

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

MEETING OF THE
DELIVERY OF LEGAL SERVICES COMMITTEE
OPEN SESSION

Friday, July 17, 2015

3:07 p.m.

Radisson Blu Minneapolis Hotel
35 South 7th Street
Minneapolis, Minnesota 55402

COMMITTEE MEMBERS PRESENT:

Father Pius Pietrzyk, O.P., Co-Chair
Gloria Valencia-Weber, Co-Chair
Victor B. Maddox
Julie A. Reiskin
John G. Levi, ex officio

OTHER BOARD MEMBERS PRESENT:

Robert J. Grey Jr.
Charles N.W. Keckler
Laurie Mikva
Martha L. Minow

STAFF AND PUBLIC PRESENT:

James J. Sandman, President

Lynn Jennings, Vice President for Grants Management

Rebecca Fertig Cohen, Special Assistant to the
President

Wendy Rhein, Chief Development Officer

Ronald S. Flagg, Vice President for Legal Affairs,
General Counsel, and Corporate Secretary

Stefanie Davis, Assistant General Counsel, Office
of Legal Affairs

David L. Richardson, Comptroller and Treasurer,
Office of Financial and Administrative Services

Carol A. Bergman, Director, Office of Government
Relations and Public Affairs

Carl Rauscher, Director of Media Relations, Office of
Government Relations and Public Affairs

Marcos Navarro, Office of Government Relations and
Public Affairs

Daniel O'Rourke, Assistant Inspector General for
Investigations, Office of the Inspector General

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

Tom Hester, Associate Counsel, Office of the Inspector
General

Lora M. Rath, Director, Office of Compliance
and Enforcement

Janet LaBella, Director, Office of Program
Performance

Herbert S. Garten, Non-Director Member, Institutional
Advancement Committee

STAFF AND PUBLIC PRESENT: (Cont'd)

Frank B. Strickland, Non-Director Member,
Institutional Advancement Committee

Chris Allery, Supervising Attorney, Anishinabe Legal
Services

Dorothy Alther, Executive Director, California Indian
Legal Services

Ed Reinhardt, Senior Attorney, Legal Services of North
Dakota

Sylvia Struss, Administrative Director, DNA People's
Legal Services

Colline Wahkinney-Keely, Executive Director, Oklahoma
Indian Legal Services

Anne M. Hoefgen, Legal Services of Northwest Minnesota

Megan Hay, Anishinabe Legal Services

Cody Nelson, Anishinabe Legal Services

Jessie R. Nicholson, Southern Minnesota Regional Legal
Services

David Lund, Legal Aid Service of NorthEastern
Minnesota

Rosalie Chavez, New Mexico Legal Aid, Native American
Program

David Armstrong, Wisconsin Judicare

Richard Collins, Professor of Law, University of
Colorado

Don Saunders, National Legal Aid and Defenders
Association (NLADA)

Robin C. Murphy, National Legal Aid and Defender
Association (NLADA)

Terry Brooks, American Bar Association Standing
Committee on Legal Aid and Indigent Defendants
(SCLAID)

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

2 (3:07 p.m.)

3 CO-CHAIR FATHER PIUS: All right. Seeing the
4 presence of a quorum and having duly noticed this
5 meeting, I open this Committee meeting of the Delivery
6 of Legal Services Committee. The first item is
7 approval of the agenda, and do I have a motion?

8 M O T I O N

9 MR. MADDOX: So moved.

10 CO-CHAIR VALENCIA-WEBER: So moved.

11 CO-CHAIR FATHER PIUS: And seconded. All in
12 favor say aye.

13 (A chorus of ayes.)

14 CO-CHAIR FATHER PIUS: Any opposition?

15 (No response.)

16 CO-CHAIR FATHER PIUS: And the agenda is
17 approved.

18 We also have some minutes to approve from the
19 Committee meeting in April. If I could have a motion
20 to approve those?

21 M O T I O N

22 CO-CHAIR VALENCIA-WEBER: I move to approve.

1 MS. REISKIN: Second.

2 CO-CHAIR FATHER PIUS: And seconded. All in
3 favor?

4 (A chorus of ayes.)

5 CO-CHAIR FATHER PIUS: And any opposition?

6 (No response.)

7 CO-CHAIR FATHER PIUS: Good. All good. We've
8 got the business out of the way. Gloria, I will turn
9 this over to you to introduce the panel, or to
10 introduce the person who's going to introduce the
11 panel.

12 (Laughter.)

13 CO-CHAIR VALENCIA-WEBER: I thought that Janet
14 LaBella would do it, but that's okay.

15 CO-CHAIR FATHER PIUS: Oh, yes. No, have
16 Janet do. I'm sorry. I'm introducing you to introduce
17 Janet.

18 CO-CHAIR VALENCIA-WEBER: All right.

19 CO-CHAIR FATHER PIUS: I meant to do it that
20 way.

21 (Laughter.)

22 CO-CHAIR VALENCIA-WEBER: All right.

1 CO-CHAIR FATHER PIUS: But Janet, please go
2 ahead, and if you could introduce the panel. Thank
3 you.

4 MS. LABELLA: I'm Janet LaBella, the director
5 of the Office of Program Performance. And I'm very
6 happy today that we have a panel with us, the second
7 panel on Native American issues. And this panel is
8 going to discuss the delivery of legal services to
9 Native American communities.

10 We're going to start initially focusing on the
11 unique landscape of Native American service areas,
12 including challenges of geography, remoteness and
13 poverty, the complexities of the multiple judicial
14 systems, and also unique legal challenges. The
15 panelists will also discuss strategies they have to
16 address the challenges.

17 I'm very pleased today that we have five
18 nationally recognized experts in the delivery of legal
19 services to Native American populations with us. Their
20 bios are in your Board books, so I'll just do a very
21 brief introduction here.

22 We have Sylvia Struss, who is the

1 administrative director of DNA People's Legal Services;
2 Ed Reinhardt -- you might want to raise your hand so
3 they know who you are -- Ed Reinhardt is the senior
4 attorney of Legal Services of North Dakota; Colleen
5 Keely, at the far end, is the executive director of
6 Oklahoma Indian Legal Services; Dorothy Alther is the
7 executive director of California Indian Legal Services;
8 and Chris Allery, who you've heard from already today,
9 is the co-executive director of Anishinabe Legal
10 Services.

11 First we're going to have each panel member --
12 and we should pass this down to Sylvia -- who's going
13 to show some slides, as a picture is worth a thousand
14 words, showing you the landscape of their particular
15 service area and legal services delivery method.

16 MS. STRUSS: Thank you. Good afternoon. My
17 name again is Sylvia Struss, and I've worked at DNA
18 Legal Services for the last 19 years, first in our
19 Mexican Hat, Utah office, which is the definition of
20 the middle of nowhere, and then in our Chinle office
21 for seven years, and now in Flagstaff.

22 I'm originally from Massachusetts, from

1 Boston. Went to Harvard and Northeastern University
2 Law School, and gave that all up to go to DNA.

3 Our service area is we cover -- do you have a
4 map? There we go -- the Navajo reservation, which you
5 can see the light blue lines. Most of it is Arizona, a
6 little portion of Northwest New Mexico, a portion of
7 southern Utah. We also do practice a little bit in the
8 Ute Mountain courts in Colorado as well.

9 So we practice in the Navajo courts; Hopi
10 courts; Hickory Apache, which is off the map to the
11 right; Kaibab Paiute, which is off the map to the left;
12 Walapai; Havasupai -- those are all around the Grand
13 Canyon; and then we swallowed up an office, Coconino
14 Legal Aid in Flagstaff, and San Juan Legal Aid in
15 Farmington. So we have two off-reservation offices as
16 well.

17 We practice in Arizona state court, New
18 Mexico, Utah, seven different tribal courts, federal
19 district court, and administrative courts. Nearly all
20 of our litigators are licensed in three or more
21 jurisdictions.

22 I'm going to talk mostly about interior

1 problems and solutions. Recruitment and retention is
2 our biggest problem. I always use Minnesota, actually.

3 When I go to recruit people, I say, "We're in a very
4 remote area," because I used to say rural area, and
5 then I would say, "No, not like the rolling hills of
6 Minnesota."

7 (Laughter.)

8 MS. STRUSS: Think of the Moon. Like they
9 literally used the Navajo reservation for the Mars
10 Rover before they sent it out. It's a 2-1/2 to a 5-1/2
11 hour drive to the nearest airport, the nearest
12 Starbucks, or the mall. And we have to provide housing
13 to our attorneys; otherwise, there is no place for them
14 to live, and they can't stay there.

15 Navajo Housing Authority recently estimated
16 that they needed to build 30,000 houses just to meet
17 the needs of their own tribal members. And Indian
18 Health Service builds their own housing for their
19 doctors and nurses and caseworkers. The schools build
20 their own housing for their teachers. And so we have
21 to do the same thing as well, which is not easy.

22 Our clients and some of our attorneys live on

1 dirt roads in places that look like that. They're
2 beautiful. Yes? But remote. Live in houses that look
3 like that. Some of our attorneys live without
4 electricity.

5 So trying to recruit somebody to come out to a
6 place they've never been before and live without
7 electricity, who can't use their cell phones because
8 that red rock doesn't let cell signals go through, and
9 they can't use their laptops, and there's no beer.

10 (Laughter.)

11 MS. STRUSS: So it's a little tough. And then
12 once we get them, it's not easy to keep them, either,
13 because they have to be licensed in all these different
14 jurisdictions, and it gets -- it's nice to think about
15 living without electricity for a weekend or a week or a
16 month, but three years?

17 The other thing I wanted to talk about is
18 funding. We've tried to diversify our funding. I love
19 that slide -- I'm just going to slip through some of
20 these pages -- the slide with the funding for
21 Minnesota. I was like, oh, my God, 11 percent LSC?
22 When I first came to DNA, we were something like 96

1 percent funded from LSC, and we're down to 78 or
2 something like that.

3 The reason is because -- there's a really good
4 article that I'm going to send you the link to about
5 fundraising in Indian Country. We have a lot more
6 grants from states, VOCA, VAWA. We have some money
7 from DOJ now. We have four different grants, actually,
8 from LSC because of our different service areas.

9 But being a nonprofit of any kind, not just
10 legal services, in Indian Country is -- this is what my
11 fundraising director gave me to read. "There are few
12 funders in Indian Country. Very little foundation
13 funding goes to Native communities, foundations to
14 nonprofits of any kind; .03 percent of foundation
15 funding goes to Indian Country."

16 We have a lack of statistics because
17 statistics about Native Americans are not generally
18 collected. LSC does a great job of it, I think, but
19 other foundations don't.

20 Board engagement is very difficult from a
21 distance, as you all know. We often don't qualify for
22 funding that makes sense for us because it goes to

1 tribes or tribal organizations, and we're not a tribal
2 organization. We can partner with the tribes to get
3 those grants, but it's not easy to partner with a
4 tribe. I don't know if you've ever tried it before.
5 There's lots of red tape.

6 Then sometimes when we do partner and we get
7 the grant, we're excited. And then for whatever
8 reason, the tribe doesn't accept it, doesn't accept the
9 grant.

10 Do you have a United Way in your community?
11 We do in Flagstaff. We don't on the Navajo
12 reservation. No St. Vincent de Paul, a Salvation Army,
13 a Goodwill, any of that stuff. That's what it looks
14 like right there. There's none of that.

15 Funders such as banks, UPS, FedEx, they want
16 to give money to places where their employees volunteer
17 and where they are, where they do business. And
18 nobody's doing business on the reservation.

19 I just wanted to finish by saying that we feel
20 like a solution for a lot of problems is to throw pro
21 bono attorneys at it or to throw technology at it. And
22 people talked this morning about technology. Three

1 years ago the Navajo reservation got a T1 line. Three
2 years ago. One. And that means we have internet, but
3 it's very slow.

4 For example, I was talking to our managing
5 attorney in Hopi, and she said, "Oh, my internet's
6 really slow because school's out." And I said, "What
7 does school out have to do with anything?" The kids
8 are home playing on their computers and so we can't
9 access our case management system. The pipeline's only
10 so big.

11 With volunteer attorneys, there are very few
12 private attorneys that are barred in tribal courts, and
13 they are the solo practitioners who can't afford to
14 drive long distances to get to court. And so we are
15 actually applying for a Pro Bono Innovation Fund to
16 help fix that and get some pro bono attorneys going on
17 the reservation. We'll see how that works.

18 So that's my intro.

19 MS. LABELLA: Sylvia, you had a couple more
20 slides, particularly the last one, which is -- I think
21 one more -- two more -- there. And explain what that
22 is because that's particularly telling.

1 MS. STRUSS: This is the attorney housing out
2 in Tuba City. So it's an old stone building built in
3 the 1880s, and it has beautiful water and it's a
4 beautiful place. But it is all sand like that, as you
5 can see, and that's the place that has no electricity.
6 But that's the housing that we have, so we use it.
7 Thank you.

8 MS. LABELLA: Thank you, Sylvia.

9 Now, Ed, it's your turn to use the clicker and
10 give everyone a brief overview of the landscape of
11 North Dakota.

12 MR. REINHARDT: I'm Ed Reinhardt from Legal
13 Services of North Dakota. Legal Services of North
14 Dakota covers the entire state of North Dakota, with
15 one exception that I'll point out. And we also cover
16 the Indian reservations.

17 I'll start out with our program priorities.
18 Most of them are probably the same as a lot of other
19 legal services programs. The access to justice systems
20 for Native Americans, that's kind of a catchall.

21 That's where we do things like if somebody
22 wants to change their name from Smith to Yellow Bird in

1 tribal court; or if they want to become enrolled and
2 their father never acknowledged paternity but has since
3 died, we'll help them get affidavits from relatives to
4 establish blood connection so they can get enrolled.

5 We'll help people get appointed personal
6 representative in a probate so they can cash a capital
7 credit check from a coop. It's the sort of things that
8 we don't do in state court but nobody else does in
9 tribal court.

10 This is North Dakota, with most of its Indian
11 reservations. There's one that's not on there.
12 There's a sliver of the Sisseton Wahpeton reservation
13 on the lower right that doesn't show up. But Legal
14 Services of North Dakota covers the Fort Berthold
15 reservation, Turtle Mountain, and Spirit Lake.
16 Standing Rock reservation down at the bottom is covered
17 by Dakota Plains Legal Services.

18 Fort Berthold is the Mandan, Hidatsa, and
19 Arikara Tribes. We have one office there, and it's
20 staffed by two paralegals, and I go there once a week.
21 Turtle Mountain is up near the Canadian border. That's
22 staffed by a paralegal and a secretary, and I get out

1 there every couple of weeks or so, two to three weeks.

2 We do not have an office on Spirit Lake, the
3 the way we provide services there is our paralegal from
4 Turtle Mountain goes there about every other week. And
5 I live in Minot, more or less. I keep an eye on things
6 out at Minot, and I also spend part of my time
7 assisting with the legal services centralized intake.
8 But our office in New Town is about 75 miles from
9 Minot. Minot is about 112 or so from Turtle Mountain,
10 and it's about 180 miles from Spirit Lake.

11 As far as difficulties getting around on the
12 reservation, this is a closeup of Fort Berthold. It's
13 bisected by a reservoir, and there's one bridge across,
14 and that's at New Town up near the top. And this slide
15 shows the paved roads on the reservation, too. We go
16 to White Shield, on the right-hand side, once a week or
17 so for outreach. But generally, we only have the one
18 office in New Town.

19 This slide also shows where Fort Berthold sits
20 in relation to the Bakken Shale oil formation because
21 you read occasionally about oil development in Fort
22 Berthold and that sort of thing.

1 Speaking of oil development, this is a picture
2 of where oil rigs and that sort of thing are in
3 relation to Indian reservations. At Spirit Lake and
4 Turtle Mountain, there aren't any. On Fort Berthold,
5 it's kind of hard to see with the coloring, but
6 basically, the oil rigs are all on the western side,
7 the left-hand side, of the reservoir. On the eastern
8 side there isn't a whole lot, and especially on the
9 southeastern side there's hardly any oil development.

10 I guess I'd second what Sylvia said about the
11 difficulty of finding places to live. Turtle Mountain
12 and Spirit Lake don't have a whole lot of places to
13 live, and New Town is even worse, especially since the
14 oil boom started.

15 Internet we all have. All the offices have
16 internet, although it can slow down sometimes and it
17 feels like a typewriter might be faster sometimes. And
18 there is the distances involved. It takes about three
19 hours to get from Minot to Spirit Lake, and it's a
20 two-hour trip each way from Minot to Turtle Mountain.
21 So you spend a fair amount of time just driving back
22 and forth as opposed to doing productive work.

1 So anyway, that's all I've got.

2 MS. LABELLA: Thanks.

3 MR. LEVI: What about to Williston? How far
4 is that from Minot?

5 MR. REINHARDT: Williston is about 120 miles
6 from Minot.

7 MR. LEVI: Is that Highway 2?

8 MR. REINHARDT: Yes.

9 MR. LEVI: I'm an Empire Builder guy. I took
10 the Empire Builder many times. How many people in
11 Minot now?

12 MR. REINHARDT: I think around 50,000. It's
13 grown quite a bit in the last six or seven years.

14 MR. LEVI: It's a beautiful state.

15 MS. LABELLA: Thank you, Ed. Could you pass
16 the clicker to Colleen?

17 MS. KEELY: Hi. I'm Colleen Keely, and I'm
18 the director of Oklahoma Indian Legal Services. And I
19 started out my career there as a staff attorney. I was
20 a staff attorney for 12 years. Then I've been the
21 executive director for 15, going on 15 years now.

22 One of the things we were asked to talk about

1 is the unique characteristics of our service area. And
2 I think one of the most unique characteristics of
3 Oklahoma and our service area that we cover is the way
4 that Oklahoma came to have 39 tribes located in a
5 relatively small area in the central plains.

6 What a lot of people don't realize about
7 Oklahoma, if you didn't attend seventh grade and take
8 Oklahoma history in Oklahoma, was that Oklahoma was a
9 removal state. Most all of the tribes that are located
10 now in Oklahoma were removed from their ancestral
11 homelands and placed into reservations in Oklahoma.
12 And that still impacts their lives today.

13 We don't have traditional reservations like
14 you see in North Dakota and DNA, where you see those
15 tribal jurisdictional areas. Those are all former
16 reservation boundaries. All of the tribally owned
17 lands in Oklahoma -- and this happened a lot of places,
18 but I'm just going to talk about Oklahoma.

19 All of the tribally owned lands in all of
20 those areas were allotted to individual Indians, and
21 some of the land was placed in trust, which the legal
22 title to that land is held by the United States. And

1 the Five Civilized Tribes' land was placed in what's
2 called restricted status, which is a fee title, but it
3 has restrictions on alienation and conveyancy.

4 So that still impacts people's lives today
5 with probates, and that's one of the number one things,
6 I think, that our program differs from other programs,
7 is the way in which the Five Civilized Tribes' land is
8 dealt with, and that encompasses most of Eastern
9 Oklahoma.

10 You'll see the huge areas for Choctaw and
11 Chickasaw down in the southeast part of the state. The
12 Cherokees have a large land base. The Seminoles is one
13 county, and the Creeks, but that encompasses a lot of
14 the state of Oklahoma.

15 Those tribal probates are done in state
16 district court. The individual Indian has to file the
17 petition and get all of the notices out do the probate.

18 So consequently, a lot of those probates were not ever
19 done from the time the original allotment was made till
20 today. Those titles are not brought up to date.

21 The other tribes' land in Oklahoma is
22 automatically probated through Office of Hearing and

1 Appeals, which is a federal administrative court, and
2 we don't really get too much involved in that.

3 But a lot of the land now, and I think this is
4 true everywhere, has become highly fractionated from
5 the time the land was allotted, the individual dies,
6 and their heirs inherited it, and then their heirs
7 inherited is, so that today land is owned in very
8 fractionated interests. You might have a 1/250th
9 interest in ten acres.

10 So that is one of the big problems everywhere,
11 and it's particularly bad for the Five Civilized Tribes
12 in Oklahoma because nobody is doing their probates. We
13 contract with some of the tribes to do those probates
14 of restricted Indian land, and what's driving a lot of
15 that demand now is the settlement of the Cobell v.
16 Salazar litigation, where individual Indians are
17 eligible to receive part of that settlement, but they
18 have to know who to give it to today.

19 If your probate is not up to date, then they
20 don't know who to give it to. And so we're doing a lot
21 of determination of heirships in those types of cases.

22 The other thing that is a consequence of this

1 allotment and the fractionization is the American
2 Indian Probate Reform Act, which was passed in 2004.
3 That act takes intestate succession and kind of turns
4 it into a mechanism to consolidate those fractional
5 interests of Indian land.

6 The only way that you can determine who your
7 property goes to if you don't want it to go under that
8 American Indian Probate Reform Act intestate succession
9 is to do a will, and that drives our numbers for the
10 demand for wills. It is incredible, and we could do
11 nothing but wills, and still you'd probably have a lot
12 more to do.

13 It's just amazing because that act actually --
14 one of the problems I see with it is it doesn't
15 differentiate. If you own the whole 100 percent
16 interest in the tract of land if you don't have
17 AIPRA-eligible heirs, it's going to escheat to the
18 tribe.

19 It doesn't differentiate between mineral
20 interests, which in Oklahoma or North Dakota can be
21 very valuable; even a small, tiny interest can be very
22 valuable -- it doesn't differentiate between that or

1 cash. It's just it escheats to the tribe if you don't
2 have AIPRA-eligible heirs. So the only way you can
3 prevent that is have a will done. So we do a lot of
4 wills there.

5 We have a lot of Indian people, so we have a
6 lot of -- Indian Child Welfare Act is another one of
7 the big areas that we do. We do a lot of guardian ad
8 litem in tribal court.

9 A lot of land issues, oil and gas leases. Oil
10 and gas leases has really taken off on its own.

11 Have to be approved in state district court,
12 so a lot of what we do doesn't involve tribal courts,
13 although we do a lot of pro se assistance in tribal
14 courts through our pro se facilitator, which is a
15 self-help desk where we put a paralegal, and sometimes
16 an attorney with them, but they're always under the
17 supervision of an attorney to give pro se assistance to
18 litigants in tribal court.

19 We work with the tribal court clerks to
20 develop packets of forms that can be passed out to
21 tribal court litigants because, by and large, nobody in
22 tribal court has an attorney.

1 One of the ways that we train interns to go
2 out into the community -- and these are three of our
3 interns this year -- we are doing a will clinic out at
4 the Cheyenne-Arapaho headquarters there. Sylvia
5 started as an intern at Oklahoma Indian Legal Services.
6 That's just a typical Oklahoma landscape there.

7 Kevin Washburn, who's now the Assistant
8 Secretary of Indian Affairs for the Department of the
9 Interior, was an OILS intern; and that's Henry Ware,
10 who's with the Office of Special Trustee. He was an
11 OILS attorney and a former intern.

12 That's one of our will clinics that we're
13 assisting people. We go out into the communities and
14 do wills onsite, Indian wills onsite, so that -- we
15 have a big demand for those, like I said. We could do
16 nothing but those and have more cases than we could
17 handle.

18 So that's kind of an overview of our program.

19 We have some other programs. Did you want to talk
20 about TIG or --

21 MS. LABELLA: Let's move on -- thank you,
22 Colleen -- to California Indian. And then we'll get

1 back with some other specific questions about some of
2 your special projects.

3 Dorothy?

4 MS. ALTHER: Hi. I'm Dorothy Alther, and I'm
5 the executive director for California Indian Legal
6 Services. It's kind of interesting how many of us have
7 jumped from program to program. I've been practicing
8 for about 30 years, and I started at DNA People's Legal
9 Services in Crown Point, and was one of those that
10 lived in one of those beautiful homes, and then came to
11 California. So most of my Indian legal experience has
12 been with Indian legal services.

13 I have been the executive director for only
14 about two and a half, almost three years, and so I'm
15 sort of learning. I've been with CILS a long time, but
16 now I'm learning the compliance side, the LSC side, and
17 it's been a bit of a challenge.

18 But I do enjoy it, and one of the things that
19 -- I know people have been showing maps. So I wanted
20 to give you a nice little snapshot of our service area,
21 which is the state of California. We have four
22 offices.

1 Our way north is in Eureka, and it's very
2 close to the Oregon border. And all of that blue area
3 is their service area. We have an office in
4 Sacramento, and that light tan color is their service
5 area. The orange is the eastern Sierra, and it
6 includes some very, very rural counties, Inyo, Mono
7 Counties. And then the yellow part is southern
8 California, and that's where the principal office is,
9 my office, is in San Diego County.

10 We have 110 federally recognized tribes in
11 California. We also represent tribes that are not
12 federally recognized and can assist them with the
13 federal recognition process. I have one now that I'm
14 very excited that we're, after ten years, slowly moving
15 along now that the BIA regulations have been finalized.

16 We actually have the largest Indian
17 population, next to OILS, in the United States, and
18 they are not all California Indians. For some of you
19 who may remember the Indian relocation program that was
20 designed to take Indians off the reservation, move them
21 to urban centers, and integrate them, and the primary
22 locations that they sent tribal members to was

1 Minneapolis, Chicago, Denver, and L.A.

2 So a lot of our urban Indians are from
3 out-of-state tribes but have -- second generation now
4 they have made California their home. So we have a
5 very, very large Indian population, and as a matter of
6 fact, in San Diego County alone, we have 18 tribes.

7 I'm here to dispel the belief that all tribes
8 in California have large gaming operations, and all
9 members are very wealthy. They are not. Some are, but
10 the vast majority are not.

11 Actually, I know this map looks a little
12 daunting, but unfortunately, we do practice in almost
13 all of these counties. We have 58 counties. And that
14 work is primarily doing representation of tribes in
15 state court on ICWA matters, Indian Child Welfare Act
16 matters. And we're going to talk about what the ICWA
17 is. But we are literally all over the state.

18 The other thing is that CILS is a little
19 different, maybe, than some of the other Indian legal
20 programs in that we do a lot of tribal representation
21 in addition to individual representation. We try and
22 work with tribes on building their tribal governments

1 and their tribal institutions.

2 I think that at least in my experience, that
3 sometimes if tribes can build their own court systems,
4 their own law enforcement departments, and tribal
5 programs, that it's more of an effective use of our LSC
6 funding than maybe representing ten or twenty people if
7 we can develop codes in a good tribal court where they
8 can actually go and be heard and have their cases
9 resolved without having to go into state court.

10 We are a Public Law 280 state, and Chris
11 covered that so well this morning. So our clients have
12 the option in certain civil matters. But like I said,
13 we do represent tribes. Some of our tribes are able to
14 pay us for our work. The vast majority are not. They
15 are income-eligible by LSC standards.

16 Another big component part that we do is
17 community education. I do a lot of that. I'm on the
18 road. I go out with our staff. We have six attorneys
19 to cover the state of California, not including me, and
20 as the executive director, I also maintain a case load
21 and I try and interact with my office staff as much as
22 I can.

1 But we do a lot of training on AIPRA, the
2 Indian Civil Rights Act. I have probably done over a
3 hundred, if not more, Public Law 280 presentations.
4 And while these are for tribal communities, when we put
5 -- I just was up in Fortuna, which is way north
6 California, about two weeks ago.

7 Oftentimes when we do these, community
8 education, we have the room full of the local law
9 enforcement departments. I've got the sheriff's
10 department, the highway patrol, local police
11 departments. In some cases I'll have superior court
12 judges, district attorneys, in addition to our tribal
13 leaders, tribal community, and tribal law enforcement.

14 What I have learned in my experience is that
15 there is such a misunderstanding about Public Law 280,
16 and Indian jurisdiction in general, and I know we're
17 going to talk about that a little bit later. But it is
18 a challenge as an attorney, Indian attorney in a Public
19 Law 280 state of trying to explain to state court and
20 federal court judges jurisdictional matters.

21 So we do a lot of community education, a lot
22 of will clinics, and we're going to talk about that

1 again. It's one of the challenges of trying to get
2 into some of these more remote communities and trying
3 to provide services in bulk.

4 So we turned 48 this year. Oh, and some of
5 the individual work that we did. One of the big issues
6 we have in California is every June we get bombarded
7 with calls from Native Americans, parents, and their
8 students, because they want to wear an eagle feather or
9 they want to wear a sash at guardian, and the school
10 says no, you can't wear them.

11 We have to drop everything, and usually we get
12 the call two days before guardian. And we have teamed
13 -- where's John? The ACLU, NARF, and CILS, we have our
14 boilerplate letter that we send saying, if you don't
15 let them wear that eagle feather, we're going to sue
16 you. And we have.

17 This one actually was one that we did without
18 ACLU and NARF. Anyway, the woman seated is her
19 grandmother and is one of the finest beadworkers in the
20 Bishop Paiute area, and she beaded her cap and gown.
21 And they were refusing to let her wear it.

22 The law in this area is not good, but boy, all

1 you got to do is call the newspaper, and usually that's
2 how we get the school to back down. But anyway, this
3 is a happy guardian.

4 This is just again, like I said, we try and do
5 a lot of community education to empower people, to help
6 them either figure out cases that they might be able to
7 do in state court on their own or enough to contact us.

8 Our tribal courts in California have been very
9 slow to develop. We have them and they are growing,
10 but their exercise of their jurisdiction is -- they
11 have limited it. The tribe has limited it. We don't
12 exercise criminal jurisdiction because we do not get
13 funding from the Bureau of Indian Affairs for our
14 courts or our law enforcement departments, so we're
15 somewhat limited.

16 You can't have courts without cops. And so we
17 are, like I said, moving forward. I do practice. We
18 have an Intertribal Court of Southern California with
19 nine member tribes. I do practice there. And we have
20 tribal courts in the north where we also practice.

21 This is a picture taken of our staff at our
22 45th gala, which Mr. Echohawk from NARF, who you heard

1 from this morning, was in attendance. So it was a
2 really nice gala to celebrate 45 years. I guess this
3 was three years ago now.

4 But anyway, that is a snapshot of our staff.
5 With that, I'll turn it over so Chris can have his shot
6 at it.

7 MS. LABELLA: It's now time for Chris to give
8 us an overview of Anishinabe.

9 MR. ALLERY: At Anishinabe Legal Services, we
10 serve the Red Lake, White Earth, and Leech Lake
11 reservations. Leech Lake and White Earth are Public
12 Law 280 jurisdictions, and Red Lake is not. It's
13 excluded.

14 We have a lot of the same issues. Oh, here's
15 the building that our office is in, and you can see
16 it's a little bit rough. That's actually a lot better
17 than two years ago, when a tree fell on the front of it
18 after a storm and knocked in the whole roof and the
19 side there. So at least it's enclosed now.

20 (Laughter.)

21 MR. ALLERY: The sidewalk needs a little
22 fixing because we do have a lot of elderly people and

1 disabled people that come to the office to meet with
2 us. Most of the tribal buildings are pretty good about
3 being accessible for people like that. And they can
4 get in there, but that's one of the things we have to
5 work on there, is getting a better, more friendly
6 space. It works, but it's no ideal. So that's kind of
7 the way it goes.

8 You find that a lot. I know we were talking
9 about the remoteness of places and access to
10 technology. If you've ever had to sit there and
11 handwrite an affidavit for somebody in your car and
12 then take a notary with you to stamp it, you know that
13 technology can accomplish a lot of that. You can type
14 it up and bring somebody along and have even a small
15 printer or something. You can do that a lot easier in
16 these remote places.

17 Here's the big look. It used to be, I
18 believe, a hotel, and that's why the front looks like
19 that. It's a very odd setup. And now actually those
20 roads are all torn up because they're working on the
21 roads. So we all park on the back lawn. That's in
22 Leech Lake. That's the main office.

1 Here's the tribal headquarters at White Earth,
2 and it's brand-new. It's in a half circle, almost kind
3 of a crescent moon shape. This is the rounded front
4 part. You go in there, and that part that comes up on
5 the left there is the courtroom.

6 That window there is right in on the
7 courtroom. And our office is right out to the right of
8 the courtroom. So it's a good spot there. The police
9 and everybody in the tribal government are in that now.
10 It's a lot better than the old space.

11 White Earth is approximately, I believe, 80
12 miles from Cass Lake, and so it's quite the drive if
13 you have a hearing in Cass Lake and then one in White
14 Earth later.

15 This is Waubun, which is halfway in between
16 there. It's a pretty typical reservation town. The
17 White Earth reservation is sort of unique in that it
18 encompasses all of one county. So Mahnomen County is
19 all within the reservation.

20 So you get some very interesting legal
21 precedent from that because they can't say, well,
22 that's in the county but over the boundary, like some

1 of the other counties that has a portion of them there.

2 But it's entirely within the reservation, so there's a
3 direct conflict between those two things in saying that
4 the state does or doesn't have jurisdiction.

5 We had a case up there where somebody got
6 their vehicle seized under a drunk driving condition,
7 got their vehicle seized as part of a stop, and we
8 argued that that was civil regulatory and they had to
9 give this vehicle back because it is.

10 So now that's at least gotten that point
11 across to Mahnommen County. But they are entirely
12 within the reservation, so they do have to work with
13 White Earth in a partnership to do the law enforcement
14 there. And so that's kind of a unique place.

15 Leech Lake is where our office is, and it's a
16 very large reservation that covers several counties. A
17 lot of lake area. A lot of allotments that have
18 thousands of people that own them, so there are AIPRA
19 issues as well that we've talked about here a little
20 bit.

21 I don't think we have them quite as bad as
22 Oklahoma, but we do have a lot of people that own those

1 allotments. And just trying to undo hundreds of years
2 of mistakes there is a very difficult job.

3 So a lot of people own those, and we try to do
4 the will drafting for them and encourage that in our
5 client community to have them hang onto that land or
6 give it out as they see fit rather than have it go to
7 the tribe or end up consolidated to one person if they
8 don't want that.

9 This is the Leech Lake water tower there. You
10 can see it's kind of out in a rural, remote area. This
11 is Lake Cass. We do have a lot of lakes, which is very
12 nice. But we still do have the same problem of people
13 wanting to move there. They like to visit, I think,
14 but when they get there, it's difficult to have them
15 working there because we are very far removed.

16 Somebody once said to me about Minnesota, they
17 said, "Oh, yes. We always go way up north in Minnesota
18 to our cabin." And I said, "Oh, yes? Where?"
19 "Motley." I'm like, "Well, we're a few hours north of
20 there." So we're way, way north, then.

21 But yes, some of these places are pretty
22 remote. Red Lake, I know that one of the challenges

1 there is even if you do phone hearings, you may not get
2 phone reception. So you have to stop right at this
3 sign, take your calls, pull over, and then drive up to
4 the court the rest of the way so that you can
5 accomplish that and then go the rest of the way. They
6 have a nicer sign now, which is cool.

7 (Laughter.)

8 MR. ALLERY: Those are all the clans at Red
9 Lake -- the Bullhead, the Turtle, the Bear, the Eagle.
10 So those are all the Red Lake clans that are on their
11 flag and their sign.

12 They, of course, are not Public Law 280
13 jurisdiction. We have done some criminal defense up
14 there, and mainly on these reservations a lot of civil
15 legal aid, family law issues and so forth, ICWA issues.

16 We appear in tribal court a lot in Red Lake
17 because they have full jurisdiction, criminal and
18 civil. We usually try to get somebody that's from Red
19 Lake to work that area. It makes it so much easier to
20 know the client community and develop somebody that's a
21 tribal member from there or has worked up there before.

22 We can't always get that. I know when I

1 worked there, when I was the attorney stationed there,
2 I am not from Red Lake. My family's from Turtle
3 Mountain in North Dakota. So it's a very remote place
4 as well. But my father and his cousin both worked for
5 Red Lake, so I was able to get licensed there pretty
6 quickly because they knew them, and able to work there
7 as somebody who was kind of an outsider.

8 But it is hard to come in as an outsider and
9 get people's trust. They want to make sure you're not
10 up there causing problems, I'm sure.

11 MS. LABELLA: We want to move on now to talk a
12 little bit about how technology has tried to bridge
13 some of these remote distances. And so Dorothy, do you
14 want to talk to us a bit about using videoconferencing?

15 MS. ALTHER: Yes. We were able to buy and
16 install a system for videoconferencing. Primarily we
17 first had the interest just in order to hold our staff
18 meetings because our attorneys are just so far apart.
19 And so we never really had -- you can do a conference
20 call, but it would be nicer to be able to have more
21 one-on-one.

22 The other obvious use would be able to have

1 meetings with our clients if they have the capacity.
2 When we were getting ready for the panel, I was just
3 talking about a situation that came up where we're
4 involved in some litigation on behalf of a tribe up in
5 the Bishop service area, and I'm the lead counsel. The
6 attorney in the office is co-counseling, and she's not
7 quite as experienced. So I've been really working the
8 case.

9 The tribe wanted me to come up and meet with
10 them. And it's a 12-hour drive round trip, five and a
11 half hours up, five and a half hours back. And there's
12 no airport, so you're driving it. And it was like,
13 God, I just cannot take 12 hours right now to take it
14 up there.

15 Luckily, they have the capacity that they were
16 able to utilize our videoconferencing. So I did,
17 actually, a five-hour meeting and PowerPoint on the law
18 that's applicable in this particular case, and it
19 worked out really well.

20 It wasn't like the old Skyping days where you
21 kind of fade in, and then you're off, and the camera's
22 gone. It really worked well. They could see me. I

1 could see them. It was very interactive. And so that,
2 like I said, saved me twelve hours of just driving
3 time, let alone having to be out of the office. You
4 don't get any other work done when you're driving
5 through Mojave.

6 Like I said, we're now able to have attorney
7 meetings as well as full staff meetings. And we're
8 able to put PowerPoints up. I'm too old to know it
9 all, but I have a ton of young staff people that are
10 able to do this for me.

11 But like in the meeting with the client, I had
12 prepared a pretty extensive PowerPoint. So it was
13 projected so that they could go through it as I was
14 presenting it.

15 Another thing, marijuana cultivation has hit
16 in California. So the other thing that we've done
17 recently is we were getting inundated with calls from
18 tribes and allottees saying, "Hey, I hear the feds say
19 we can grow pot on our lands." And it's like, "No, no,
20 you can't. You're not only going to get federally
21 prosecuted, you're going to get state prosecuted."

22 But one of the things that we did is we did a

1 free webinar, and I did a PowerPoint and put it out
2 there, advertised it for free, just telling people what
3 the law is, what the federal law is, what the state law
4 is, things that you need to worry about, a.k.a. not
5 getting arrested. So that's the other use that we want
6 to be able to start using more social media technology
7 for, getting information, educating our communities.

8 The other area that we want to start going
9 into is we have self-help packets, but I'd like to be
10 able to do a webinar to walk people through the
11 self-help packet so that it might be easier for them to
12 understand how to fill the form out if they actually
13 have somebody helping them through the webinar.

14 Anyway, that's been our use of technology.

15 MS. LABELLA: Thank you, Dorothy. And Ed, I
16 understand you have several clinics?

17 MR. REINHARDT: Well, we've -- yes. I guess
18 probably the two main ones or whatever is we've gotten
19 some grants from the Internal Revenue Service to do
20 taxes, volunteer income tax assistance. We've been
21 doing them in Fort Berthold for probably 20 years, and
22 then we've expanded into Turtle Mountain and Spirit

1 Lake, partly as a way to do good and partly as a way to
2 get our name spread around.

3 The main technology use, I guess, is when our
4 person in Turtle Mountain, who's pretty good at
5 technology, she started publicizing the tax clinics on
6 Facebook, and that worked really well. Everybody else
7 is too old to know about that stuff, so it's mostly in
8 Fort Berthold. It's mostly because we've been around
9 so long that people know about taxes.

10 Another thing, we have community education
11 sessions about wills and powers of attorney. We do
12 that on all three reservations at least once a year.
13 Those tend to be more in-person rather than over the
14 internet for two basic reasons.

15 One is when we go into the outlying towns and
16 so forth, the internet isn't so great there. We're
17 already located in the places that have good internet
18 connections. So doing a webinar from New Town to White
19 Shield on Fort Berthold, I'm not so sure that -- the
20 pictures would be kind of blocky in White Shield if
21 they came through at all.

22 The other reason is, I don't know,

1 generational, I guess. The people that are interested
2 in wills tend to be the older crowd, and they're not
3 really into technology, either. They like the
4 face-to-face contact. So I guess we've done a little
5 bit of technology. We can probably do some more. But
6 at the moment, that's what we're up to.

7 MS. LABELLA: And Chris, I understand that
8 you're into using technology to bridge some of these
9 distances?

10 MR. ALLERY: Yes. We've tried to get a lot
11 better at that, and I think Cody earlier talked about
12 some of our TIG grant stuff that we're doing there with
13 the court forms and making sure that those are
14 available online and accessible in the same way that --
15 and fillable court forms for the tribal courts in White
16 Earth and Leech Lake so that you have a database of
17 forms you can populate and then print up easy.

18 Laptops help, like I said earlier. That helps
19 a lot. Being that mobile, I mean, in the time I've
20 been there, which is ten years working for Anishinabe
21 Legal Services, I think I've went through four cars
22 just driving around so much. Everybody's probably had

1 that same experience with that. And it just happens.
2 And the laptop is your mobile buddy that helps you get
3 some of that work done.

4 I've had to have people drive for me while I
5 typed and was in the passenger seat. My retired
6 mother, I recruited her to do it.

7 (Laughter.)

8 MR. ALLERY: She thought it was funny, so she
9 helped. But the laptop does help. And tablets, people
10 that are better with tablets than I am, they do a good
11 job with those. I'm used to the laptop, so I'm used to
12 that. But the tablets, people use those, and that
13 works really well. Talking over Skype and bridging
14 that distance.

15 I know White Earth has where we defend people
16 that are being civilly committed. They've had some bad
17 drug problems up there. This happens at a lot of
18 reservations. And they put a civil commitment code
19 there to stop drugs for pregnant mothers that are using
20 drugs; people that can't stop using it, a danger to
21 themselves or others; mental health problems where
22 they're a danger to themselves or others.

1 So they've instituted a civil commitment code,
2 and they've appointed our lawyers as defense counsel.
3 But sometimes these people will be in a psychiatric
4 facility, a treatment facility, a detox facility, and
5 so having those hearings over an ITV link instead of
6 having that person transported or having us go down
7 there for the hearing makes a really big difference so
8 that person can be at the hearing and be heard.

9 Over the phone is okay, too, but it's not like
10 when you see them on the TV and you see them in person.

11 That's a little better than just hearing their voice
12 over the phone. So that's some of the ways we work on
13 that, to bridge those distances and to keep going
14 there.

15 MS. LABELLA: Colleen, would you tell the
16 Board about the TIG grant that you have at this point?

17 MS. KEELY: Yes. This year we received one of
18 the technology initiative grant awards to gather up
19 tribal codes. There are 39 tribes in Oklahoma. We
20 have 26 tribal courts. And we are putting all of the
21 codes online and then training the tribal court clerks
22 and staff to keep those updated.

1 Some of the tribal codes right now are online,
2 but you don't know if it's been updated. Some of the
3 smaller tribes don't even have them online. So we are
4 currently working on that, getting all the tribes on
5 Board to either let us link to their tribal codes they
6 have on their own websites or getting some of the codes
7 uploaded into our website.

8 Then after that phase is done, we're looking
9 at putting the tribal supreme court, appellate court,
10 decisions online with that, and then at some point in
11 the future, maybe even getting court records online,
12 similar to some of the state websites, where you can
13 look up codes and appellate decisions and even the
14 court records of what's going on in that court. So
15 that's new this year.

16 MS. LABELLA: So at this point we'll open it
17 up to any questions that the Board may have.

18 CO-CHAIR FATHER PIUS: Gloria?

19 CO-CHAIR VALENCIA-WEBER: Yes. I don't have a
20 question, but I did want to clarify some terms because
21 I know those people working in Indian law, we throw
22 terms around and do not explain.

1 But first, I do appreciate the hard work
2 you're doing every day on the ground with real people's
3 lives. Particularly as you get into either academia or
4 certain levels of a sophisticated law practice, it
5 becomes very abstract. You're dealing in very real
6 terms, and I appreciate that.

7 Several of you mentioned removal and what
8 removal has done, particularly to Oklahoma. Under
9 President Jackson, the removal policy was enforced
10 regardless of how the first Supreme Court had decided
11 in the famous Cherokee cases.

12 So the Oklahoma Territory was used as the
13 national solution to remove the tribes from the East.
14 And you often hear, in the case of the Cherokees,
15 there's a Trail of Tears. But it brought a huge number
16 of tribes.

17 I show a map when we teach, and it's from
18 every corner of the United States, every direction.
19 You have tribes like, for instance, the Sac and Fox,
20 who originally were Great Lakes tribes that were
21 removed.

22 They were removed to an in-between point. And

1 the push to open that land to "settlers" and to make it
2 more productive than the Indians keeps pushing them,
3 and they end up removed a second time, to Oklahoma.

4 So you had an enormous removal from what had
5 been homelands. And then when they get to Oklahoma,
6 eventually the push for more land, the "greed for land"
7 that the historian Angie Debo called it in her
8 histories of American Indians, pushed again. And so
9 all of this land which had been communally held and in
10 trust is broken up.

11 You asked about allotment. It's broken up to
12 become individual land units. So instead of communally
13 held land that is provided for everybody's benefit, you
14 had tribal rolls made up so individuals were going to
15 be allotted a piece of land.

16 But because they were not "civilized," it was
17 in trust. So the federal government is their trustee
18 until they become competent. And there was this whole
19 cycle for how to prove you were competent to manage
20 your own land. The idea was to turn these people into
21 rational, self-maximizing farmers.

22 Of course, it's strange that allotment happens

1 in 1887, by the time the country is going into full
2 industrial thrust. But in any case, these lands were
3 divided up and the so-called surplus opened to
4 settlers.

5 Then results of the failure of allotment show
6 up, and in the FDR period, the New Deal, we have that
7 policy reversed. But by now, you have created
8 checkerboard country, all kinds of land -- pieces in
9 trust, pieces in fee, pieces owned in fee by Indians,
10 pieces owned in fee by non-Indians. And that has
11 produced the kind of crazy quilt that this morning's
12 panel on who has jurisdiction, and this panel on who
13 has jurisdiction, why that's a continuous problem.

14 Then the second removal is the relocation
15 program after World War II to remove Indians away from
16 areas, home areas, where there were no jobs. You have
17 some famous removal and return cycles. Perhaps the
18 most famous is my friend, the late Wilma Mankiller,
19 whose family after World War II is removed to
20 California.

21 She grows up in the Bay Area, nonetheless,
22 with her formal education becomes truly reacculturated

1 and returns to Oklahoma to become the first Principal
2 Chief of the Cherokees in Oklahoma. And then you
3 have --

4 MR. MADDOX: Gloria, can I just interrupt?
5 Did you just say that after World War II?

6 CO-CHAIR VALENCIA-WEBER: After World War II
7 you had relocation programs.

8 MR. MADDOX: You said removal. Can you --

9 CO-CHAIR VALENCIA-WEBER: No. Removal was the
10 Jackson period.

11 MR. MADDOX: Yes. I understand. I
12 understand. But I think you said there was a second
13 removal, and there was someone whose family was removed
14 after World War II?

15 CO-CHAIR VALENCIA-WEBER: It's relocation, as
16 they called it.

17 MR. MADDOX: How did that work?

18 CO-CHAIR VALENCIA-WEBER: They basically
19 induced, with programs of -- in the case of Wilma
20 Mankiller, who was my friend, you don't have jobs. You
21 have needs. We will take you as a family package to --
22 in her case they ended up in the Bay Area.

1 They give some settlement monies, help them
2 get into apartments, other sorts of things, and
3 certainly the kids are enrolled in school, but possibly
4 the heads of family are enrolled in some job training.

5 And the idea was to relocate to better economic
6 opportunities, educational opportunities.

7 But you have a return back. And she's just
8 among the famous ones. And --

9 MS. ALTHER: I'd just like to add to that.
10 That was still going on. My family was moved from
11 South Dakota in relocation out to L.A. And that was in
12 -- I was just so young then. No. This was within the
13 '60s.

14 CO-CHAIR VALENCIA-WEBER: Well, it went on.

15 MS. ALTHER: Yes.

16 CO-CHAIR VALENCIA-WEBER: It started after
17 World War II and hung on for a long time.

18 MR. MADDOX: I take it this was under the BIA?

19 MS. ALTHER: Yes. Yes.

20 CO-CHAIR VALENCIA-WEBER: Yes.

21 MS. ALTHER: And it was disastrous. It was
22 just horrible.

1 CO-CHAIR VALENCIA-WEBER: It really removed
2 and destroyed a lot of cultural ties. What happens is
3 you have a return cycle. A number of the students
4 enrolled in present-day Indian law programs throughout
5 the West, including ours, are the grandchildren of the
6 removed families, who are making treks back to their
7 homeland territories as close as possible to become
8 part of those communities.

9 So what you also have, and particularly the
10 place where removal and allotment, until it was
11 reversed, rendered almost unchangeable bad results, was
12 Oklahoma. It has the maximum allotment, and you had
13 too much dividing after, and so you had unproductive
14 pieces of land. And that's why you had the Congress
15 act to pass the American Indian Probate Act.

16 So another task of Indian lawyers, including
17 our LSC-funded attorneys, is the proper making of
18 wills. Besides what Colleen and others have mentioned,
19 in the West also, you just don't walk into a generic
20 state-licensed lawyer and ask for a will because a will
21 can involve three kinds of property -- property still
22 in federal trust, which could be an individual

1 allotment.

2 Then you had personal property; it could be in
3 banks, off-reservation banks. It could be whatever,
4 family jewelry or whatever it is that's personal
5 property. And then you have land that is restricted in
6 probate by the tribe itself.

7 In order to stop this constant slivering of
8 land into unproductive units, some tribes like the
9 Navajos have an overriding probate law system that
10 says, we want to keep land productive. So when
11 somebody dies, to keep it productive agriculturally,
12 they're going to treat it as a trust.

13 The first act is to determine what needs to go
14 and be kept besides the land -- the farm utilities, the
15 trucks -- to keep that land productive and it isn't
16 just split among the heirs. Whichever heir is going to
17 be most capable of keeping it going, keeping it
18 productive as a trust for the rest of them, then that's
19 where the land goes.

20 Now, on the bank accounts and personal stuff,
21 that can go whichever way the will divides. So you end
22 up with a will with three parts.

1 CO-CHAIR FATHER PIUS: Thank you, Gloria.

2 Does anybody else have -- Martha?

3 DEAN MINOW: I want to add my thanks. It's
4 really overwhelming projects, day-to-day work, that you
5 all are doing, and we're incredibly grateful and
6 sobered by this. I have five short questions.

7 **One is whether it's possible to share with**
8 **Assistant Secretary Washburn a copy of your**
9 **presentations. I think that that would be very**
10 **helpful.** He knows a lot of what you're talking about,
11 but I think it would be really great to do that. And
12 in that vein, whether there's a census or other kind of
13 cataloguing of the takeup and implementation of BIA
14 benefits that he can do/should do. He's not there much
15 longer, probably.

16 **The second is, none of you actually mentioned**
17 **credit or student loans issues, and I'm wondering about**
18 **that.** There are great opportunities, particularly
19 represented by the community colleges, but I wonder
20 what's happening. Is there abusive use of the student
21 loan? We've seen that in some other areas.

22 **The third question is where there is dual**

1 jurisdiction, state and tribal, is there the
2 possibility of developing a website or other kinds of
3 guides for other legal services attorneys who are not
4 specialists as you are? Or other ways to -- so Dorothy
5 and others aren't traveling around to do all of this
6 education.

7 The last one, and I say this with a lot of
8 humility: Is there a set of projects that law schools
9 and others might do, for example around the wills, that
10 might be a way to help with problems that we know are
11 happening, or the graduation approvals? Are there ways
12 in which anticipating some of these problems might be
13 partnered with other resources? Thank you.

14 MR. LEVI: Can I add a sixth question?

15 CO-CHAIR FATHER PIUS: Yes, John.

16 MR. LEVI: In the places where there is
17 apparently no internet or even power, are the statewide
18 providers -- that is, elsewhere, the companies that do
19 provide this -- national firms, and do they know of
20 this circumstance? And have you or could we be helpful
21 in talking with their general counsel about providing
22 that kind of service to those areas?

1 DEAN MINOW: **And with the FCC, which claims to**
2 **be trying to expand broadband access.**

3 MR. MADDOX: Can I just add a comment to
4 Martha's question at the end? I'm intrigued by this
5 whole concept of fractionalization of property
6 interests. I know, Gloria, it's obviously a very
7 serious problem for Indian people.

8 I've also been intrigued -- at some point
9 Martha was kind enough to send me the entire treatise
10 on Indian law, which I have on my shelf. And every
11 time I try to read through it, it's so intimidating I
12 don't know where to start.

13 But it seems like the whole property issue is
14 fundamental to Native American people creating wealth
15 and maximizing the natural resources that their
16 reservations have. **Ed, you mentioned that in North**
17 **Dakota, Fort Berthold, I think, sits atop oil-rich**
18 **Bakken reserves. And I was wondering if that's**
19 **tribally owned or if that's individually owned.**

20 In either respect, it seems that sooner or
21 later, and probably sooner, the reservation should be
22 almost wealthy, if not substantially better off. So

1 the whole property issue seems to me very important.

2 Martha, it seems like law schools and maybe,
3 Jim, best practices and technology overlay together.
4 LSC could actually do something to really expedite the
5 process of getting wills prepared, making the wills
6 better, finding ways to solve this problem where you
7 don't have the patchwork, and maybe in twenty years'
8 time there's some significant progress.

9 I don't know, just a thought.

10 CO-CHAIR FATHER PIUS: If one of you could
11 answer all those questions in the next -- we have about
12 30 seconds. So if anybody would like to take it.

13 (Laughter.)

14 CO-CHAIR FATHER PIUS: Where's the one who
15 talked fast? Could she come back?

16 DEAN MINOW: These could be continued. We
17 don't have to do it all now.

18 CO-CHAIR FATHER PIUS: These can be continued.
19 And if anybody would like to make a brief comment on
20 any of these, I'm certainly open to that.

21 MS. KEELY: On the subject of wills, we use --
22 and I had a picture up there -- of our three law

1 student interns that were going around to wills clinics
2 with us this summer. And this fall we're partnering
3 with Oklahoma City University Law School. They have a
4 Native American will clinic, and we're going to take
5 their students in that clinic and use them in our will
6 clinics.

7 So there'll be a lot more to go around, and
8 train them on how to do these wills. Because your
9 typical lawyer, sole practitioner or whatever, doesn't
10 know the American Indian Probate Reform Act. It is
11 very complicated. There's a lot of traps for the
12 unwary in there that these students need to know. And
13 so we're going to partner with them. So that's one of
14 the things that we're doing.

15 Another thing that we got this year that I
16 wanted to mention, we have a low-income tax clinic,
17 which is different than the volunteer income tax
18 assistance program. A lot of the tax issues that you
19 see in Indian Country involve the taxation of income
20 from trust and restricted property.

21 There are some complicated rules that
22 low-income people have difficulty navigating, whether

1 that income is from the oil royalties or whether it's
2 interest off that income, and the tax consequences of
3 that, how you report that on your return and then back
4 it out so you don't get caught up in that automatic
5 under-reporter system.

6 One of the good things -- this year we're
7 receiving American Bar Association, Christine Brunswick
8 taxation section. We're getting a fellowship that's
9 going to spend two years in our office, a new attorney
10 that will be starting in August, to go out into the
11 tribal communities and do community education on a lot
12 of these tax issues that are unique to Indian Country.

13 And FYI, you cannot deduct \$500 worth of gambling
14 losses unless you've also won something.

15 (Laughter.)

16 MS. KEELY: So we're real excited about
17 getting the ABA fellowship this year.

18 CO-CHAIR FATHER PIUS: I think we're just
19 about out of time. So I just want to take this moment
20 to thank, first, Janet LaBella, the director of the
21 Office of Program Performance, for putting this panel
22 together and for moderating this panel; but most

1 especially to those of you on this panel.

2 The Legal Services Corporation has for a long
3 time emphasized the special needs of the Native
4 American community and its access to justice, and it's
5 a commitment that has existed in the Legal Services
6 Corporation since just about the beginning.

7 So it's always good to see the fruit of the
8 great many work that not so much Legal Services but
9 those who have received the grant funds have done to
10 target this group that has such a special need to
11 access to legal services.

12 So thank you for all the work that you do on
13 behalf of the Legal Services Corporation and recipients
14 of the grantees, and especially on behalf of the Native
15 populations who so desperately need your service. So
16 thank you very much. And you deserve a round of
17 applause.

18 (Applause)

19 CO-CHAIR FATHER PIUS: With that, we still
20 have a couple formal things. If there's any public
21 comment that needs to be made to the Committee at this
22 moment, I'll open up the floor to public comment.

1 (No response.)

2 CO-CHAIR FATHER PIUS: Seeing none, consider
3 and act on other business. Gloria?

4 CO-CHAIR VALENCIA-WEBER: No other business.
5 I was going to move to adjourn.

6 CO-CHAIR FATHER PIUS: Well, we've got the
7 other business. Seeing no other business now, I can
8 entertain a motion to adjourn.

9 M O T I O N

10 CO-CHAIR VALENCIA-WEBER: I so move.

11 CO-CHAIR FATHER PIUS: And?

12 MS. REISKIN: Second.

13 CO-CHAIR FATHER PIUS: All in favor?

14 (A chorus of ayes.)

15 CO-CHAIR FATHER PIUS: Any opposition?

16 (No response.)

17 CO-CHAIR FATHER PIUS: And this Committee
18 meeting is closed. Thank you.

19 (Whereupon, at 4:22 p.m., the Committee was
20 adjourned.)

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