

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

MEETING OF THE PROMOTION AND PROVISION
FOR THE DELIVERY OF LEGAL SERVICES COMMITTEE

OPEN SESSION

Monday, October 18, 2010

2:26 p.m.

Hyatt Regency Hotel
320 West Jefferson Street
Louisville, KY 40202

COMMITTEE MEMBERS PRESENT:

Laurie I. Mikva, Chairperson
Sharon L. Browne
Victor B. Maddox
The Reverend Joseph Pius Pietrzyk, O.P.
Julie A. Reiskin
John G. Levi, ex officio

OTHER BOARD MEMBERS PRESENT:

Robert J. Grey, Jr.
Charles N.W. Keckler
Harry J.F. Korell, III
Martha L. Minow (by telephone)
Gloria Valencia-Weber

STAFF AND PUBLIC PRESENT:

Victor M. Fortuno, Interim President and General Counsel
Kathleen Connors, Executive Assistant to the President
Patricia Batie, Acting Corporate Secretary and FOIA Officer, Office of Legal Affairs
Mattie Cohan, Senior Assistant General Counsel, Office of Legal Affairs
Katherine Ward, Executive Assistant, Office of Legal Affairs
Jeffrey E. Schanz, Inspector General
Joel Gallay, Special Counsel to the Inspector General, Office of the Inspector General
Laurie Tarantowicz, Assistant Inspector General and Legal Counsel, Office of the Inspector General
Thomas Coogan, Assistant Inspector General for Investigations, Office of the Inspector General
Ronald "Dutch" Merryman, Assistant Inspector General for Audit, Office of the Inspector General
David Maddox, Assistant Inspector General for Management and Evaluation, Office of the Inspector General
John Constance, Director, Office of Government Relations and Public Affairs
Stephen Barr, Media Relations Director, Government Relations and Public Affairs Office
Janet LaBella, Director, Office of Program Performance
Matilde Lacayo, Program Counsel III, Office of Program Performance
John Henley, Member, LSC Finance Committee

Cynthia Elliott, Executive Director, Appalachian Research and Defense Fund
Jeffrey A. Been, Executive Director, Legal Aid Society of Louisville
Marc Theriault, Law and Technology Projects Manager, Legal Aid Society of Louisville
Scott Crocker, Executive Director, Kentucky Legal Aid
David R. Yoder, Executive Director, Legal Services of East Tennessee

Terry Brooks, Standing Committee on Legal Aid & Indigent Defendants (SCLAID), American Bar Association
Don Saunders, National Legal Aid and Defenders Association (NLADA)
Linda Perle, Center for Law & Social Policy (CLASP)
Margaret Hill-Daniels, Member of the Public

C O N T E N T S

OPEN SESSION	PAGE
1. Approval of agenda	4
2. Approval of the minutes of the Committee's open session meeting of July 30, 2010	5
3. Consider and act on planning and agenda items for the upcoming year	6
4. Staff report on LSC's Initiatives Regarding Services to Persons with Limited English Proficiency	44
5. Public comment	35
6. Consider and act on other business	72
7. Consider and act on adjournment of meeting	72

Motions: 5, 5, 6, 72

P R O C E E D I N G S

(2:26 p.m.)

CHAIRMAN MIKVA: I'm going to call the meeting for the Committee for the Promotion and Provision for the Delivery of Legal Services. This was duly noted in the Federal Register.

If we could just briefly introduce yourselves, people who are on the committee. I'm Laurie Mikva.

MS. BROWNE: Sharon Browne.

MR. MADDOX: Victor Maddox.

MS. REISKIN: Julie Reiskin.

FATHER PIUS: Father Pius Pietryzk.

CHAIRMAN MIKVA: And I think that's it.

The first item is the approval of the agenda.

I would like to make one change, which is to move public comment up after 3. It seems to me if the public is going to comment, it's going to be on the agenda items more than on the presentation on LEP, so that we should give them a chance right after that.

If nobody objects to that, with that change, I would entertain a motion to approve the agenda.

//

1 M O T I O N

2 DEAN MINOW: So move.

3 MR. MADDOX: So move -- second.

4 CHAIRMAN MIKVA: All in favor?

5 (A chorus of ayes.)

6 CHAIRMAN MIKVA: Motion for the approval of
7 the minutes of the committee meeting from July 30,
8 2010.

9 M O T I O N

10 MR. MADDOX: So move.

11 MS. BROWNE: I'll second.

12 CHAIRMAN MIKVA: All in favor?

13 (A chorus of ayes.)

14 MS. REISKIN: Madam Chair, as a point of
15 order, I'll abstain because I wasn't on this committee
16 then.

17 FATHER PIUS: That would be the majority of
18 us, I think.

19 MR. KORRELL: Madam Chair, may I make an
20 observation? I apologize.

21 CHAIRMAN MIKVA: Absolutely.

22 MR. KORRELL: I didn't hit my button quickly

1 enough. I attended some of these meetings by telephone
2 as an appointee.

3 CHAIRMAN MIKVA: Right.

4 MR. KORRELL: And I don't see on this
5 one -- I'm pretty sure this is one that I attended, and
6 I don't see myself listed. It's obviously not of major
7 consequence, but while we're discussing the minutes, I
8 thought I'd point that out.

9 CHAIRMAN MIKVA: Were other appointees noted?
10 I'm just not sure.

11 MR. MADDOX: Yes. On the next page.

12 CHAIRMAN MIKVA: Oh, okay.

13 MR. KORRELL: I was attending by phone, so --

14 CHAIRMAN MIKVA: Okay. Well, I think we
15 should amend that, then.

16 M O T I O N

17 MR. MADDOX: So moved.

18 FATHER PIUS: Second.

19 CHAIRMAN MIKVA: All in favor?

20 (A chorus of ayes.)

21 CHAIRMAN MIKVA: The first item, then, the
22 next item of business, is to consider and act on

1 planning and agenda items for the upcoming year. This
2 is, of course, the first time -- I'm sorry. I want to
3 backtrack for one minute.

4 They've probably all gone, but I wanted to
5 thank the programs for all the help, I think, for the
6 good work, and for taking the time to share it with us.

7 I think it's important for the Board in general, but I
8 think it's particularly important for this committee.
9 And as we look to the coming year for our agenda, this
10 stuff is very helpful. So thank you.

11 But this is in response to the roles and
12 responsibilities of the committees. And one is to set
13 a schedule of agenda subjects to be discussed for the
14 ensuing year. And I would open it up to anybody who
15 has some ideas.

16 MS. BROWNE: Well, I'm not sure where it falls
17 within the different committees. But since we're all a
18 new Board, I would like to see us clarify what the
19 mission is of LSC. What is our primary goal? We're
20 supposed to be providing civil legal services. And I
21 see that there -- it seems to cover a very broad array
22 of different topics, from filling out forms to the IRS

1 to litigation.

2 And I think, personally, I would like to see a
3 little bit more knowledge of exactly what is our role,
4 our duties and responsibilities.

5 FATHER PIUS: Maybe even itemized ones -- what
6 are more critical? What are less critical?

7 MS. BROWNE: Prioritize it.

8 FATHER PIUS: Prioritize it, yes.

9 CHAIRMAN MIKVA: Vic? Would you --

10 PRESIDENT FORTUNO: We can certainly prepare
11 something for you which would include the reference to
12 the LSC Act and our appropriations act, as well as the
13 mission statement carved out and laid out in the
14 Strategic Directions for the Corporation, which you
15 will --

16 CHAIRMAN MIKVA: Yes.

17 PRESIDENT FORTUNO: -- now actually be taking
18 up because those are about to expire. And you'll be
19 taking up the development of a new Strategic
20 Directions.

21 So I think that in the meantime, what we'll
22 do -- and I'll get that to you before we leave here,

1 Louisville -- is a discussion of what is provided for
2 in the LSC Act and appropriations acts, and what's
3 provided for in the Strategic Directions, if that's
4 okay.

5 MS. BROWNE: Well, that would be great. Thank
6 you.

7 CHAIRMAN MIKVA: Julie?

8 MS. REISKIN: Well, I was just going to say
9 that I thought that the Act kind of outlined what the
10 mission was.

11 I have something that I've been interested in
12 in terms of the promotion of legal services, and
13 that's -- I've talked a lot about this over the past
14 year -- is I really believe that the -- one of the
15 things I love about the Act is that they require client
16 Board members.

17 And as a client representative, or
18 client-eligible representative, I really think that
19 it's the clients that will be the best ambassadors or
20 the strongest ambassadors for this because the clients
21 can -- no one can accuse the clients of, well, you're
22 just doing this for your own professional gain or

1 whatever, not that anyone's getting rich working at
2 legal aid.

3 But I'd really like to have an initiative
4 where we support some standardized training, maybe a
5 client conference or a client/board member conference,
6 something to empower that group of board members. I
7 don't know -- maybe starting with a survey of what
8 their training needs are.

9 I know, when I went to that NLADA conference
10 last year, there were some client board members there
11 who were very excited about the idea of being able to
12 like get together and talk with their peers. Because
13 the lawyers have a lot of -- like they have the bar,
14 and they have all these different committees, and they
15 have a way to talk to peers in other states. But the
16 clients really don't.

17 So that's something that I'm very interested
18 in doing, and doing this on the promotion of legal
19 services side, because I think -- and I also think for
20 sustainability. The clients don't leave. And so even
21 if -- they'll be people that will always be in the
22 community wanting to promote these organizations.

1 CHAIRMAN MIKVA: I guess I would ask Vic to
2 comment a little. I know we have done surveys in the
3 past. I also know we did a training for executive
4 directors in the past. So these are the kinds of
5 things that we can do.

6 PRESIDENT FORTUNO: Yes. In fact, in the
7 past, the Corporation used to fund many years ago
8 something called the national clients council -- sorry
9 about that. The Corporation in the past even funded
10 something called the national clients council, which
11 served as the national voice for the client community.

12 And you'll see, and I'll address in the points
13 that I'm going to put together in response to the
14 question about mission and scope, but there are
15 references to national clients councils in the LSC Act.

16 But that is certainly something we can do.
17 It's a matter of organization and funding and direction
18 from the Board. But it's something we've done in the
19 past, and more than just an individual client
20 conference. In the past -- again, it goes back many
21 years -- we actually funded something called the
22 national clients council.

1 MS. REISKIN: I don't know if technology would
2 make that easier to do now, and I don't know if it was
3 effective in the past. But is there --

4 PRESIDENT FORTUNO: I think technology makes
5 everything easier to do now.

6 MS. REISKIN: Right. Because maybe if there
7 was a conference, one conference, where people could
8 get together and meet each other, and then maybe done
9 on a video or phone conference, follow-up maybe once a
10 year or every two years.

11 Did it go away because it was ineffective, or
12 did it go away for a reason?

13 PRESIDENT FORTUNO: For an assortment of
14 reasons. The national clients council was denied
15 re-funding back in the '80s and hasn't been re-funded
16 since then. I think there was some litigation over it,
17 and if I remember correctly, Judge Hogan, the district
18 court judge that heard that case, took the position or
19 expressed the view that it was something that was
20 worthwhile, and the court hoped to see it
21 reestablished.

22 But it's never really taken traction again,

1 gotten traction again. But it's something -- we can
2 put together a piece that outlines the history of the
3 clients council and client involvement and present that
4 to the committee so the committee has that as
5 background for purposes for the discussion.

6 MS. REISKIN: I think that would be nice.
7 Maybe also give us some idea of how much it might cost
8 to do a conference like that.

9 PRESIDENT FORTUNO: Okay. Yes.

10 MS. REISKIN: I think that would be helpful.

11 DEAN MINOW: Laurie, this is Martha. I'm not
12 on the committee, but could I say something about this
13 agenda items for the upcoming year?

14 CHAIRMAN MIKVA: Yes, Martha. Just talk a
15 little louder, please.

16 DEAN MINOW: Sure. I'm not on the committee,
17 but I wonder if I can -- hello?

18 CHAIRMAN MIKVA: Absolutely. Go ahead.

19 DEAN MINOW: I wonder if I can comment on the
20 upcoming agenda items?

21 CHAIRMAN MIKVA: Yes, please.

22 DEAN MINOW: I think it was Sharon who asked

1 about the mission. And I wonder if this inquiry could
2 be expanded large enough to consider effectiveness of
3 services. And if so, then it does relate to a topic
4 that we'll take up my committee meeting. Sorry, the
5 sound is very disconcerting.

6 PRESIDENT FORTUNO: I'm sorry, Martha. This
7 is Vic Fortuno. And we were having trouble hearing
8 you. It may be that you're too close to the
9 microphone.

10 DEAN MINOW: I don't think so. I'm just
11 talking into the telephone like a regular telephone.

12 PRESIDENT FORTUNO: Well, you're clear now.
13 For some reason or other, at least, I couldn't hear you
14 before. But if you could repeat the point that you
15 made?

16 DEAN MINOW: Sure. I'm not a member of the
17 committee, but I was wondering if I could build on what
18 Sharon talked about earlier in terms of the mission of
19 the organization, and to ask if the inquiry would be
20 large enough to include effectiveness of delivery of
21 services. And if it is, and it includes -- it will
22 relate to a topic that we'll take up at my committee

1 meeting a little bit later this afternoon.

2 MS. REISKIN: This is Sharon. I think that
3 builds on my question and issue very, very well. And
4 I'd like to see it added to what Vic is going to be
5 preparing, maybe some ideas.

6 CHAIRMAN MIKVA: I guess my only question is a
7 lot of this is up to the grantees. And I'm wondering
8 whether you're speaking the role of the Corporation or
9 to the extent we're overseeing the grantees and how
10 they are --

11 MS. REISKIN: I don't think -- it's basically
12 for the Corporation and how we're looking at the
13 performance of programs, from our perspective, and not
14 going into the grantees.

15 CHAIRMAN MIKVA: Okay. Vic?

16 MR. MADDOX: Thank you, Madam Chairman. I was
17 just going to say that I certainly want to echo Sharon
18 Browne's comments. I think as a committee we're all
19 just getting to know each other, and so I think there's
20 going to be a learning curve.

21 And insofar as my membership in this committee
22 goes, I was looking at the director's self-evaluation

1 form that appears in the governance committee, I think,
2 thanks to Dean Minow's committee effort, and I noted
3 last night that I probably could not honestly answer
4 yes to No. 2, which is, "Am I knowledgeable about LSC's
5 programs and services?" If the question is, am I fully
6 knowledgeable, the answer is no. Am I knowledgeable to
7 some extent, the answer is yes. And then the question
8 is, to what extent?

9 And I think that having a better appreciation
10 for what our committee's role and mission is -- I mean,
11 not merely the Corporation's mission but, the
12 committee's mission in trying to provide guidance to
13 the full Board, and then ultimately as a Corporation
14 providing guidance and directive to the grantees, is
15 going to be very helpful.

16 I heard some things today that were troubling
17 to me, frankly. In both our Milwaukee meeting and our
18 meeting today, at least some of the directors continue
19 to advocate for removing restrictions to allow for
20 class action litigation and, presumably, for other
21 advocacy and law reform-type litigation, which I think
22 would be a mistake for the Legal Services Corporation

1 and for the overall provision of legal services
2 throughout the country.

3 I think that the history that was related to
4 us in Milwaukee demonstrated, from a source that
5 probably was not happy with the fact that that's what
6 it showed, but it demonstrated that the political
7 nature of the involvement of grantees in class action
8 litigation led to a reduction in LSC funding in 1996 of
9 50 percent, in addition to the imposition of a raft of
10 restrictions that apparently the grantees now chafe
11 under.

12 I think that we are going to find a different
13 political landscape in just a few weeks. And the
14 reality is, in my view, that -- and John Constance
15 probably is going to have a much better feel for this
16 than I do -- but I think that it is reasonable to think
17 that the environment on Capitol Hill is going to be
18 less receptive than it has been for the last two years
19 in a variety of ways.

20 And if there is a major push toward lifting
21 restrictions that is brought to a Congress that we
22 don't yet know the complete picture, but plainly is

1 going to be more conservative, I would think, in some
2 meaningful ways, I think that we're just asking for
3 trouble.

4 So I was encouraged by much of what we heard
5 today insofar as it suggests that there are plenty of
6 opportunities to leverage private attorney involvement,
7 pro bono involvement, even partnerships with the
8 private sector outside law firms, to provide a much
9 more absolute quantity of legal services, and
10 ultimately more effective.

11 So I will look forward to us trying to
12 articulate and identify, really, what we as a committee
13 can do to help guide the full Board, and ultimately the
14 Corporation itself.

15 And if there is a process we should put in
16 place today as part of our agenda to see to it that,
17 say, in our January meeting, we have perhaps reviewed
18 and revised our committee charter, or if we think the
19 committee charter is adequate insofar as it stands
20 right now, I just think that perhaps some method of
21 reviewing that -- I know, for instance, on the audit
22 committee, I'm going to be recommending that we put in

1 place a program so that we make measurable progress
2 throughout the year toward meeting all of the
3 requirements and objectives of our committee charter.

4 And it may be that we should do that for this
5 committee as well. So thank you.

6 CHAIRMAN MIKVA: Thank you. I guess a couple
7 things. One is we did just look at the charter, but
8 that's certainly no reason that we shouldn't look at it
9 again. So I think we'll have it distributed, and we
10 can discuss it at the next meeting.

11 But I wonder whether what you were talking
12 about with restrictions, I'm not sure that comes up
13 under our mission statement. Certainly, whether you
14 wanted to put restrictions separately is something this
15 committee should address, and what role if any the
16 Board should play. Is that something you're wanting?

17 MR. MADDOX: Well, not necessarily. I mean, I
18 think that, as we've said, there is this tension about
19 the restrictions. And I'm not sure when that will come
20 to a head or how it will come to a head. There is the
21 notion that a sleeping dog, you can let it lie, and
22 perhaps that's the best approach.

1 But if we're going to be approaching and
2 trying to kick the dog and wake it up, well, then, to
3 the extent that this committee has a role in that, we
4 may be able to provide guidance.

5 And it seems to me that the provision and
6 promotion of legal services would be an appropriate
7 place to consider what are the ramifications of lifting
8 the restrictions, for instance? To what degree do we
9 risk having a repetition of the 1996 thing?

10 If you sort of plot the course and history of
11 legal services and its impact and relationship to
12 Capitol Hill over 20 or 30 years, is it like a sine
13 wave? Do we just kind of go up and down? We have good
14 relations, and then we advocate for more and then we
15 have bad relations because we get more? And then, you
16 know, it sort of ebbs and flows?

17 I think an even keel would be a better
18 approach. And it seems like -- I mean, I've only been
19 on the Board for three meetings now -- that LSC has
20 been on an even keel politically and otherwise. I
21 mean, we've got problems. We've got the Maryland
22 situation. There's all kinds of OIG issues, and the

1 TIG problems, and whatnot.

2 But at least insofar as the scope of what it
3 should be doing, that seems to have sort of settled
4 somewhere. And if we're going to start looking into
5 that, and everybody we talk to seems to suggest we need
6 to -- I mean, unanimously in Milwaukee they said, we
7 want these restrictions lifted -- I think that that's
8 something we would probably spend our time well looking
9 at.

10 CHAIRMAN MIKVA: Vic?

11 PRESIDENT FORTUNO: The Board certainly has
12 the authority to speak to that. No board in recent
13 history -- in fact, I think not since the '80s has the
14 Board actually actively weighed in on those kinds of
15 issues.

16 I think what's happened the last decade or two
17 is simply we've taken the position -- and in fact, when
18 I testified before our House Appropriations
19 Subcommittee back in February and was asked about
20 restrictions, I made clear that our position has
21 consistently been that we don't take a position for or
22 against restrictions. We simply implement the will of

1 the Congress.

2 I think that was done -- the collective wisdom
3 over the years has been not to kick that sleeping dog,
4 and that hasn't been done. So I don't know -- while we
5 have heard personal views or institutional views as to
6 restrictions, the Board has not actually taken up the
7 development of a policy position to take and
8 communicate to the Hill.

9 So I don't know that that was necessarily on
10 the agenda. It's certainly something you can do, but I
11 don't know that anyone was proposing actually putting
12 it on any committee's agenda for now.

13 MR. MADDOX: Well, that may be the better part
14 of valor, discretion. And I told the ABA when I was
15 being vetted that my view was that our goal, our
16 mission, is to implement the congressional act.

17 PRESIDENT FORTUNO: Yes.

18 MR. MADDOX: But if at every meeting we have
19 program directors advocating for the lifting of these
20 restrictions, should we send out a directive that says,
21 don't bring that kind of advocating to us any more; we
22 don't need to hear that? I don't know.

1 It's just -- it seems like there's that
2 tension. And if it's going to be underlying all of our
3 meetings, maybe we somehow should address is.

4 DEAN MINOW: Can I ask a question about that?

5 It's Martha again. I share Victor's concern about
6 this and think that our bipartisan composition is
7 crucial to our effectiveness.

8 But if I'm not misremembering, I don't recall
9 anyone on the Board who's proposed anything about
10 loosening restrictions. There have been people who've
11 spoken to us who are grantees who have. But am I
12 misremembering this?

13 MS. BROWNE: This is Sharon. And I think
14 you're right, Martha. I don't think anybody on the
15 Board has formally discussed lifting any of the
16 restrictions, but it's mostly been from the programs
17 that have come before the Board and spoken about their
18 programs and what they would like or not like the Board
19 to do.

20 But there seems to be a lack of communication,
21 then, between what the Board can do with regards to the
22 restrictions on the part of the programs. And maybe

1 that's what needs to be cleared up.

2 DEAN MINOW: I think that's a very good point.

3 CHAIRMAN MIKVA: This is Laurie. The way I
4 take it -- and I'm not going to speak for the
5 programs -- but that they would like the Board to take
6 another position. And that's what they're telling us.
7 That's not to say we're going to do it. But I don't
8 know how we can tell them that they can't ask us to
9 weigh in on restrictions.

10 Julie?

11 MS. REISKIN: Yes. I think this is something,
12 A, that probably needs to be discussed with the full
13 Board; and I think Victor's right that there's this
14 underlying tension. And at some point -- I mean, I
15 don't think today is the day, certainly, and it needs
16 to be noticed -- at some point maybe this should be
17 discussed, not that we even need to take action, but we
18 need to discuss it and look at, honestly and ethically,
19 the pros and cons.

20 I guess one thing that bothers me is when we
21 look at restrictions as this big issue because there's
22 a whole bunch of small restrictions in there. And so

1 there might be some that we all agree on. There might
2 be some that we'll never agree on. I mean, obviously
3 class action is a huge one, and then there's a number
4 of contexts under which we could discuss it, too.

5 So again, certainly I'm not an advocate of
6 throwing out the baby with the bath water or anything
7 like that. If doing one thing is going to cut our
8 funding in half, that would obviously be very
9 irresponsible.

10 On the other hand, there might be
11 places -- and again, you guys are all lawyers; I'm
12 not -- where it might be, could we get a better bang
13 for the buck? I know, with one of the things I kept
14 thinking all day, listening to all of the stuff about
15 mortgages and the mortgage fraud and the foreclosures
16 and stuff, and I've thought this all along, is why
17 hasn't there been a national class action against some
18 of these companies that are doing the scamming? And is
19 there a way to -- would that be a better use of money,
20 just dollars, than this one at a time? And then, of
21 course, there are always the people who never get to
22 us.

1 But those are all really big issues that would
2 require a lot of thought and debate and discussion and
3 research and all of that. But there is that tension
4 underlying it, and I agree that I don't think we can
5 tell people -- I don't want the public or the programs
6 or anyone to feel that we're not approachable. So
7 maybe that's some kind of, again, discussion that we
8 could have that we could announce, do everything under
9 the Sunshine Act, and really listen to all sides.

10 And again, it doesn't mean we have to do
11 anything. But if people want us to at least look at
12 it, and this is a new Board, maybe that's something we
13 should -- not this committee, but we should offer to
14 Mr. Levi and say, do you want to do this?

15 CHAIRMAN MIKVA: It sounds to me, and I think
16 this is a good idea, to defer this to Mr. Levi, or
17 refer this to Mr. Levi and let him decide whether he
18 wants to kick this sleeping dog.

19 Anybody want anything different?

20 (No response.)

21 CHAIRMAN MIKVA: Good.

22 PROFESSOR VALENCIA-WEBER: This is Gloria

1 Valencia-Weber. I'm not asking for anything different
2 or formal, but I think that based not just on what we
3 have heard with all of the grantee visits that we've
4 had since fall of 2009 when I began going, and
5 additionally -- I didn't count them, but after my
6 nomination and all was announced, I got contacted by
7 many former legal services attorneys who were very
8 express about what they saw as the problems of this
9 Corporation and how the statutory mandates carried out.

10 What I shape for myself -- and I'm speaking
11 here for myself -- out of these pieces of information
12 is, in a way, what Julie said. There's this whole
13 range of restrictions, some of which are restrictions
14 the Board itself chooses to impose on itself in order
15 to do its business, and then those which are statutory
16 and would require some congressional action; and that
17 at some point in a designated discussion, we might talk
18 about that.

19 And I certainly would want to hear from our
20 grantees about, for those who have strongly held
21 opinions whichever way, what it is about that
22 restriction that they feel doesn't interfere with their

1 work, does interfere with their work, could make their
2 work different if the restriction were even fine-tuned
3 in some other way.

4 But in any case, I want to hear from them.
5 And maybe we decide not to do anything, but I do think
6 the tension is there, and an underlying tension like
7 that requires that -- maybe it's the historical point
8 in time at which we have this discussion about both
9 self-imposed Board restrictions that are our own
10 choosing and ours to change or not change, and those
11 which require a greater reach to Congress that we may
12 wish or not wish to change.

13 CHAIRMAN MIKVA: Thank you, Gloria.

14 There's a couple things I think either we
15 should or perhaps have to be on the agenda. One is
16 LRAP. We already asked for an increased appropriation
17 for 2011 -- 2012. So we're not talking about doing
18 anything until 2013. But if we want to explore the
19 issue before the next budget, we should put that on the
20 agenda.

21 I think it was on there at some point in the
22 past and got taken off for other things. But I think

1 there's -- maybe Janet can speak to this -- somebody
2 who can come in and train. Karen Sarjeant had somebody
3 to come in and actually give a long presentation. I
4 don't know how much of that we need. But we certainly
5 need more information on this and the other programs, I
6 think, the other repayment programs.

7 The other one is -- this is my pet issue,
8 which is -- well, it's mine because Don Saunders from
9 NLADA has asked for it the last two budgets, which is
10 training money for the grantees as a separate
11 restricted fund. He's been doing, I know, some
12 research, talking to the grantees. Again, this is
13 something -- I think before the next budget year, it's
14 something we should take up and decide what if anything
15 we want to do with that.

16 PRESIDENT FORTUNO: And if I may, just a point
17 of clarification, is I know that there's been talk
18 about the training that the Corporation does now, and
19 there's been some talk about a training budget.

20 I think the training that's been discussed so
21 far has been compliance training, budget governance
22 training. I think that the point that NLADA may be

1 raising, and I look to Don for clarification, but I
2 think that what they're talking about is maybe
3 substantive training, which is something that the
4 Corporation used to fund many years ago, no longer
5 does.

6 So I think there are two different kinds of
7 training. And the question is, which do you want us to
8 report back to you on?

9 CHAIRMAN MIKVA: Anything else?

10 FATHER PIUS: Just a couple thoughts on
11 provision and promotion just in general. The first
12 thing is, I just don't know whether there's been any
13 research done in terms of what the actual legal needs
14 of the poor community are.

15 Obviously, there's lots of things we do. And
16 if I just listen to what I've heard from things like
17 domestic violence, housing, filling out paperwork for
18 government programs, those are probably the big three
19 of what we do.

20 Is there any work in finding out are there
21 significant legal issues that the poor are facing that
22 we are not providing, our grantees are not providing,

1 assistance for? And that may be done, but that's just
2 the first thought that sort of popped in my head. You
3 can answer all these together.

4 The second thought is we've seen, in the last
5 couple of years, significant national problems, both
6 manmade and naturally caused, that have a big impact on
7 the legal system. Hurricane Katrina is one, and then
8 of course the mortgage crisis is another.

9 Are there protocols in place for the
10 Corporation to deal with significant crises that occur
11 that affect the legal community so that we can move
12 quickly into identifying these things and providing
13 resources that are necessary?

14 And that goes back to the question I asked.
15 It seems to me that the legal reason -- the LSC should
16 be not just the money bank for these grantees, the
17 place where they go to get money, but they should be a
18 national coordinator for best practices and all that
19 sort of stuff.

20 And then part of that should include, as we've
21 seen, I think, in the last couple years, emergencies
22 which come up that affect the whole legal system.

1 That's a part.

2 And the other thing -- this is just throwing
3 out; I don't know whether I like it or not, I just
4 thought it was interesting -- the comment that was
5 made -- part of this is the promotion of legal
6 services -- is whether we've ever done a national
7 campaign about legal services, whether to educate those
8 people who might be potential clients or, just as a way
9 as like public service announcements, and a way to
10 educate the public about the importance of legal
11 services and necessity to do it.

12 That gets close to advocacy stuff and that
13 makes me a little nervous. But those are just three
14 thoughts. Laurie, I assume you're just looking for
15 ideas. So those are the things that have really
16 occurred to me that we haven't talked about, and
17 that -- just thinking out loud, really.

18 CHAIRMAN MIKVA: Okay. Thank you. Anything
19 else? I would open this up --

20 MS. REISKIN: I just wanted to add, if we do
21 something on training, that would also be a good place
22 to look at the client board member issue, and all board

1 members, really. I remember that coming up in some
2 audits or something, the issue of board member training
3 everywhere for all of our grantees.

4 CHAIRMAN MIKVA: I think there is some. Isn't
5 that part of what the -- I'm sorry. Vic?

6 PRESIDENT FORTUNO: It's come up in any number
7 of contexts, including GAO reports concerning training
8 of our own governing body.

9 MS. REISKIN: Right.

10 PRESIDENT FORTUNO: But it's something that
11 the Corporation has voiced an interest in and
12 encourages training of grantee boards. That's part of
13 ensuring that everyone's performing in conformance with
14 all the requirements and restrictions. So yes, there's
15 an emphasis on that.

16 MS. REISKIN: But also, I guess, substantive.
17 I'd be interested in seeing substantive training for
18 boards just on emerging issues, like the new ADA
19 regulations that will affect how courts are supposed to
20 operate, or just to offer more of that. And that could
21 be webinars or whatever.

22 I did have a question for Father Pius, though.

1 Were you suggesting considering almost like a needs
2 assessment, like a broad-based needs assessment?

3 FATHER PIUS: I wasn't necessarily suggesting
4 we do one. But the question is, one, whether we ever
5 have, and second, whether this would be something
6 beneficial for us. I don't know much of the history of
7 doing this, so it was just an idea more than anything
8 else. I'm at this point not advocating much of
9 anything.

10 PRESIDENT FORTUNO: I think we've -- there
11 have certainly been plenty of needs studies, and I
12 think that as part of research that can be undertaken
13 in the near future, that seems to me fair game. I know
14 the Corporation, of course, did two justice gap
15 reports.

16 Now, those go to the extent of the need in
17 terms of the kinds of cases, the substantive areas.
18 What's happened is we require that our grantees set
19 local priorities, which would involve the local
20 communities in determining what the most pressing needs
21 are in those communities.

22 The Corporation did, some time ago, back in

1 the mid-'90s, promulgate some very general suggested
2 national priorities within which grantees can do their
3 local priority-setting. But those were suggested. The
4 regulation does require the grantees undertake a formal
5 program of priority-setting.

6 And so if it's a matter of the areas in which
7 we provide services, or our grantees do, obviously
8 areas that are not permitted with LSC funding are now
9 essentially with non-LSC funding, with some exceptions.

10 But those are -- what is permissible and how
11 to prioritize within what's permissible is something
12 that's left to the grantees under existing LSC
13 regulations.

14 CHAIRMAN MIKVA: I'm going to have to open
15 this up to public comment, and then if we're going to
16 get any LEP in. If anybody has ideas, if they want to
17 e-mail me, we can share them that way. This is an
18 evolving process.

19 So I'd open it up for public comment.

20 MR. SAUNDERS: Good afternoon. I will not
21 take advantage of the many issues that have been thrown
22 on the table, but will just address a couple points.

1 I'm Don Saunders. I'm the vice president of
2 civil legal services for the National Legal Aid and
3 Defenders Association. We speak for field programs.
4 Most all of your grantees are members of NLADA. On
5 behalf of them, I want to congratulate the four new
6 confirmed members of this Board. It's a pleasure to
7 have you. We really look forward to working with you
8 and having the opportunity to discuss these issues.

9 I will say, from having 20 years of experience
10 working with boards, that it is so impressive to see
11 your energy, your commitment. You're not hitting the
12 ground running; you're hitting the ground sprinting.
13 And that's exciting for the field. It's really
14 important to have a board that's engaged.

15 And having followed you in Tucson, Milwaukee,
16 and the meeting here, you have really done an
17 outstanding job of hearing from the field, of hearing
18 the concerns of your grantees. And certainly, Mr.
19 Maddox, having heard them for many years myself, you
20 will hear some provocative ideas and differences of
21 opinion. And that's what makes this community strong.

22 And frankly, it's refreshing to have an

1 opportunity to debate priorities with you, and we look
2 forward to doing that. We have many processes to
3 discuss these issues with our membership. And we look
4 forward particularly, Laurie, with your committee to
5 working on this as you go forward.

6 I think it's smart to take a measured
7 approach. There are certainly many, many issues. Just
8 to reference a few, I mean, obviously our view is you
9 develop a mission for the Corporation vis-a-vis the
10 grantees. As you heard from the Kentucky programs
11 today, you're 35 percent of the resources in a state
12 like Kentucky. You have to understand that this is a
13 broad mosaic of programs.

14 And as you interact with them, you need to
15 understand there are a number of other issues that
16 really speak to the validity of local control and local
17 input. That is not to say, as Adrian said, that
18 putting aside money for initiatives and innovation is
19 not important.

20 You mentioned LRAP. I would add salaries,
21 pensions; the whole quality of life issue of your
22 grantees is a very important one. There's no

1 particular answer, but it's certainly something you
2 should look at.

3 The issue of training: What we've been asking
4 you to do -- not only in 1996 did Congress impose a
5 series of restrictions on your grantees, they also
6 eliminated significant funding that went to support an
7 infrastructure of training across the country.

8 And what we see among your grantee community
9 are pockets where training is really delivered very
10 well, pockets where there's nothing going on in terms
11 of professional development. You have a real myriad
12 that depends, to some extent, on how many resources,
13 outside resources, are available.

14 What we're suggesting is that you seek support
15 from the Congress for additional funds to make
16 available tools and innovations in training. We're not
17 suggesting you become a substantive training provider
18 or anything of that sort.

19 But issues like the client board training,
20 just developing techniques of -- I mean, the TIG
21 program has done a wonderful job of sharing
22 information. But really, there is no resource

1 available right now across the country to level the
2 playing field in terms of access to training.

3 And we're suggesting that resources should be
4 developed toward that goal at the national level. And
5 to the extent those resources are addressed, LSC has to
6 be a part of that conversation.

7 We're certainly not suggesting you take money
8 out of basic field and start granting it for training.

9 We're suggesting that this is a conversation that you
10 might want to take to the Congress and see whether or
11 not they would appreciate the important role that
12 training and professional development play among your
13 grantees.

14 There are a whole host of other issues. The
15 whole conversation today about outcomes and ways in
16 which you can communicate the work of your grantees to
17 policy-makers, to the public, that's really wonderful
18 work. To a great extent, as I'm sure Mr. Constance can
19 tell you, it's all been about numbers. And the whole
20 numbers game is very desultory to your grantees. It's
21 not the way we ought to talk about the impact of your
22 work.

1 And you heard from many of the grantees
2 different ways of approaching that. I'm not suggesting
3 one or another is the better one. But it's certainly
4 an issue that a lot of us in the community need to
5 think about.

6 Finally, with respect to the issue of
7 restrictions, certainly we have heard for a number of
8 years concerns raised among grantees about the impact
9 of the '96 restrictions in particular. We have been
10 educating members of Congress for a number of years
11 regarding particularly the restriction on other
12 people's money.

13 We think Congress certainly should consider
14 priorities and how they should be applied to federal
15 funding; there's no question about that. We take
16 strong issue with those priorities at the federal level
17 being imposed on the IOLTA funds or other funds within
18 the system.

19 We have communicated that to Congress. We
20 think it's important, and will continue to do so. We
21 certainly have heard the message from your grantees
22 that you're hearing. Our message to your predecessors

1 was very much focused on your primary responsibility,
2 exactly as Mr. Maddox pointed out, to maximize funding.

3 That is the primary role of this Board, and we will
4 support you in every way.

5 We have not sought strongly an aggressive
6 position by LSC with respect to the restrictions. Now,
7 some of my colleagues probably in this room are
8 probably not agreeing with me right now. But I can
9 assure you that we, the American Bar Association, a
10 number of other advocacy groups, are absolutely talking
11 about these issues with the Congress.

12 To the extent you become involved in that, if
13 authorization were to move forward, we are certainly
14 happy to talk with you about the impact of that. But
15 we are very much interested at this point in time,
16 given what is going on across the country and what
17 you're hearing, in really talking to Congress about the
18 need for funding for legal services. And that to me is
19 the primary message that ought to be coming from this
20 Board. Thank you.

21 CHAIRMAN MIKVA: Thank you.

22 MR. MADDUX: One question. You indicated that

1 there is a focus on numbers that's dispiriting, I
2 guess, to the grantees. Is that the gist of it?

3 MR. SAUNDERS: "Dispiriting" may overstate it.
4 It seems like it's almost like the hamster on the
5 wheel. If funding goes up, the only thing we can -- we
6 can't even consider the salary needs of our staff. We
7 can't consider other ways of approaching issues because
8 there's a direct correlation between funding and
9 numbers.

10 And it's not just your money. It's most every
11 funder's number.

12 MR. MADDOX: Right.

13 MR. SAUNDERS: And it doesn't tell the best
14 story about the real impact of investing in legal aid
15 that we could be telling.

16 MR. MADDOX: Do you have some concrete
17 suggestion for us to eliminate that sort of attitude or
18 impression? Should we be doing something as a
19 Corporation demonstrably differently? I'm just
20 wondering what the thrust of your comment really was
21 for us.

22 MR. SAUNDERS: Well, obviously, first and

1 foremost, you have to be communicating with the
2 Congress with regard to how the dollars are being
3 spent. To a certain extent, that's going to play out
4 in terms of numbers.

5 But there certainly are other results from
6 representation that don't lend themselves as well as to
7 the CSR figures or to simply saying, these many people
8 were served. There are ways in which programs -- and
9 you heard some this morning -- have begun to talk about
10 how legal aid helps the health of a community, how it
11 is -- as Mr. Robinson was saying, how the justice
12 system is an essential component of the health of a
13 community, and showing how avoiding homelessness really
14 results in healthy communities and positive outcomes.

15 I'm not suggesting you stop keeping track of
16 numbers served, but that we all figure out a way in
17 which we can talk to the general public about why it's
18 important to invest in legal services. And therefore,
19 I think your programs feel less driven to do as much
20 brief service as possible or really become concerned if
21 a particular matter, which might really be of import to
22 a low-income community, is taking too much resources,

1 or they're not going to be able to account for enough
2 widgets to you.

3 I'm not suggesting that the community has a
4 real good answer. I'm certainly not asking you to get
5 into national outcome measures. I think this is a real
6 local issue. But I think we as a community need to do
7 research and development with regard to what the
8 funding community now calls evidence-based results
9 or -- the whole community is shifting toward those
10 kinds of conversations.

11 And our community needs to, I think, get in
12 line with those conversations. And obviously, LSC is a
13 critical resource to do that.

14 CHAIRMAN MIKVA: Thank you.

15 All right. We've got two minutes. No, we
16 have until -- as much time as we need for a
17 presentation on LEP.

18 MS. LACAYO: I had a little help with this
19 yesterday, so bear with me. Hopefully it will work
20 out.

21 PRESIDENT FORTUNO: And I should just ask
22 Tillie to please identify herself for the record.

1 MS. LACAYO: My name is Tillie Lacayo.

2 PRESIDENT FORTUNO: Welcome.

3 MS. LACAYO: And I'm a program counsel in the
4 Office of Program Performance at the Legal Services
5 Corporation. And hang on just a minute and I'll pull
6 up the PowerPoint. This is sort of along the lines of
7 a waiter or waitress saying, this is my first night
8 waitressing. I haven't done a PowerPoint presentation
9 ever, but I'm a believer in it. And I ask your
10 understanding as we go through this.

11 PRESIDENT FORTUNO: We are nothing if not
12 understanding. And our patience has been rewarded.

13 MS. LACAYO: Well, I hope you will still say
14 that after I give my presentation.

15 (Speaks Spanish.)

16 PRESIDENT FORTUNO: (Replies in Spanish.)

17 CHAIRMAN MIKVA: Vic understood everything you
18 said.

19 MS. LACAYO: Good afternoon. I would like to
20 begin by extending my thanks to the Board of Directors
21 of the Legal Services Corporation for giving me the
22 opportunity to address the Promotion and Provision

1 Committee of the Board this afternoon.

2 My name is Tillie Lacayo, as I told you, and
3 I'm a program counsel in the Office of Program
4 Performance, OPP. I'd like to talk with you about our
5 efforts in OPP and at LSC on behalf of persons with
6 limited English proficiency seeking legal assistance
7 from LSC-funded programs.

8 For those members of the committee who don't
9 understand Spanish, the discomfort and frustration you
10 may have begun to feel as I continued my introduction
11 in Spanish is what many legal services clients who are
12 limited English proficient, or LEP, often experience.

13 The difference is that the consequences of
14 your not having been able to understand me, had I given
15 my entire presentation in Spanish, are that you may
16 perhaps afterwards indicate to the appropriate person
17 or persons at LSC that it would be more useful to
18 conduct committee presentations in the language of the
19 committee, English.

20 The potential consequences, however, for the
21 clients served by the programs funded by LSC are far
22 greater. They may lose their homes, their children,

1 their disability benefits, their food stamps. They may
2 not know how to get out of, legally, an abusive
3 situation that they find themselves in. This is at the
4 heart of why efforts to reach LEP populations or
5 language access efforts exist.

6 The LSC performance criteria recognize that
7 access must be meaningful, and that only meaningful
8 access will promote utilization of legal services by
9 the client population.

10 (Pause -- PowerPoint problem)

11 MS. LACAYO: The LSC performance criteria
12 are -- we refer to them sometimes as our bible because
13 they guide us in our assessment of the programs that
14 are funded through LSC. Performance area 2, criterion
15 1 provides that a program should conduct its work in a
16 way that's culturally and linguistically competent.

17 Performance area 2, criterion 3 provides that
18 a program should, within the limits of its resources,
19 be accessible and facilitate effective utilization by
20 the low-income population in the service area. And
21 that includes all major segments of that population and
22 all categories of people who traditionally have had

1 difficulty in getting access to or utilizing civil
2 legal services.

3 This isn't working out as well as I had hoped
4 and I am sorry. Hold on just a second. Let's try
5 this.

6 (Pause)

7 MS. LACAYO: Okay. Data from the U.S. Census
8 Bureau's American community survey reports from
9 2007 -- and a copy of the full report is included in
10 your Board materials -- reflects a significant
11 percentage of persons who don't speak English well and
12 are therefore at risk of being denied access to certain
13 vital legal services, including the assistance of an
14 attorney to help resolve their civil legal problems.

15 This chart is from the U.S. Census Bureau's
16 recently released report on language use in the United
17 States, and it shows the percentage of the population
18 who spoke a language other than English at home, by
19 state, in 2007. And it's particularly -- I am really
20 sorry that this isn't working out. I don't know why.

21 (Pause)

22 MS. LACAYO: As you can see, the population is

1 heavily distributed in these states.

2 This is perhaps more telling because --

3 (Pause)

4 MS. LACAYO: That's not as visible as it could
5 be. But the utility of the charts when you can see
6 them, and when you have somebody presenting that can
7 operate the PowerPoint, are that they show where the
8 LEP population is concentrated. In other words, they
9 give us some indication of where we should focus our
10 efforts when we visit LSC-funded programs and when we
11 assess grant applications.

12 I would encourage the committee members that
13 haven't yet had a chance to look at the full Census
14 Bureau report on language use to do so when you get a
15 chance. It contains a lot of very interesting facts.
16 It indicates, among other things, that the number of
17 people 5 years of age and older who speak a language
18 other than English at home has more than doubled in the
19 last three decades, at a pace four times greater than
20 the population growth.

21 Maybe it would be more helpful if I -- I
22 actually have printouts of the PowerPoint.

1 MR. LEVI: Don't we have --

2 MS. LACAYO: Well, I don't know if I had the
3 PowerPoints presented at the time the Board books were
4 published. And that might be more helpful since I'm
5 having a little trouble with this.

6 I want to talk about LSC's LEP efforts. LSC
7 has sought to address the needs of the growing LEP
8 population through both initiatives and ongoing
9 efforts. They began with LSC Program Letter 04-2,
10 "Services to Client-Eligible Individuals with Limited
11 English Proficiency." This is a program letter that
12 was issued by the then-President of LSC in December of
13 2004.

14 The program letter provides guidance for
15 LSC-funded programs with eligible individuals in their
16 service area who are persons with limited English
17 proficiency. And it also aims to ensure access to
18 justice for communities of potentially eligible clients
19 who don't speak English proficiently.

20 And for people who have the PowerPoint
21 presentation distributed, we're halfway through page 3,
22 so that you want to find your place.

1 A program's LEP policy should address, under
2 the LSC program letter, the following elements:

3 Assessment of language needs of the
4 client-eligible population; that's obviously where you
5 begin so that you know the magnitude of the task you're
6 being faced with, and how many
7 limited-English-proficient client population groups are
8 in your service area.

9 Also, staffing of a program's LEP effort
10 should be addressed in the policy.

11 Training of staff, especially front-line
12 staff -- your receptionist, your intake workers, people
13 who are the first staff persons to come into contact
14 with someone seeking services. That should be
15 addressed in the plan.

16 Interpreters, whether they're in-house
17 interpreters or from external organizations or sources.

18 The plan should address the program's plans for
19 attaining interpretation if they don't have in-house
20 capacity.

21 Translation of documents is also critically
22 important, again, whether that can be done in-house or

1 through external sources. Where the LEP language group
2 constitutes 5 percent or more of the client population,
3 vital documents such as the program retainer agreement,
4 releases by the client to obtain his or her documents
5 or private information, other critical documents, must
6 be translated into the client's native language.

7 The plan should also address outreach to the
8 client population.

9 And finally, but not -- probably most
10 important, periodic review and updating of an LEP plan.

11 Ideally, this should be sort of a periodic
12 self-evaluation by a program of its efforts to reach
13 the LEP client community.

14 It's great to have a plan. All our programs
15 do have LEP plans and policies. But if it doesn't
16 provide for periodic review, it's just a static
17 document that's there and doesn't really meet the
18 growing need of the population.

19 In addition to Program Letter 04-2,
20 information on a program's LEP plans and language
21 capacity is elicited in the request for proposals that
22 initiate LSC's grant competition process. And programs

1 are on different grant cycles, but every year there is
2 a grant cycle and we have an opportunity to get up to
3 date on LSC's grantees' LEP plans.

4 The Office of Program Performance also
5 assesses a program's LEP efforts during onsite visits.

6 In doing so, we review documents and information in
7 the possession of LSC on websites and obtained from the
8 program in advance of the visit, such as the program's
9 LEP policy itself; a staff roster, which we request in
10 advance of the visit.

11 We have in-house at LSC what we call the
12 program profile, which includes a lot of case closure
13 information, but it also includes a poverty population
14 table and a client service table that both provide
15 information on the ethnic breakdown of the client
16 population, which can shed light on the extent to which
17 non-English languages are spoken within a service area.

18 And that's extremely helpful in figuring out whether
19 the need is being addressed within a service area.

20 We also ask for staffing reports. We ask for
21 information on composition of the board of directors.
22 Sometimes they're representative of LEP populations on

1 the board, and also numbers of organizations that
2 represent the LEP population.

3 We review program websites -- and I'm told
4 that I'm running short on time, but I did want to touch
5 on one thing. I don't think I can summarize everything
6 that I wanted to say in 30 seconds or a minute. But --

7 MR. LEVI: You have 10 more minutes?

8 MS. LACAYO: I do? Thank you.

9 MR. LEVI: I'm going to run two meetings
10 concurrently.

11 MS. LACAYO: I'll try to speed-talk, which
12 isn't easy for me because I'm from the South and I have
13 a drawl.

14 But the development of -- I wanted to talk
15 about the development of non-English website content
16 that has been supported through the technology
17 initiative grants, or TIGs, as they're more commonly
18 referred to.

19 Early TIG projects provided support for the
20 establishment of statewide websites, many of which have
21 non-English content. Live help and live help
22 replications provide online assistance via chat. A TIG

1 award to one LSC grantee is being used to enhance the
2 program's live help feature, with a special focus on
3 the needs of Spanish speakers other
4 limited-English-proficient users.

5 TIGs have also been awarded to provide
6 multimedia self-help video content on legal topics
7 through streaming videos hosted by YouTube. The visual
8 and audio elements are especially beneficial to LEP and
9 limited literacy populations.

10 Another TIG will help generate court-ordered
11 packages that are both bilingual and culturally and
12 linguistically appropriate, in plain English. The
13 project will focus initially on Spanish and on court
14 orders in child custody, visitation, domestic
15 relations, and protective order cases.

16 This year's TIG request for proposals included
17 for the first time LEP as an area of interest for
18 grants to be funded in 2011. The effects of this
19 expanded TIG category are that it has greatly
20 stimulated increased discussion of LEP, has led to
21 increased focus by programs putting together requests
22 for -- or letters of intent for TIG grants.

1 They've begun to focus more on their own
2 efforts and examined them. And this new, expanded TIG
3 category has also generated a significant number of
4 interesting TIG proposals this year, with awards to be
5 announced in the future.

6 I wanted to say a little bit about something
7 that I think some committee members have already heard
8 about, which is LSC's website non-English project. The
9 goal of this project is to add non-English content to
10 the LSC website and thereby make it more accessible to
11 and useful for persons of limited English proficiency.

12 The first two non-English languages to be
13 introduced onto the website will be Spanish and
14 Mandarin. And what we're doing now is we're in the
15 process of contacting LSC-funded programs to find
16 programs that are willing to beta test the Spanish and
17 the Mandarin sections of the website for us.

18 Let me just close by saying a little bit about
19 OPP's internal LEP committee, of which I am a member.
20 For the longest time, there was no committee, really.
21 There was just me, and last year, year before last, it
22 expanded, and that led to, among other things, the

1 increase in -- well, the addition of the new TIG
2 category.

3 We were formed to support the OPP internal
4 committee on LEP. It was formed to support OPP staff
5 in assessing legal services programs' LEP efforts, and
6 to support the programs themselves in their LEP
7 efforts.

8 We're beginning to explore options to make
9 translation services more affordable for LSC-funded
10 programs. We're looking at ways to support programs by
11 is there a way to seek lower-cost translation
12 solutions? These are all things we're beginning to
13 think about.

14 We're looking into the development of
15 databases and charts to help OPP staff who conduct
16 assessment visits to better assess -- to better
17 evaluate the client population's LEP needs and the
18 extent to which they're being met by the programs
19 within the service area.

20 And we're also exploring ways to access more
21 sophisticated U.S. Census Bureau data -- for example,
22 development of data that could cross-tabulate low

1 income with limited English proficiency within a
2 service area. We don't have that yet, but that would
3 be an enormous help.

4 Finally, I'd like to conclude my presentation
5 today by acknowledging the important role that the LSC
6 Board has had in the past in supporting LSC's work with
7 the legal services programs we fund. Both the staff at
8 LSC and LSC-funded programs are very appreciative of
9 that. I've had programs comment to me when I've gone
10 to visit that they appreciate our support and the
11 support of the Board.

12 We look forward to the Board's continued
13 support in the area of language access and serving the
14 limited-English-proficient population. I'd like to
15 thank the committee. I'm really sorry that this didn't
16 run as smoothly as I'd hoped. If I get an opportunity
17 to present again --

18 CHAIRMAN MIKVA: (Inaudible, microphone off.)

19 MS. LACAYO: It worked fine in my hotel room
20 last night. Don't know what happened.

21 CHAIRMAN MIKVA: Could you make yourself
22 available for questions after this?

1 MS. LACAYO: Absolutely.

2 CHAIRMAN MIKVA: I know there are some, but we
3 need to move on.

4 MR. LEVI: What I'm planning to do is start
5 the Governance meeting right after this meeting here,
6 and then at 4:15 in the other room start the Finance
7 meeting. So you have about five minutes, I think, if
8 there are questions.

9 CHAIRMAN MIKVA: All right. I know Sharon had
10 a question.

11 MS. BROWNE: My question changed after your
12 presentation, Tillie. And that was a great
13 presentation.

14 One of your slides showed the language use in
15 the United States. Is an LEP plan required for states
16 such as a North Dakota and South Dakota, that have only
17 a very small percentage of an LEP population?

18 MS. LACAYO: The short answer is yes, it is,
19 though there's a requirement that kicks in. I refer to
20 the 5 percent requirement. If the percentage of
21 client-eligible persons in the service area who are LEP
22 reaches a 5 percent threshold, then the program letter

1 requires that programs require certain documents, vital
2 documents, in the language of the LEP individual.

3 But the requirement that the programs provide
4 language access and an LEP plan is regardless because
5 you can -- and here's the reason. You can never tell
6 when, even though there may not be a lot of LEP persons
7 in a service area, you'll be faced with -- everybody
8 has some. And you'll be faced with a burgeoning
9 population of LEP clients and no way to address their
10 needs.

11 And that can happen just in a heartbeat. And
12 it's happened some places where -- what comes to mind
13 is some places in the Midwest, where traditionally
14 there weren't very many LEP individuals. There were
15 certainly not a significant percentage of
16 Spanish-speaking persons.

17 I remember it happened, I think, when a group
18 of Somali workers who I think were in Minnesota
19 relocated to Nebraska because there were jobs in the
20 meatpacking industry. And they were here legally able
21 to work. And so they heard about the jobs in Nebraska.
22 They headed for Nebraska.

1 And suddenly, in Nebraska, they were used to a
2 Spanish-speaking population, and I think they had the
3 support for language access for Spanish. I don't think
4 they did for Somali, and I'm sure that they did quite a
5 bit of work to get up to speed to do that.

6 MS. BROWNE: And then my second question was
7 the December 6, 2004 letter, program letter, that
8 you're referring to, the 04-2, what is the basis for
9 your statement that if a limited-English-proficient
10 population gets to 5 percent or higher, that the
11 program really does kick in at that point and you have
12 to provide the interpretations and the translations?

13 MS. LACAYO: Yes. Well, that's from the LSC
14 program letter. And what kicks in is the translation
15 of vital documents, such as the retainer. So it's
16 fairly limited.

17 MS. BROWNE: What I'm asking more is basic, is
18 what is the legal authority that is being relied upon,
19 say, for that 5 percent threshold number?

20 MS. LACAYO: Well, our LEP letter that LSC
21 developed was -- we looked to the Department of Justice
22 guidance in that. And the Department of Justice had

1 already issued guidance in that area.

2 MS. BROWNE: That answers my question. Thank
3 you.

4 CHAIRMAN MIKVA: Thank you -- oh, sorry. Vic?

5 MR. MADDOX: I'm not sure it answers. It kind
6 of raises one with me. Does DOJ have a requirement
7 that LSC require of its grantees that when there's a 5
8 percent threshold, that the LEP plan is implemented?
9 You say there's guidance from Justice. Is there some
10 requirement in statute of regulations?

11 MS. LACAYO: There is a statutory requirement
12 that -- well, Title VI of the Civil Rights Act, and as
13 interpreted by the Supreme Court in Lau v. Nichols.
14 But the Justice Department has issued guidance for
15 federally funded entities, organizations that receive
16 federal funds. LSC grantees receive federal funds, and
17 so we follow suit.

18 MR. MADDOX: Right.

19 MS. LACAYO: And that's how it came about.

20 MR. MADDOX: Do we have any idea what the
21 implementation of such a plan costs our grantees? Say,
22 for instance, North Dakota has an influx of Somali

1 workers or some Southeast Asian group, and there's
2 absolutely no other experience in the state with that
3 language group, and suddenly they have to do this. Do
4 we know what this costs? And how is this budget impact
5 accounted for and addressed?

6 MS. LACAYO: I think the cost varies, of
7 course, depending upon where it is. But I would say in
8 all honesty that it's not insignificant, but to me, the
9 cost of denying access to a population by not having
10 anything is potentially greater.

11 We don't get data from the programs on what
12 the costs have been. I think the extent to which the
13 LEP efforts and language access efforts assume
14 significance in individual program budgets varies
15 greatly. It really depends on the area of the country.

16 Sometimes it will depend -- certainly the leadership
17 in that area comes from the executive directors of the
18 programs themselves.

19 CHAIRMAN MIKVA: I see Mattie's up here. Did
20 you have something to add here?

21 MS. LABELLA: Can I just add one quick thing?
22 That it's fairly proportional to the number or the

1 proportionality of the LEP population. For example,
2 some programs actually hire a staff person exclusively
3 for translation purposes. That would not be something
4 that a program that has 98 percent English speaking and
5 less than 1 percent of any other particular language
6 would do.

7 But for those programs that have way in excess
8 of that -- some, for example, like in Miami, where a
9 huge proportion of your client population is going to
10 be speaking Spanish, they may hire an individual just
11 for the exclusive purpose of translation.

12 Then you have other programs that hire staff
13 in critical positions, such as intake, so that they can
14 speak to the LEP population directly in the language of
15 that person. Again, that varies depending on what is
16 the need in that particular jurisdiction.

17 A lot of programs rely on services such as
18 Language Line, where you have a translation service
19 that's provided offsite and you plug in through the
20 telephone and it's a three-way conversation. They have
21 upwards of, what, 500 languages or something that's
22 spoken. And that gives you the opportunity to

1 translate just about any language.

2 But if there's a dominant LEP language in the
3 service area, usually staff are hired that have the
4 facilitate to speak that language.

5 MS. LACAYO: And of course, a theme of this
6 conference has been the difficulties of people in rural
7 areas. And the resources are not as plentiful in rural
8 areas, and the programs have to get more creative when
9 they're there and establish partnerships, what his
10 something else that we've heard about, with
11 universities, with other organizations that serve the
12 client population.

13 They can use technology to obtain -- and
14 that's what Language Line does -- to obtain translation
15 services via phone. And it's always easier in an urban
16 area, but that doesn't mean that the cost is de
17 minimis.

18 And that's one of the reasons we want to give
19 some attention. I don't know what we can do at LSC,
20 but we can at least give it thought and see if we can
21 come up with some creative ways to help, ways to
22 minimize cost in some way.

1 I know that some -- well, for example, federal
2 agencies benefit from reduced translation costs
3 themselves. Is there some way that that benefit could
4 extend to the programs? Is there some way that vendors
5 might be willing to reduce the costs to the programs?

6 MR. MADDUX: But we don't know what the costs
7 are. Right? We don't really know what the costs we've
8 imposed, whether by Justice, by the Civil Rights Act,
9 or -- I mean, has anybody amalgamated the costs and
10 tried to assess the cost/benefit impact?

11 MS. LACAYO: They're not at LSC.

12 MS. LACAYO: Yes. We have not quantified them
13 as a separate line item.

14 MS. LACAYO: But understand that many of the
15 programs were faced with how to communicate with
16 populations in their service area anyway, and were
17 beginning to do that. So it's not suddenly the letter
18 was issued and translation and interpretation then
19 began to crop up.

20 There were already some programs, some
21 LSC-funded, some non-LSC-funded, that had developed LEP
22 plans -- whether they call them that or not, that's

1 what they were -- so that they could have a way of
2 helping the population.

3 MR. MADDOX: We're adding Mandarin Chinese to
4 the LSC website, I take it. Where's the influx of
5 Mandarin Chinese? Is that in California?

6 MS. LACAYO: There are Mandarin-speaking
7 Chinese in California, in New York, and in the
8 Northwest.

9 MR. MADDOX: Do we know what percentage of the
10 2.4 million in this country now qualify for legal
11 services, LSC legal services? Do we have any sense for
12 where they fall in the demographics, their income and
13 the like?

14 MS. LACAYO: I can't say because that's
15 not -- that's a chart of the LEP population. And what
16 we need is poverty population.

17 MR. MADDOX: So we don't know to what extent
18 the population reflected in this chart would be
19 eligible for LSC services or that sort of thing?

20 MS. LACAYO: That's not data that we've
21 collected. But the individual programs could give us a
22 very good sense of that because they do eligibility

1 screening. They have people coming in to seek their
2 services every day.

3 And I can tell you, with regard to Mandarin, I
4 have a lot of experience traveling in Spanish-speaking
5 countries and I speak Spanish, though it's not the
6 Spanish of a native speaker. If I had to face an
7 alphabet that I'm totally unfamiliar with, I don't know
8 what I would do.

9 I think that there are barriers that go beyond
10 the typical barriers when you're talking about somebody
11 who is from a very -- who speaks a different alphabet,
12 who maybe has a completely different cultural
13 background. That might be an impediment to their
14 seeking services, and so I think it's particularly
15 important. But it's significant. I can get the
16 information from the programs that serve significant
17 Mandarin populations if you'd find it helpful. I can
18 give you that.

19 CHAIRMAN MIKVA: Mattie, do you still have --

20 MS. COHAN: Yes. I actually just came up
21 to -- for the record, I'm Mattie Cohan with the Office
22 of Legal Affairs -- to address the authority, the legal

1 authority question that came up.

2 Section 106(b)(6) of the LSC Act provides:

3 "In areas where significant numbers of eligible clients
4 speak a language other than English as their principal
5 language, the Corporation shall, to the extent
6 feasible, provide that their principal language is used
7 in the provision of legal assistance to such clients
8 under this subchapter."

9 So going all the way back to the LSC Act,
10 there is a requirement that the Corporation be ensuring
11 that grantees are providing services to limited English
12 proficiency persons. And that goes back to the Act.

13 And then with respect to the 2004 program
14 letter, the Justice Department did issue its own
15 guidance that that this was an issue that had come back
16 up for them. And the Corporation chose the impetus of
17 the Justice Department at the time to take another look
18 at how we were implementing it and how we were
19 implementing our statutory authority here, which is
20 then what led to the development of the program letter.

21 Does that provide the answer to what you're
22 looking for from a legal standpoint?

1 MS. BROWNE: Yes. What's the interplay with
2 Title VI, though?

3 MS. COHAN: Well, there's a question about to
4 the extent our grantees are receiving federal funds.
5 And there's a question about for what purposes our
6 funds are characterized as federal funds.

7 They have an independent responsibility to be
8 in compliance with Title VI of the Civil Rights Act.
9 And the Justice Department's guidance is very
10 specifically saying, we are issuing this because any
11 funds we give out are federal funds. Any of our
12 grantees in other federal agencies that administer
13 federal funds must ensure that their grantees are in
14 compliance with Title VI.

15 CHAIRMAN MIKVA: I know Julie had a question,
16 and then we're really going to have to -- sorry.

17 MS. REISKIN: Oh, it's just a very brief
18 comment, which is the situation that I think you were
19 referring to that all of a sudden there was an influx
20 and there was no community capacity.

21 I don't know that that could happen because
22 this applies to all federally entities. So the

1 community -- there's Medicaid, there's all this other
2 stuff. So there wouldn't be a situation where the
3 legal services grantee would be the only one having to
4 deal with this.

5 MS. COHAN: And of course, to the extent that
6 a lot of the grantees receive other federal funds, any
7 grantee that was receiving other federal funds when the
8 Justice Department's guidance came out was going to be
9 independently subject to that Justice Department
10 guidance for whatever funds it may have been getting,
11 whether they were VAWA funds or something else.

12 MR. MADDOX: Mattie, just to wrap up, can you
13 send us, at least me, a reference to the Title VI
14 provisions in question and the Justice Department
15 guidance on it?

16 MS. COHAN: Sure.

17 MR. MADDOX: The letter in our book is sort of
18 just an overview.

19 MS. COHAN: Right. And the Title VI, in case
20 anybody doesn't understand that shorthand, Title VI of
21 the Civil Rights Act, and it's the nondiscrimination on
22 the basis of national origin.

1 That's the hook that the Justice Department
2 was using, tying in with limited English proficiency,
3 that if you have someone who is not proficient in
4 English because they are not a native English speaker
5 from this country, in order to avoid running afoul of
6 committing discrimination on the basis of their
7 national origin, that services needed to be provided.

8 So that's the link between Title VI and
9 limited English proficiency. But I'm happy to get you
10 all those documents.

11 CHAIRMAN MIKVA: Could you share that with the
12 committee, Mattie?

13 MS. COHAN: Absolutely.

14 CHAIRMAN MIKVA: I think at this point I would
15 entertain a motion to adjourn.

16 M O T I O N

17 MR. MADDOX: So moved.

18 MS. BROWNE: I'll second.

19 CHAIRMAN MIKVA: All in favor?

20 (A chorus of ayes.)

21 (Whereupon, at 3:52 p.m., the committee was
22 adjourned.) * * * * *