of funding for legal
10 services programs in Montana that it's going to
11 be in a state like New York or California.

12 The variations and the degree of
13 programs' dependence on LSC has significant
14 consequences. For example, when we talk about
15 the effects of cuts in overall LSC funding, the
16 effect is much more dramatic in a program that
17 gets 86 percent of its funding from us, as the
18 legal services program in Alabama does, than it
19 is in a program like Maryland, which gets only
20 18 percent of its funding from us.

21 Something like the issue we'll be
22 discussing shortly on reallocation of funds

1 across states and programs because of changes in
2 the distribution of the poverty population
3 reflected in most recent census data, that is a
4 very different impact, depending on the extent
5 to which a program is dependent on LSC.

6 And there is another phenomenon that I
7 think we need to keep in mind. Among the
8 programs that are at the left side of this graph
9 here, those that get less of their funding from
10 LSC, they have many other sources of funding.
11 They have some other sources of funding
12 that -- where individual sources may provide
13 more of their funding than we do. This means
14 that they have reporting obligations to those
15 other funders, they are being assessed by those
16 other funders.

17 Our degree of coordination with the
18 other funders is very ad hoc. It does happen in
19 some instances, but LSC does not currently have
20 a systematized, routine, institutionalized way
21 to coordinate with other funders to try to
22 reduce burdens on grantees, to streamline

1 reporting requirements.

2 So, imagine yourself being the
3 executive director of a program that is getting
4 only 10 to 19 percent of its funding from us.
5 Shouldn't we be doing more to try to coordinate
6 with the other funding sources? They may be
7 collecting different or better information than
8 we are collecting. There is certainly something
9 we can do, I think, to try to minimize the
10 burdens on grantees.

11 I talked yesterday to Jim Bamberger,
12 from here, in the state of Washington. As you
13 know from the briefings yesterday, the State of
14 Washington provides very strong funding to civil
15 legal services programs. He says he has
16 virtually no communication with LSC. I think we
17 need to change that, and I think this slide
18 helps to illustrate why.

19 As I mentioned, another goal of mine is
20 to take a fresh look at whether we are
21 collecting the right data from programs. And I
22 want to present a few slides that I cribbed,

1 with permission, from a briefing that the Legal
2 Aid Society of Cleveland did recently for Dean
3 Minow, when she was visiting their program.

4 The executive director of our program
5 in Cleveland, Colleen Cotter, is terrific. She
6 recently made the decision to hire a full-time
7 researcher and data analyst to assist her in
8 managing her program. This person, Rachel
9 Perry, has a master's in public administration,
10 and she analyzes, as you will see, demographic
11 information, client service information, tries
12 to measure outcomes.

13 Colleen reports that what she had to
14 pay to bring Rachel in has been more than made
15 up for in terms of funding she has been able to
16 attract, because of the data that Rachel has
17 allowed her to present to potential funders.
18 And it is also allowing her to manage her
19 program in a much more efficient way.

20 So, this is the kind of information,
21 this slide shows, that they are using with their
22 data collection and analysis. They are trying

1 to measure outcomes, actual effects of services
2 delivered on clients, measure legal problems and
3 levels of service provided, and to track the
4 extent to which they are actually delivering
5 service in the areas where it is most needed, by
6 looking at demographic information on the
7 distribution of the poverty population.

8 Here is an example of tracking
9 outcomes. The program has a strategic plan goal
10 that 60 percent of the survivors of domestic
11 violence and abuse will be safer, as measured in
12 the ways that are shown on the screen. And they
13 are tracking this. They follow up. So, what
14 they report is not simply cases closed in the
15 area of domestic violence. They get much more
16 detail to see, well, what was the effect of the
17 service delivered, and what difference did it
18 make in the life of our client. And then they
19 measure that against a strategic goal that they
20 have set for their program.

21 This graph shows how they are doing in
22 aligning service delivery with need in the

1 five-county area that they serve.

2 The -- what -- they did a survey to try to
3 assess unmet need, and then they have tracked
4 the extent to which they are meeting need.

5 Each of the different graphs is a
6 county in their five-county service area. The
7 gap between the two lines shows the extent to
8 which there are differences between need and
9 service. And ideally, what they would like to
10 be able to do, is to be doing as good a -- not
11 have big disparities between and among the
12 counties that they are serving. But this
13 data-tracking tool allows them to look at that
14 in a very real way, and see whether they need to
15 be reallocating resources from one county to
16 another, in light of what they have available.

17 And this is another tool that they use
18 to track that, the change in the poverty rate in
19 the five-county area as a whole, and in each of
20 the five counties that they serve, to be sure
21 that they are well informed about what is going
22 on currently in the area that they are

1 responsible for, and can adapt with resource
2 allocations accordingly.

3 This next slide shows another way in
4 which they are using data to track service
5 delivery. They do have a goal of trying to make
6 services available to seniors. But what their
7 data shows is that seniors are making up a
8 smaller proportion of the clients that they are
9 serving than they would like, that the growth in
10 the population is -- their service delivery is
11 not keeping track with the growth in the size of
12 the senior population.

13 Here are some next steps that they
14 propose to take to try to use data to better
15 manage their program.

16 What this shows, I think, is what we
17 can learn from programs, and how useful it might
18 be to do a broader survey of programs to see
19 what data they are collecting, what they are
20 finding useful in managing their programs day to
21 day, so that we can both disseminate best
22 practices, and rethink what it is that we

1 collect from grantees.

2 My reaction is that if one of our
3 programs finds a particular piece of data
4 interesting and helpful to them in managing
5 their program, we should find it interesting.
6 We should want to know why it matters to them,
7 and what difference it is making in their
8 management of the program.

9 So, I think that the Cleveland program
10 is probably a leader in this area. I don't know
11 that. But I think that this is a kind of
12 approach that we should be looking to try to
13 implement more broadly. But I like the idea of
14 doing it from the ground up, and looking first
15 to our programs to see what they find useful,
16 rather than trying to dictate from Washington
17 what we are going to require that they provide.

18 Julie?

19 MS. REISKIN: When you're doing that,
20 it would be helpful, too, to find out what data
21 collection tools are the easiest for staff to
22 use. Because sometimes there are really

1 good -- great databases, but they are so
2 burdensome for staff that they don't use them
3 well.

4 So, what are the good tools out there
5 that work within a law, a legal setting?

6 MR. SANDMAN: Great idea.

7 Finally, I just wanted to update you on
8 the status of filling senior positions at LSC.
9 As you know, we did -- Danillo Cardona retired
10 at the end of May. I am very grateful to Lora
11 Rath for stepping in and filling the position of
12 director of the office of compliance and
13 enforcement on an acting basis. Cindy Schneider
14 in our office program performance is currently
15 on leave, but she is retiring as deputy director
16 of the office of program performance.

17 I haven't filled either of those
18 positions on a permanent basis, in part, because
19 I wanted to await the outcome of the task force
20 on fiscal oversight, and see what the board
21 might want to do with that, because, to the
22 extent that their recommendations have an impact

1 on our structure, or how we organize our
2 business, I would like to take that into account
3 in deciding what skill sets would be appropriate
4 in filling positions like that.

5 I do need to fill two other senior
6 positions. I need help, I've decided. I didn't
7 want to act too quickly when I started, for
8 several reasons. One, I just wanted to get my
9 feet wet and get the lay of the land, and get to
10 meet people within the organization and try to
11 figure out what I think would make the most
12 sense and be most helpful.

13 We also had a big funding question
14 looming over us until only a couple of months
15 ago, and I didn't want to go spend the money
16 that it turned out that we didn't have.

17 But I am now ready. And as soon as I
18 have had an opportunity to prepare some job
19 descriptions, I will share those with all of
20 you, and would appreciate your help in filling
21 positions.

22 I would be happy to answer questions.

1 CHAIRMAN LEVI: Questions? I did see
2 that Cesar Torres just did come in. And you
3 missed my thank-you to you for -- we are very
4 appreciative. The board has very much enjoyed
5 its time here, and particularly know how hard
6 you worked to put the last day-and-a-half
7 together for us. And while you are here, I
8 would like to give you a round of applause.

9 (Applause.)

10 FATHER PIUS: And not only to you, but
11 please convey from the board to the staff there
12 at your office the great work that they do, how
13 pleased we are with the incredible dedication
14 that they have to the poor, and our thanks for
15 the work that they do, and under sometimes
16 trying conditions and stressful conditions, and
17 often underpaid conditions under which they
18 labor. So give our thanks, please, very much,
19 to them.

20 MR. TORRES: Absolutely.
21 Didn't -- wasn't one person, or anything like
22 that. It goes together, of course, the way we

1 try to meet client needs, day to day. So thank
2 you. I will.

3 CHAIRMAN LEVI: The -- Laurie, the
4 Provisions Committee?

5 MS. PERLE: The inspector general is
6 next.

7 CHAIRMAN LEVI: Oh, the inspector
8 general. I am sorry. There he is.

9 (Laughter.)

10 MR. DAVE MADDOX: I don't know how I
11 can be any more transparent or visible to you,
12 Mr. Chairman.

13 CHAIRMAN LEVI: You snuck up there.
14 There we are. Okay.

15 MR. DAVE MADDOX: Well, the most
16 significant -- and it's tough for me to follow a
17 Power Point, but this will save you from craning
18 your neck -- the most significant achievement
19 that the OIG has performed, I believe, is having
20 Joel Gallay, my special counsel, step in for the
21 assistant inspector general for investigations.
22 The transition was perfectly seamless. Staff

1 reacted well. The work of the investigations
2 unit of the IG continued unabated,
3 uninterrupted.

4 And I would like to go on record
5 publicly to thank Joel Gallay for stepping in
6 for my Fulbright Scholar, who you will hear from
7 later. But so, if a round of applause is
8 appropriate, I would appreciate that.

9 (Applause.)

10 MR. DAVE MADDUX: Okay. Now, as far as
11 a segue is concerned, earlier today you heard
12 about the CIGIE. For those of you who don't
13 know what CIGIE is, let me give you a quick
14 thumbnail sketch. The IG Reform Act of 2008
15 brought 69 individual federal inspectors general
16 and 6 integrity-related senior officials
17 together -- that's mainly the FBI and some of
18 the security agencies -- to form the Council of
19 the Inspectors General on Integrity and
20 Efficiency, CIGIE.

21 There was great debate over that
22 acronym, but there was no other way to get

1 around it. So that is what we are, we are a
2 council of inspectors general, including now
3 legislatively-mandated 73 -- they added 2 for
4 the intelligence -- or 3 -- 4 for the
5 intelligence community. The director of
6 national intelligence -- they all have IGs.

7 This is an annual report. I have some
8 statistics that I won't bore you with too much,
9 but to let you know what IGs do,
10 government-wide. And we meet monthly, we have
11 an annual conference to make sure that we're all
12 on the same page as far as legally,
13 legislatively, statutorily, as well as work
14 products and standards, including the peer
15 review.

16 In 2010, the IGs, the CIGIE IGs, of
17 which the LSC OIG is one, identified over \$80
18 billion in potential savings from audit
19 recommendations.

20 MS. REISKIN: Billion?

21 MR. DAVE MADDOX: Billion, 7 billion in
22 potential savings from investigative recoveries

1 and receivables. This is all part -- if you see
2 in certain political arenas that I try to stay
3 away from, but -- making the government more
4 efficient and, therefore, reducing the debt by
5 collecting billions of dollars like this.

6 Over 6,700 audit investigation and
7 evaluation reports, over 25,000 investigations
8 closed. Almost half-a-million hotline
9 complaints processed. As you may or may not
10 know, the LSC OIG relies very heavily on
11 hotline, and we take it very seriously. We have
12 protocols for how quickly we respond to the
13 people who call into the hotline. We work with
14 management on referring some of those cases that
15 don't rise to the level of an investigation to
16 an administrative area. So we use the hotline.

17 In the CIGIE community there has been:
18 over 5,600 indictments and criminal
19 informations; equivalent number, 5,550,
20 successful prosecutions; 973 successful civil
21 actions; over 5,000 suspensions and debarments;
22 and over -- on the administrative side, not the

1 criminal -- over 4,500 personnel actions, which
2 would include recommending removal or additional
3 oversight, otherwise known as a performance
4 improvement plan, a PIP.

5 Very pleased to be a part of the CIGIE.
6 We do have an opportunity to share best
7 practices at our meetings, and I take advantage
8 of that, being one of the smaller IGs. I want
9 to learn from some of the best in the community.

10 Now, as far as the IG, we will present
11 our statistics in the closed session, as far as
12 work in progress and audits and investigations.
13 So we will provide that.

14 With that, that concludes my report.
15 We have gotten engaged, as you heard earlier,
16 very, very seriously and robustly with both the
17 strategic planning committee, as well as the
18 fiscal oversight task force. And I think we
19 have added value to each of those products, and
20 will continue to do so as required.

21 CHAIRMAN LEVI: I want to thank you for
22 that, too. That is correct. We see it the same

1 way. You've given very valuable input. And I
2 think the process has been as collaborative,
3 we're hoping, as it possibly could be, and that
4 you will continue to participate as you have.
5 And we were -- we're very appreciative.

6 And I hope you see that we are
7 attempting to have -- and so is the president,
8 here -- a collaborative future.

9 MR. DAVE MADDOX: Thank you, Mr.
10 Chairman. You are preaching to the choir.

11 (Laughter.)

12 MR. DAVE MADDOX: Any other questions
13 or comments I could answer?

14 (No response.)

15 MR. DAVE MADDOX: Okay, thank you.

16 CHAIRMAN LEVI: Thank you.

17 MS. MIKVA: Thank you, Chairman. The
18 Promotion and Provisions Committee did nothing
19 that requires action. We had an excellent
20 presentation by client board members. And we
21 will continue to address, explore what we can do
22 to encourage support -- what Ms. Reiskin called,

1 I believe, reinvigorate client engagement, both
2 from helping the clients, but also helping
3 the -- us, staff, management, and the boards,
4 the attorney board members.

5 If anybody has any ideas or
6 suggestions, we would welcome them. Thank you.

7 CHAIRMAN LEVI: Questions? Comments?

8 (No response.)

9 CHAIRMAN LEVI: Mr. Grey?

10 MR. GREY: Thank you, Mr. Chairman.

11 The Finance Committee met. I have asked David
12 Richardson, the treasurer, to step forward. And
13 while he is getting there, I will tell you that
14 we received his report, and he discussed some
15 adjustments to the consolidated operating
16 budget, which we received. And after his
17 report, we are recommending a resolution that
18 the board adopt that would make these
19 adjustments that he is going to talk about to
20 the consolidated operating budgets.

21 Mr. Treasurer?

22 MR. RICHARDSON: Thank you, sir. For

1 the record, again, my name is David Richardson,
2 treasurer of the corporation.

3 We discussed in the Finance Committee
4 meeting a few adjustments, as Robert just
5 stated, in regards to the Office of Program
6 Performance budget. With the hiring freeze that
7 was in effect, there was a decision to take some
8 of the money from the personnel compensation of
9 benefits area, and hire two folks to basically
10 take on the task of traveling with our regular
11 staff, program counsel, to do program quality
12 visits and other program visits that were
13 needed.

14 In addition to that, we had two
15 additional people with the hiring freeze that we
16 decided to bring on on a temporary basis, and
17 they helped with the overall working within the
18 office's workload and special assignments.

19 As a result of the time that it took to
20 get our appropriation approved, these people
21 were brought in in December. Our appropriation
22 was approved in April. The same two people, the

1 last two that were hired, were -- helped the
2 office with special assignments and the
3 workload -- were hired as regular employees.

4 But because of the time it took for the
5 appropriation and the hiring process, we need to
6 move money from the personnel compensation and
7 benefits line into the temporary operating
8 budget. The amount of this move is \$105,000.
9 The president has the authority to move up to
10 75,000, so this movement within the budget was
11 approved yesterday by the Finance Committee to
12 be presented to the board today.

13 There was two other adjustments.
14 Because of regulatory requirements, we need
15 consultants to offer independent advice to the
16 president in regards to competition. You are
17 aware that we have had one area in competition
18 in Louisiana, and that decision has been made.
19 But we had to have some consultants provide some
20 recommendations to the president, so we need to
21 move \$10,000 -- again, out of the personnel
22 compensation and benefits line for that -- and

1 they projected that they needed \$5,000 for
2 travel.

3 So, with that, there is a total of
4 \$120,000 that needs to be moved from the
5 personnel compensation and benefits line into
6 temporary pay, and \$105,010 for the consulting,
7 \$5,000 for the travel.

8 There was one other change. After we
9 got back to the office in April we heard that
10 there was a recision that was not previously
11 reported to us with the U.S. Court of Veterans
12 Appeals funds. There was a small amount, 1,600
13 and \$40,000 (sic) that the U.S. Court of
14 Veterans Appeals funds were reduced. So we need
15 to reduce our consolidated operating budget in
16 that amount. And that would take our budget to
17 \$420,160,905.

18 There is a resolution on page 46 of
19 your board book that the Finance Committee
20 recommends to the board for adoption.

21 DEAN MINOW: Would you like a motion?

22 MR. RICHARDSON: Please.

1 CHAIRMAN LEVI: Would you like a
2 motion?

3 M O T I O N

4 DEAN MINOW: I would like to move that
5 resolution on page 46.

6 MR. GREY: Second?

7 FATHER PIUS: Second.

8 CHAIRMAN LEVI: All in favor?

9 (Chorus of ayes.)

10 MR. GREY: Thank you. There were two
11 other items, Members of the Board, that were
12 tabled to the next meeting, one having to do
13 with temporary operating budget, and the other
14 having to do with Ms. Dickerson, who had to give
15 a report earlier on amendments to the 403(b)
16 plan. We are in good shape with waiting for
17 those to be done later.

18 We did entertain some consideration of
19 the 2013 budget. It is a conversation and
20 discussion that I will tell you has been ongoing
21 by members of the Finance Committee, along with
22 John Constance of government affairs, with the

1 president, the chairman, and treasurer. And we
2 continue, I think, to come closer in our view of
3 what we think is -- would be an appropriate
4 recommendation to the board to consider. We are
5 not there yet.

6 We have asked for additional
7 information from the staff with regard to items
8 that we think will better inform us of how to
9 make that recommendation, and we are working
10 very closely with staff on that. And we are
11 confident that we will be able to advise the
12 board of a number that we feel we can all
13 support in our meeting in Boston, when we meet
14 there.

15 So, we feel very good about it, and I
16 would ask any member of the committee if they
17 would like to offer any other comments with
18 regard to that. Father Pius?

19 FATHER PIUS: Well, not in the board,
20 but we did receive a number of recommendations
21 from various groups: NLADA, the Commerce,
22 Chamber of Commerce, and some others. It is not

1 in the board book. I do believe it's on the
2 Wiki site. If you would like to have comments
3 from that, I think you can probably get it from
4 staff if anybody is interested in seeing what
5 those numbers are. So those are available.

6 MR. GREY: That is a very good point.

7 CHAIRMAN LEVI: Any other comments from
8 members of the committee?

9 MS. MIKVA: I had a question.

10 CHAIRMAN LEVI: Laurie?

11 MS. MIKVA: The timing, again? Remind
12 me.

13 FATHER PIUS: Soon.

14 (Laughter.)

15 MR. GREY: Well, it's a good point. We
16 want to be able to have an intelligent
17 conversation with OMB in September about this
18 number, as that is the cycle in which we are in
19 for consideration of the 2013 budget.

20 We also want to have enough time for
21 the board to consider it. And so if we do this
22 in August -- I mean it's possible we could have

1 a special call meeting of the board, if we had
2 to. But I think we are in good shape, and we
3 feel confident that we can bring a number that
4 will get us comfortably in front of OMB at the
5 right time.

6 MS. MIKVA: So is it the anticipation
7 that the board will consider and act on a number
8 in August?

9 MR. GREY: Yes.

10 MS. MIKVA: Thank you.

11 MR. GREY: Any other comments from
12 members of the committee?

13 (No response.)

14 MR. GREY: Mr. Chairman, that is our
15 report.

16 CHAIRMAN LEVI: Thank you very much.

17 FATHER PIUS: One thing I would just
18 like to raise, just for people to think about.
19 The \$75,000 cut-off number for the president to
20 make changes has existed for some time. In
21 current dollars it would be something like
22 \$90,000. So there is some -- we haven't

1 discussed it formally, but I would like to add
2 it for the record for something that we might
3 consider addressing in the future, is whether we
4 should raise that threshold to something like
5 \$90,000 or \$100,000, so that smaller
6 issues -- we haven't changed that number in
7 quite some time.

8 CHAIRMAN LEVI: Yes, that did come up.

9 FATHER PIUS: And that is something I
10 think we should think about.

11 CHAIRMAN LEVI: Yes.

12 MS. MIKVA: Right.

13 MR. GREY: Thank you, Father. I was
14 actually -- Vice Chairman Minow raised that as
15 an issue, and we had decided that it would -- it
16 was important for the president to consider that
17 and give us some feedback with regard to that
18 before having further discussions. So thank
19 you, Father Pius.

20 With that, Mr. Chairman, that concludes
21 the report of the Finance Committee.

22 CHAIRMAN LEVI: And that means it is

1 now Mr. Maddox's turn.

2 MR. MADDOX: Thank you, Mr. Chairman.
3 The audit committee did not take any action that
4 requires action by the full board. We did
5 receive a report from the director of human
6 resources, Ms. Dickerson, regarding the 403(b)
7 annual plan review and update on the
8 performance. The board will be pleased to know
9 that the plan is doing terrifically.

10 I asked how I could participate, in
11 light of the 18.83 percent return, as of June
12 30th --

13 CHAIRMAN LEVI: Are board members
14 allowed to participate?

15 (Laughter.)

16 MR. MADDOX: And I was told I had to
17 become an employee. And so I asked if there was
18 another way.

19 (Laughter.)

20 MR. MADDOX: Unfortunately, there is
21 not. But the plan is doing well. And by all
22 the metrics that were reported to us it is, you

1 know, in good hands and in good shape. So we
2 should be pleased with that.

3 We received a report from the inspector
4 general that, again, does not require action by
5 the full board.

6 We did hear from both the office of
7 legal affairs and the OIG regarding possible
8 revisions to the audit committee charter, which
9 the committee had asked for staff input and OIG
10 input so that we could consider whether to
11 modify the charter to eliminate a number of
12 actions that we are currently required to do
13 that we think we either are not well-equipped to
14 do, or don't necessarily need to do.

15 We are going to receive further input
16 at our next meeting, with the possibility of
17 modifying the charter to both streamline it and
18 to provide for a more efficient working
19 relationship for the committee and its interface
20 with the OIG, I think. So we are looking
21 forward to that.

22 We had a report from the acting

1 director of the office of compliance and
2 enforcement, Lora Rath. And that animated, in
3 part, our discussion at our task force meeting
4 today, which we have already gone through. But
5 it was a very helpful report concerning the
6 oversight function of that office, with respect
7 to grantee compliance.

8 Other than that, we had no public
9 comment, and we acted on no other business, and
10 that concluded our meeting.

11 CHAIRMAN LEVI: Questions? Comments?

12 FATHER PIUS: Just sort of a generic
13 question, but remind me. Are there expert
14 non-board members on the audit committee?

15 MR. MADDOX: There are not, but --

16 FATHER PIUS: That is --

17 MR. MADDOX: Yes, there are not, but
18 there may well be in the future.

19 FATHER PIUS: I'm just curious.

20 CHAIRMAN LEVI: Very soon. Stay tuned.

21 (Laughter.)

22 CHAIRMAN LEVI: Ops and regs?

1 MR. KECKLER: Thank you, Mr. Chairman.
2 The Operations and Regulations Committee met
3 yesterday, and considered two items of
4 substantive business. The committee requested
5 further information and options on the
6 management's enforcement authorities. And so,
7 at the time when such information and options
8 are produced, we will report on our further
9 consideration on them.

10 In addition, we heard presentation on
11 the issue that was mentioned by President
12 Sandman earlier, the census allocation and
13 reallocation. A concern which requires a
14 request of legislative change and appropriations
15 language to accommodate the outdated -- now
16 outdated -- nature of the appropriations
17 language, given changes in the way the decennial
18 census is conducted.

19 In your board book, you will find two
20 documents, one on a general background on the
21 legal and statutory context on page 174, and
22 management's recommendation regarding the

1 resolution of this issue, which begins on page
2 90. And on page 91 to 92 contains a red-lined
3 version, in particular, of the legislative
4 language requested.

5 In addition, that memorandum covers
6 some related administrative responses having to
7 do with the phase-in of the reallocation and, in
8 future years, how often reallocation might take
9 place. And, in addition, what data sets will be
10 chosen.

11 After considerable discussion and
12 information provided by management, the
13 committee endorsed management's recommendation
14 on all points. However, there was some further
15 discussion regarding one element of the
16 legislative language in there having to do with
17 an ambiguity in the original legislative
18 language as to whether LSC may, in the case of
19 the listed regions and service areas, be able to
20 use the census materials, or whether it is
21 required to use non-census or adjusted
22 population counts.

1 And so, that was referred back to
2 management for consideration. We endorse
3 management's recommendation on the resolution of
4 these points.

5 And part of the plan, then, would be
6 that this language and associated administrative
7 materials be published in the Federal Register
8 for a 30-day notice period. And at the end of
9 that comment period, when there are expected to
10 be comments, I would say, on it, it will be
11 returned to the board and/or the committee for
12 a -- for action and inclusion in a budgetary
13 legislative request to the Office of Management
14 and Budget around the beginning of September,
15 with the other budgetary materials.

16 So, with that, I will turn it over, in
17 case there is further things that management
18 would like to say, or questions that people
19 might have.

20 CHAIRMAN LEVI: Turn it over to Jim?

21 MR. KECKLER: Yes.

22 MR. SANDMAN: I don't have anything to

1 add, unless the board has questions. But the
2 next step would be to, as Mr. Keckler mentioned,
3 publish the recommendation in the Federal
4 Register and seek comment on it, and then
5 consider the comments before presenting the
6 matter for final decision to the board.

7 MR. KECKLER: And I would just add that
8 this does -- besides presenting it to the board
9 today for action, this --

10 CHAIRMAN LEVI: Do we need to take
11 action?

12 MR. KECKLER: I think what the
13 recommendation was -- that this was considered
14 to be a board matter. But I will defer to legal
15 opinion on what the board does.

16 We took official committee action in
17 endorsing the recommendation of management.
18 Certainly, in any case, the board needs -- is
19 said to need to schedule a thing after the
20 notice and comment period.

21 CHAIRMAN LEVI: Right.

22 MS. REISKIN: I have just a

1 clarification question. So, if -- voting yes
2 would mean that we are agreeing to the notice of
3 proposed rule-making and a 30-day comment
4 period, and that's where -- and the field would
5 be able to weigh in on the 3-year versus 5-year
6 thing?

7 MR. KECKLER: Well, it's not a
8 rule-making, it's a -- this is why it is a bit
9 ambiguous about whether board action is
10 required. It is a board action, ultimately,
11 that is a policy change with regard to the
12 administrative aspects, and a request for a
13 legislative change. Obviously, we don't control
14 the legislation, Congress would do that.

15 So, neither of those fall into the
16 category of regulations.

17 MS. REISKIN: Okay.

18 MR. KECKLER: On the one side, they are
19 policy. On the other hand, they are requested
20 legislation.

21 But it is a matter of sufficient
22 gravity that, you know, the full board needs to

1 consider something about --

2 FATHER PIUS: So, we obviously could
3 not change the census data -- well, we sort of
4 have to change the census data. But, formally
5 speaking, Congress has to change that.

6 CHAIRMAN LEVI: Right.

7 FATHER PIUS: The change in the
8 frequency of review is also statutorily based,
9 so we actually can't do that until Congress
10 gives us the okay.

11 But the phase-in over two years is
12 something we can do without congressional
13 approval, correct?

14 MR. KECKLER: No, I don't --

15 FATHER PIUS: No? Okay.

16 MR. KECKLER: No, I think we need some
17 kind
18 of --

19 FATHER PIUS: That's what I wanted to
20 clarify.

21 MR. KECKLER: Yes, I think the Congress
22 is going to -- we are going to need

1 congressional permission for that.

2 It's just the language that is
3 specified and requested doesn't -- it doesn't
4 specify, for instance, how often we would
5 allocate. It says we are now outside the realm
6 of the decennial census, which obviously has an
7 inherent period to it.

8 But, you know, in addition, partly to
9 inform the public in the field, and to think
10 about how we are going to proceed, going
11 forward, and to be able to explain what we are
12 planning to do to Congress, we have included in
13 that, "This is our plan. We are going to do it
14 on a three-year basis, a three-year cycle," and
15 that is management's recommendation --

16 FATHER PIUS: That decision to make it
17 on a three-year cycle, assuming that they accept
18 the statutory -- should be something that is
19 codified somewhere, not just in internal policy.
20 But shouldn't that be part of the CFRs, or do we
21 not want to take it to that level?

22 And assuming we do get the statutory

1 change, essentially one line, should we make the
2 three-year or five-year review part of
3 the -- our own regulatory structure, or our own
4 charter, or should we just keep it as internal
5 policy?

6 MR. SANDMAN: I don't think it should
7 be just a matter of internal policy. I think
8 something in legislation needs to reflect that,
9 as a direct --

10 FATHER PIUS: Because the black line we
11 have for the legislation in the proposal
12 certainly would not convey that.

13 MR. SANDMAN: Correct.

14 FATHER PIUS: And what we should do,
15 then, to more formally codify three or
16 five-year --

17 MR. SANDMAN: Yes.

18 FATHER PIUS: Just a question. So I
19 don't know the answer, but that's a question I
20 have.

21 MR. SANDMAN: That is a discussion I
22 think that we would want to have with the Office

1 of Management and Budget, and people on the
2 Hill, in terms of how best to effectuate that.
3 But I think that is something that would need to
4 be done legislatively, and isn't something that
5 we do simply as a matter of internal
6 administration.

7 FATHER PIUS: And since I'm asking
8 questions, some of our grantees are on more than
9 kind of a one-year approval cycle, right, or is
10 it all -- they all get -- have to be renewed by
11 the pro forma or not every year?

12 MR. SANDMAN: They have a three-year
13 grant, but the amount of the grant is something
14 that varies from year --

15 FATHER PIUS: Okay.

16 CHAIRMAN LEVI: Martha.

17 DEAN MINOW: I have a question, not on
18 the cycle, the three-year cycle, but on the
19 redlined language on 91.

20 As I recall from earlier discussions,
21 there is then some ambiguity inside the Office
22 of the Census who will actually supply the

1 information that we are asking for. And are we
2 waiting for the response, public response
3 process, to negotiate that? Are we talking with
4 them informally about that?

5 What is the -- I just worry that we now
6 are going to say we're going to look to the
7 census, but they don't any more have an
8 obligation to produce the information in the
9 form that we used to receive it. So then what
10 happens?

11 MR. KECKLER: Well, I would allow
12 people at management to weigh in. We had some
13 discussion related to that, in that
14 we -- conversations with the Census are
15 continuing. If this particular language is
16 there, the Census seems prepared and ready to
17 provide that. We have not named a particular
18 data set, and allowed that to be determined by
19 the Census.

20 But I will allow people -- anybody,
21 obviously, can come in --

22 DEAN MINOW: I mean it is -- the

1 language and the memo on top of 93 says it would
2 be helpful to have language in the committee
3 report specify the Census Bureau's duties. If
4 it's going to be handled that way, you know, I'm
5 not sure exactly whether the Census understands
6 that that is a directive, as opposed to,
7 "Wouldn't it be nice?"

8 (Laughter.)

9 CHAIRMAN LEVI: John?

10 MR. CONSTANCE: For the record -- this
11 is John Constance, director of government
12 relations and public affairs -- this is also
13 part of the wisdom of going through the normal
14 OMB process en route to Congress with this. The
15 formal coordination will come through OMB
16 getting in touch with the Census Bureau and, at
17 that level, going through their government
18 affairs folks to the appropriate people that we
19 have already been talking to in order to
20 solidify this and be sure that everybody is on
21 board with the language, going forward.

22 They will also have -- their

1 legislative people will have an opinion as to
2 how this is codified, I'm sure. And they will
3 look at the language, going forward. So this
4 was also the reasoning behind going through that
5 process formally, so that by the time it gets to
6 Congress, that -- you know, all of those traps
7 will have already been run, I think. So --

8 DEAN MINOW: Well, I think that is very
9 helpful, I just -- people come and go.

10 MR. CONSTANCE: Understand.

11 DEAN MINOW: Yeah.

12 MR. CONSTANCE: Understand. We
13 have -- I think everybody here is pretty
14 comfortable with the coordination that we have
15 had with the Census Bureau, but the point is
16 well taken --

17 DEAN MINOW: Yeah.

18 MR. CONSTANCE: -- that it really needs
19 to be formalized.

20 CHAIRMAN LEVI: So do we need to
21 endorse -- you want the board to endorse, this
22 committee's endorsement?

1 MR. KECKLER: I think that we are
2 reporting that the committee is favorable
3 towards management's recommendation. I think
4 that it may be appropriate to get a general
5 sense if -- by the board -- if they should
6 proceed now with a notice and comment period
7 regarding this recommendation.

8 CHAIRMAN LEVI: All right. So, in
9 fact, it's happening that the committee is
10 reporting that it endorses the recommendation,
11 and would ask the board to do so, as well.

12 MR. KECKLER: Yes.

13 DEAN MINOW: And to authorize
14 comment --

15 MR. KORRELL: I think that's the key
16 piece --

17 CHAIRMAN LEVI: Authorized notice of --

18 DEAN MINOW: Authorized notice of
19 comment.

20 MR. KECKLER: Authorized notice
21 of -- yes.

22 MR. MADDOX: I have a couple of

1 questions. I am troubled by the language that
2 we are going to give basically just sort of a
3 blank check to the Bureau of the Census. Not
4 that there is a whole lot of difference,
5 necessarily, in the existing language versus the
6 language that management has proposed, but
7 I -- it seems as if there is an awful lot of
8 reliance on the agency with expertise.

9 I noticed NLADA has recommended that we
10 have some modifying language, such as
11 identifying, through the best available data
12 identified by LSC. And I wonder why that isn't
13 a sensible suggestion, and why the committee
14 evidently rejected it, or why management
15 rejected it.

16 The second concern I have is --

17 CHAIRMAN LEVI: Let's get an answer.

18 MR. MADDOX: Okay.

19 MR. KECKLER: I will allow the
20 management to do it, and I completely understand
21 that, you know, handing over this however money
22 is going to be distributed to this other agency.

1 If we stick with this formula -- and as
2 the background memo says, you know, that's a
3 choice, that we have decided that this vehicle,
4 this basic per capita formula continues -- then,
5 you know, the question is, it's per capita, who
6 is good at counting heads? That is the Census.

7 And there was a concern that the
8 extent -- if discretion is created here, it is
9 going to create a certain kind of certain
10 pressures and so on, that -- you know, if we are
11 going to specify to some extent the service
12 areas, what -- look for the people in poverty,
13 and so on, and leave the counts to the Census
14 using whatever data sets that they have, I mean,
15 that is the answer that I got from management.
16 And if you stick with a per capita formula, it
17 made sense.

18 MR. SANDMAN: I think Charles has
19 captured our thinking, exactly. We were mindful
20 of the comment that Dean Minow made at the April
21 meeting about the pitfalls of having LSC have
22 discretion in this area, and thought that this

1 approach was more consistent with the existing
2 statutory scheme, and less risky.

3 DEAN MINOW: I can just underscore. I
4 think I said at that time, but I just have it
5 seared in my memory, the Office of the Census's
6 own deliberation over its methodology for
7 assessing the census is itself such a
8 politicized matter, for us to then have another
9 layer on top of that, I think, is to invite a
10 kind of difficulty that we don't need.

11 CHAIRMAN LEVI: Second question?

12 MR. MADDOX: Yes, those are helpful
13 comments.

14 The second question, more difficult,
15 more touchy, but that seems to be my role, so
16 I'm going to bring it up --

17 (Laughter.)

18 MR. MADDOX: I -- we are charged by law
19 with not allowing grantees to provide legal
20 services using federal funds to what the
21 Department of Homeland Security calls
22 "unauthorized immigrants," or what I think the

1 act calls "ineligible individuals," and what
2 many people call "undocumented aliens."

3 And, at the same time, we are now -- I
4 guess we have always been charged with
5 allocating funds by state, in essence, without
6 regard to the eligibility of the population of
7 poor people, so that we count people in a state
8 who are in poverty, and then we allocate money
9 to that state, according to that number, but
10 some large percentage of that population may be
11 ineligible, so that the dollars allocated to
12 that state, then, are left to be distributed
13 disproportionately to the remaining population
14 of poor people who are eligible.

15 CHAIRMAN LEVI: My understanding was
16 that the Census Bureau has a -- they clear that
17 out, supposedly.

18 MR. MADDOX: No, they don't even ask.

19 DEAN MINOW: They don't ask.

20 MR. MADDOX: They don't even ask --

21 DEAN MINOW: They don't ask.

22 MR. MADDOX: -- you what your

1 immigration status is.

2 CHAIRMAN LEVI: But I

3 thought -- well --

4 DEAN MINOW: But if your concern -- let
5 me see if I understand the concern. The concern
6 is that there would be, in some states, such a
7 disproportionate percentage of the poverty
8 population that are ineligible, that, therefore,
9 this distribution formula would, itself, be off.

10 MR. MADDOX: Right.

11 DEAN MINOW: If that's your concern --

12 MR. MADDOX: Essentially, that is.

13 DEAN MINOW: If that is your concern, I
14 think -- I don't have the data in front of me,
15 but as I have seen it, even though there are
16 definitely states that have a disproportionate
17 share of immigrants, and of undocumented
18 immigrants, the poverty level doesn't track
19 that. That is, the distribution of immigrants
20 who are undocumented who are also in poverty is
21 not higher in the states that have the higher
22 percentage. So --

1 MR. MADDOX: Yes, I'm not sure about
2 that. I mean you may --

3 DEAN MINOW: I'm not sure, either, but
4 I have seen some data that suggests that.

5 So, in any case, there is a way to
6 control for the problem that you have
7 identified.

8 FATHER PIUS: And the other
9 complication is that there are exceptions to
10 that.

11 DEAN MINOW: And there are exceptions
12 to that.

13 FATHER PIUS: The difficulty is that
14 there are some undocumented workers --

15 DEAN MINOW: It's true.

16 FATHER PIUS: -- that we can help,
17 mostly under Violence Against Women Act.

18 DEAN MINOW: That's true.

19 FATHER PIUS: So it makes it a slightly
20 more complicated issue.

21 But I think Vic is right, it is a very
22 complicated point. But are there data sets even

1 available --

2 DEAN MINOW: It's all estimated --

3 FATHER PIUS: -- that take account of
4 undocumented alien populations?

5 MR. KECKLER: Let me just --

6 DEAN MINOW: It's all estimated.

7 MR. KECKLER: Yeah. Let me just pause
8 on that, partly for the reasons that -- I am
9 sympathetic to the points you make, and which is
10 part of a little bit of a broader point, in the
11 sense that our funds are for eligible clients,
12 and -- which are at 125 percent of poverty and,
13 with small exceptions, you know, either
14 people -- long-term resident aliens or citizens.

15 So, in a logical sense, to try to be
16 perfectly fair and provide the same dollar for
17 the same number of eligible clients, you could
18 replace in the formula an equal figure
19 per -- instead of individual and poverty,
20 individual eligible for services, except that,
21 as a practical -- so I am sympathetic to that
22 idea, conceptually.

1 But, as a practical matter for the
2 reasons that sort of have come up and came up in
3 the committee, the -- if we're having the Census
4 do this, and having the Census be the
5 head-counter, the Census just simply doesn't
6 count, which is why we have these discussions of
7 how many undocumented aliens, and there is a
8 huge debate about it, and nobody knows. And
9 certainly the Census purposely
10 doesn't -- basically, purposely doesn't know.

11 So, if we are turning it over to the
12 Census, I don't know that -- I am not even sure
13 that they would be apparently -- and I can
14 understand why they might be unwilling to give
15 us an estimate, or quite unable. So, although
16 conceptually I see your point, and I'm somewhat
17 sympathetic, apparently, as a practical matter,
18 it would be quite difficult. That is my -- that
19 is what I see.

20 MR. MADDOX: I think it would be
21 difficult. I think the practical effect of
22 census data, and

1 probably --

2 DEAN MINOW: It wouldn't matter.

3 MR. MADDOX: -- even the existing
4 allocation formula is to shift money from those
5 states that have not seen large increases -- you
6 know, I mean for instance, the DHS data for 2010
7 show that from 2000 to 2010 there was an
8 increase of unauthorized population of about a
9 million in the lowest 40 ranking states, and
10 about another million or so in the top ranking
11 10 states with, you know, Texas being -- like
12 having 800,000 of those.

13 I think it is fair to say that some
14 significant part of those people are going to
15 be, you know, in poverty, for purposes of LSC
16 funding statistics. And it's just -- it's sort
17 of an intellectual conundrum, if you will.

18 DEAN MINOW: It is.

19 MR. MADDOX: And I guess it is not one
20 that we can resolve, just as Charles has
21 suggested.

22 I think it is worth noting I am

1 troubled by the idea that we -- I agree, Martha,
2 that the political issue that gets ventilated at
3 Census is not one that we want to import into
4 our own proceedings.

5 On the other hand, it seems like maybe
6 we ought to inform Congress that we think there
7 is a disconnect between the original -- and I
8 assume this language comes from, in essence, the
9 original 1974 act.

10 MR. KECKLER: Well, this language is
11 from the 1996 --

12 MR. MADDOX: Right.

13 MR. KECKLER: -- appropriations.
14 And -- but you know, the issue of, you know, who
15 is in poverty, I mean --

16 MR. MADDOX: Right, but the language --

17 MR. KECKLER: -- that is an ancient --

18 MR. MADDOX: The language is the
19 carry-over.

20 MR. KECKLER: Right, yes.

21 DEAN MINOW: That's the carry-over.

22 MR. MADDOX: The concept is a

1 carry-over.

2 MR. KECKLER: Yeah.

3 MR. MADDOX: I mean -- and in 1974,
4 there was no particular reason for Congress to
5 be concerned about allocating -- about a
6 disconnect between allocating federal funds to
7 states based on a poverty population, and then
8 having some significant, you know, sort of
9 distortion of that based on, you know, a subset
10 who were ineligible.

11 And I don't know exactly what to do
12 about it. It troubles me, as a board member. I
13 could see a lot of states and a lot of grantees
14 losing a substantial part of their funds,
15 because it's now going to go to states, you
16 know, which have seen a bigger influx, like
17 Texas, for instance.

18 Laurie?

19 MS. MIKVA: I just wondered whether any
20 grantees have ever raised this as an issue, that
21 we know of?

22 MR. SANDMAN: Not to my knowledge.

1 CHAIRMAN LEVI: All right. We have two
2 minutes to figure out what we are doing here.

3 Are we taking a motion to --

4 MR. KECKLER: I believe we are taking a
5 motion to authorize a notice and comment on
6 management's proposed resolution.

7 MR. MADDOX: And then what happens --

8 MS. BROWNE: Will there be specific
9 questions, like in a --

10 CHAIRMAN LEVI: And that resolution is
11 to get --

12 DEAN MINOW: To have notice and
13 comment.

14 CHAIRMAN LEVI: -- published, and get
15 public comment.

16 MR. KECKLER: Yes.

17 MS. MIKVA: Do you want a motion?

18 M O T I O N

19 MR. KECKLER: As chair of the
20 committee, I will --

21 MS. MIKVA: You will move it?

22 MR. KECKLER: -- offer that as a motion

1 on the table.

2 CHAIRMAN LEVI: And you will second?

3 DEAN MINOW: I will second.

4 CHAIRMAN LEVI: Any more discussion?

5 MS. REISKIN: Just -- can we ask in
6 that specific questions? Like ask particularly
7 for comment on three versus five years for -- I
8 mean like they do in the other -- in a notice
9 for rule-making sometimes they will -- I know,
10 like, CMS and Social Security will say, "We want
11 to specifically hear about this."

12 CHAIRMAN LEVI: I don't think that is
13 the --

14 DEAN MINOW: No, it's not.

15 CHAIRMAN LEVI: The motion that is
16 pending is to endorse --

17 DEAN MINOW: The language.

18 CHAIRMAN LEVI: -- recommendation and
19 receive a --

20 FATHER PIUS: Which are, essentially,
21 three things: the statutory change in language;
22 the three-year change in numbers; and then the

1 phase-in period for the current census change.

2 MR. KECKLER: Right.

3 FATHER PIUS: Those would be the three
4 things.

5 CHAIRMAN LEVI: If anybody wants to
6 comment by saying --

7 MS. REISKIN: So all of those will be
8 noted. Okay. So -- but we're not deciding if,
9 for absolute sure, that is what we are going to
10 do, or --

11 MR. KECKLER: No. In fact, the --

12 FATHER PIUS: Right.

13 MS. REISKIN: Just asking for comment.

14 MR. KECKLER: Right. The motion is to
15 authorize notice and comment on these
16 recommendations.

17 FATHER PIUS: We are saying, "This is
18 what we are thinking of doing. What do you
19 think?"

20 MR. KECKLER: Right.

21 MS. REISKIN: Okay, okay.

22 MR. KECKLER: Yes.

1 DEAN MINOW: All in favor?

2 CHAIRMAN LEVI: All in favor?

3 (Chorus of ayes.)

4 CHAIRMAN LEVI: Opposed?

5 (No response.)

6 CHAIRMAN LEVI: Okay. The Development
7 Committee had no report needing action, except
8 to say that we are finalizing our interviewing
9 of a development professional to advise us. We
10 received 21 responses to the RFP. That has been
11 brought down to, I guess, three or four. And
12 then we are doing reference checking, and based
13 on that we will conduct some interviews and make
14 a selection.

15 We did get some concern stated by
16 individuals that the public comment period
17 regarding development in LSC, and I take that to
18 be sort of a -- the skepticism that we have
19 heard from the field previously. But we are
20 aware of that, and the issues that are on their
21 mind. But I think, nevertheless, feel
22 comfortable that we are proceeding in the right

1 direction. So, that is the report of the
2 Development Committee.

3 And now, any questions on that?

4 (No response.)

5 CHAIRMAN LEVI: Public comment. Jim,
6 are you going to -- did you want to speak, Jim
7 Bamberger?

8 (No response.)

9 CHAIRMAN LEVI: You don't have to.

10 (Laughter.)

11 MR. BAMBERGER: No, I would like to
12 speak, just trying to put some thoughts
13 together.

14 CHAIRMAN LEVI: Well, we are at that
15 point.

16 MR. BAMBERGER: I appreciate the
17 opportunity. Thank you very much. My name is
18 Jim Bamberger. I am the director of the
19 Washington State Office of Civil Legal Aid. We
20 are your funding partner. We receive and
21 administer state appropriations for some legal
22 services, and we fund your grantee, the

1 Northwest Justice Project.

2 And through the Northwest Justice
3 Project, we help underwrite not only the direct
4 delivery of civil legal aid, but the engagement
5 of thousands of volunteer attorneys in this
6 state, and provide the services that you all
7 were privy to yesterday morning, and in the
8 understanding.

9 I also have a history with the LSC.
10 From 1999 through 2003 I was a staff counsel on
11 a part-time basis with OPP, and worked with
12 President McKay, and then the OPP leadership, to
13 develop and implement the state planning
14 initiative, which is the genesis of the kind of
15 development of state justice communities across
16 the nation that LSC has so ably promoted, and
17 which you have seen the fruits and the value of
18 here in this state.

19 I want to thank you for your service.
20 I want to thank you for your passion. I have
21 seen it in the discussions and in the private
22 discussions yesterday. I want to thank you for

1 your commitment to equal justice for all. And I
2 know that every one of you, regardless of your
3 political orientation, is committed to that core
4 promise. And I appreciate that.

5 Collectively, you are stewards of our
6 national commitment to civil legal aid and to
7 civil equal justice. Discharging your
8 stewardship effectively requires you to achieve
9 and maintain a common vision, a sense of
10 strategic purpose -- and I am very excited about
11 the strategic planning that you are going to be
12 undertaking -- leadership, and one last piece:
13 institutional humility. And I want to talk a
14 little bit about that one.

15 There was a time when LSC was the only
16 game in town, when it was the funder of civil
17 legal services nationally and at the state and
18 local level. There were small programs,
19 principally in urban areas, where legal aid
20 societies had developed and discharged legal
21 services. But LSC was the game in town. We all
22 know the history.

1 LSC has been stagnant for years, for
2 decades. It's had its ups, it's had its downs,
3 it's had its ups, and it has its challenges
4 today. In large measure, and as a direct
5 response to the vicissitudes of LSC funding and
6 the emergence of a series of additional
7 limitations on what LSC funds can be used for
8 and for whom, the states came and the profession
9 came to develop complementary resources. IOLTA
10 was developed in the 1980s. And then, certainly
11 at the encouragement of LSC, states were called
12 to start investing in their own equal justice
13 systems.

14 And I am proud to say that, in our
15 state, the state has become -- the State of
16 Washington -- has become the single largest
17 provider and funder of this function, which we
18 understand and you understand is now a federal
19 state partnership. We're just no longer an
20 exclusive federal responsibility, it's a federal
21 state partnership. And we, certainly here, are
22 living up to the expectation, and I know my

1 colleagues across the nation are working hard to
2 do that, as well.

3 So, over the last three decades, LSC's
4 role has changed. And yet, in many instances.
5 LSC's means of engagement have not. And that is
6 really where I go on this whole question of
7 institutional humility.

8 Particularly in states like Washington,
9 where LSC is not only not even an equal partner,
10 it's a minority funding partner, LSC needs to be
11 careful about initiatives, directives, and other
12 things that it is going to do which could have
13 unintended consequences on very carefully
14 crafted relationships that have been developed
15 in the States, that are being developed in the
16 States.

17 And I encourage you to be very
18 aggressive in reaching out to your state-based
19 partners, to your funding partners, to
20 your -- to the 35-plus commissions that exist
21 at -- with the encouragement of LSC in all of
22 the states, to make sure that initiatives and

1 policy directives, and even legislative
2 orientation is developed in concert with and in
3 partnership with those of us who are out here,
4 trying to build our own state justice
5 communities, and rely in large part on the LSC
6 investment.

7 I think that it's also important for us
8 to find areas where we can work together. I
9 know that I talked to the president very briefly
10 about things that we are doing to develop a
11 cycle, from defining the role -- from the
12 statutory directives that we get from our state
13 legislature, translating them into an
14 application for service that is made available,
15 building systems in place to ensure that work
16 product is accountable, lives up to best
17 practices, meets performance standards that both
18 comply with the LSC, performance criteria, but
19 also our state-based performance standards that
20 have been adopted by the Access to Justice Board
21 through a broad, broad, broad and inclusive
22 process.

1 And then, we capture the information
2 that we think is necessary and responsive, not
3 only to make sure that the dollars are being
4 used effectively, but also making sure that we
5 are finding out what we are doing, and the
6 difference that we make in the lives of the
7 people who rely on legal aid, not only
8 numerically, but functionally and qualitatively.

9 And there is a lot of work to be done
10 in that area, and that is work that should be
11 done in partnership with -- between LSC and the
12 funding partners and the state justice
13 communities. It is not a one-size-fits-all, but
14 there are lots of ways in which we can learn to
15 hear and develop better information about what
16 we do, and communicate about what we do.

17 And so, your principal and primary
18 responsibility is absolutely ensuring fiscal
19 accountability and integrity. And I am pleased
20 to know that you are working hard on that. It
21 will never be a fail-safe system. There are
22 people who are going to game it, I don't care in

1 what industry, in what world we're living in.
2 But all we have is -- as Harry and I have talked
3 about -- all we have is our credibility,
4 ensuring that we don't have the kinds of
5 problems that we have had in the past.

6 So, fiscal accountability is important.
7 The systems at LSC that establishes the audit
8 guides and then the accounting manuals, et
9 cetera, et cetera, are important, and we rely on
10 them. But when it gets to operations, when it
11 gets to delivery, when it gets to how the
12 systems work, I would encourage you to think
13 twice before imposing directives, and talk with
14 the states, and talk with the state justice
15 commissions and partners, to make sure that
16 LSC's role is the right role, and that LSC goes
17 where it should go, but doesn't go into places
18 and make demands of state justice communities or
19 its providers who play significant roles in
20 these communities, in ways that may be
21 counterproductive to what we are trying to do
22 here, at the state level.

1 I appreciate the work that you do, I am
2 very grateful for it. We want to be your
3 partner. Call on us at any time for help and
4 assistance. We will drop what we're doing.
5 Thank you very much.

6 CHAIRMAN LEVI: Thank you very much.

7 FATHER PIUS: I just hope that, you
8 know, in our strategic planning process -- I
9 think we are still open for public comment, and
10 the more information we get from people like
11 you, that becomes part of the record of our
12 strategic planning process, even if it's an
13 oversight process. It's very helpful. So I
14 would encourage you to stay informed, and keep
15 us informed of your opinions and the opinions of
16 those who do what you do, to help us shape our
17 opinions. Thank you.

18 MR. BAMBERGER: Appreciate it.

19 DEAN MINOW: One thing we do hope to do
20 is be able to lift up examples that are
21 commendable. And certainly what has happened
22 here in Washington, as I understand it, no small

1 degree because of your own personal effort, is
2 something that other states could learn a lot
3 from.

4 MR. BAMBERGER: Well, I will just say
5 that this is -- three years of collected
6 activity has gotten us to this place, and no
7 single individual has made it happen.

8 MR. KORRELL: One of the great
9 challenges for us is there are states like
10 Washington, does a lot, produces a lot, puts a
11 lot of money into it. And, as Vic pointed out
12 earlier, there are other states that do almost
13 nothing.

14 MR. BAMBERGER: Right.

15 MR. KORRELL: Where we are the only
16 game in town.

17 MR. BAMBERGER: Right.

18 MR. KORRELL: And the only one
19 providing any significant funding, the only one
20 providing any oversight, either program quality
21 or fiscal oversight. So it is a --

22 MR. BAMBERGER: Exactly.

1 have the Tulela program. We have a large array
2 of people, you won't be able to keep track of
3 it. Also, Catherine has made copies, if you
4 want to leave yours in the book. And take the
5 hand-out on Indian law basics, because we will
6 be referring to that, and so will the tribal
7 court judges and the officials you will be
8 meeting. So --

9 M O T I O N

10 CHAIRMAN LEVI: We need a motion to go
11 into closed session.

12 DEAN MINOW: I move.

13 FATHER PIUS: I second.

14 CHAIRMAN LEVI: All in favor?

15 (Chorus of ayes.)

16 CHAIRMAN LEVI: Thank you, everybody.

17 (Whereupon, at 12:18, the meeting was
18 adjourned to closed session.)

19

20

21

22