

1 LEGAL SERVICES CORPORATION
 BOARD OF DIRECTORS

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3
4 MEETING OF THE
 PROVISION FOR THE DELIVERY
5 OF LEGAL SERVICES COMMITTEE
6

7
8
9 Friday, October 31, 2008
10 2:12 p.m.

11
12 The Hilton Hotel
 255 South West Temple
13 Salt Lake City, Utah
14

15 COMMITTEE MEMBERS PRESENT:

- 16 David Hall, Chairman
 Thomas Fuentes (by telephone)
17 Michael D. McKay
 Bernice Phillips-Jackson
18 Frank B. Strickland, ex officio

19 OTHER BOARD MEMBERS PRESENT:

- 20 Lillian R. BeVier
 Jonann C. Chiles
21 Sarah M. Singleton
22

1 STAFF AND PUBLIC PRESENT:

2 Helaine M. Barnett, President

Victor M. Fortuno, Vice President for Legal Affairs,

3 General Counsel, and Corporate Secretary

Karen M. Dozier, Executive Assistant to the President

4 Karen J. Sarjeant, Vice President for Programs and

Compliance

5 John Constance, Director, Government Relations and

Public Affairs Office

6

Anne Milne, Executive Director, Utah Legal Services

7 Levon Henry, Executive Director, DNA-People's Legal

Services, representing the National Association

8 of Indian Legal Services

9 Linda Perle, Center for Law & Social Policy (CLASP)

Don Saunders, National Legal Aid and Defenders

10 Association (NLADA)

Deborah Hankinson, Chairman, Standing Committee on

11 Legal Aid & Indigent Defendants (SCLAID), American

Bar Association

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Charles Jeffress, Chief Administrative Officer

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

2 (2:12 p.m.)

3 CHAIRMAN HALL: I'd like to call the
4 Provisions Committee meeting to order. We are running
5 a little behind, and we apologize for that.

6 MR. MCKAY: Mr. Chairman? I apologize. Since
7 it's so warm, I hope you don't mind if I keep my coat
8 off. Thank you.

9 CHAIRMAN HALL: Not a problem at all. I just
10 hope that you will do some cheering because the future
11 business leaders of America are in a few rooms down,
12 and they are really engaged and really loud. So I hope
13 we can at least compete with them a little bit. So
14 applaud now and then after --

15 MS. SINGLETON: Mr. Chairman, I thought you
16 meant they needed us to cheer them on, given their
17 calling at the current time.

18 CHAIRMAN HALL: No, no, no. They probably
19 have that problem, too. Yes, I think it's us that
20 needs the inspiration.

21 (Pause)

22 CHAIRMAN HALL: All right. Tom Fuentes, are

1 you on the line?

2 MR. FUENTES: I am, thank you very much,
3 David.

4 CHAIRMAN HALL: Okay. Welcome. Glad to have
5 you here. Are you able to hear me okay?

6 MR. FUENTES: Very clearly, thank you. The
7 communication is good.

8 CHAIRMAN HALL: We'd like to begin, and most
9 of our members are here. One of our members is in the
10 Audit Committee meeting, and that also creates a little
11 change that I'd like to propose.

12 I'd first like for approval of the agenda.
13 But the staff person who was going to do the technology
14 report is also in the audit meeting, so I would like to
15 change that and move it down farther, if there are no
16 objections to that. And if we could approve the agenda
17 with that correction.

18 M O T I O N

19 MS. SINGLETON: Move we approve as changed.

20 MR. MCKAY: Second.

21 CHAIRMAN HALL: All in favor?

22 (A chorus of ayes.)

1 CHAIRMAN HALL: Any opposed?

2 (No response.)

3 MR. FUENTES: Mr. Chairman, may I ask, do we
4 have a quorum of the committee itself?

5 CHAIRMAN HALL: Yes. I think we do.

6 MS. SINGLETON: There's four of us in the
7 room -- well, three in the room and you, Tom.

8 MR. FUENTES: And we're all members of the
9 committee?

10 MS. SINGLETON: Yes.

11 MR. FUENTES: Thank you.

12 CHAIRMAN HALL: Next you will see some minutes
13 from our meeting of August 1st. And I would like to
14 seek an approval of those minutes.

15 MS. SINGLETON: Mr. Chair, I have some changes
16 to suggest. I am fairly certain I was still stuck on
17 that case in Mosquero on August 1st. So I think the
18 first line needs to be changed to read, "Chairman David
19 Hall convened a meeting," and then when it talks about
20 others present, they should take my name off.

21 CHAIRMAN HALL: Okay. Are there any other
22 changes or corrections to the minutes of August 1?

1 M O T I O N

2 MR. MCKAY: Move the adoption of the minutes
3 as amended.

4 CHAIRMAN HALL: Is there a second?

5 MS. SINGLETON: Second.

6 CHAIRMAN HALL: All in favor?

7 (A chorus of ayes.)

8 CHAIRMAN HALL: Any opposed?

9 (No response.)

10 CHAIRMAN HALL: The minutes stand approved.

11 With the change in our agenda, we will now
12 move to item No. 4, which is a staff update on the
13 activities of the private attorney involvement action
14 plan. And I think Karen Sarjeant is going to make that
15 presentation.

16 MS. SARJEANT: Yes, I am.

17 CHAIRMAN HALL: Thank you.

18 MS. SARJEANT: Thank you very much. Karen
19 Sarjeant, vice president for programs and compliance at
20 LSC. And it is my pleasure to give you an update on
21 two parts of the action plan, the first one being the
22 pilot project with law schools that at our last board

1 meeting, you had raised a question about where we were
2 on that issue. And so I wanted to bring back to the
3 committee some developments in that area.

4 As you will remember, a couple of years ago
5 now there was the idea put forward that LSC, since its
6 inception, has moved further away from a connection
7 with law schools and with the legal academy. And the
8 suggestion was given that we look at -- that there are
9 a lot of law professors that do sabbaticals, and that
10 that might be a way that we could engage the law school
11 community more closely with LSC.

12 We did do some research into that, and I think
13 what happened was we as a staff got a little bit off
14 track when we realized the lead time that is necessary
15 to really identify and issue and identify the law
16 professor who is going to request the sabbatical. And
17 so we've gone back to thinking about what are the other
18 ways that we can re-engage with the law school
19 community.

20 And one of the things that we have had, I
21 think, a lot of success with over the last few years is
22 when LSC plays the role of being the convener of a

1 group of people to think about an issue. And so we had
2 started thinking about how we could reach out to a
3 smaller group of law school representatives and really
4 talk with them and get ideas from them about how we
5 could bring LSC closer to the law school community.

6 And then fortuitously, Helaine received an
7 invitation to a colloquium at Yale Law School that will
8 take place in March of 2009. And the purpose of that
9 session is to explore the relationship between law
10 schools and legal services.

11 And so we've been asked to not only
12 participate, but also help develop what the content of
13 the session should be. And so we're very interested in
14 doing that. And we think that that will in fact lead
15 us to some other activities in which we will be more
16 connected to the law school community. And after this
17 session, we will then be looking at other ways in which
18 we can build upon what comes out of this colloquium at
19 Yale.

20 So we are not at this time going to pursue any
21 work on the sabbatical project. But we are going to
22 participate in this project and really think about what

1 are the issues that we should be bringing to this
2 discussion, and how can we include the law school as --
3 and how can we be a better partner with the law school
4 in terms of the work that needs to be done on access to
5 justice.

6 CHAIRMAN HALL: Just one other suggestion in
7 that regard, especially since you are taking a
8 different tack. And this sounds like a wonderful
9 meeting.

10 But there's a section of the American
11 Association of Law Schools, a clinical section, and a
12 lot of clinical law professors are often involved in
13 the delivery of legal services to the poor. Not all
14 clinics but a great number of them are.

15 And in addition to this conference, it might
16 be that one of the things that grows out of this
17 meeting is to make a presentation at the AALS
18 conference, which is often held in January, where you
19 would have a wide cross-section of clinical law
20 professors that may have an interest in whatever
21 project or idea that grows out of this as well.

22 So just another avenue to consider, and if you

1 need it, some additional information about how to make
2 that contact. I would be glad to do that.

3 MS. SARJEANT: We will definitely do that
4 because we had -- as you will recall, Nancy Rogers, who
5 used to be on this board, was just recently the chair
6 of -- or the president or the chair of AALS. And so we
7 very much would like to make that connection.

8 CHAIRMAN HALL: Okay.

9 MS. SARJEANT: The other issue that we have
10 talked about in the past is the LSC private attorney
11 involvement honor roll, national honor roll. And this
12 is a project that we have created, recognizing that out
13 of the PAI action plan there was a real focus on the
14 need to provide recognition to those attorneys who go
15 above and beyond in serving low income clients through
16 pro bono work, very much along the lines of what the
17 board just did at the luncheon.

18 But what we want to do is develop the LSC
19 honor roll as a national honor roll that's not limited
20 to only those programs where the LSC board is able to
21 visit in a year, but we want to give all programs an
22 opportunity to participate in that.

1 So we have talked with our staff, and our
2 staff is participating in some of the development
3 around the ABA's national celebration of pro bono that
4 will be launched on October -- actually, it's already
5 been launched. But there will be a major focus on
6 October 21 through 25, 2009.

7 What we would like to do is have our LSC
8 national honor roll up and done at the same time.
9 And so what we're planning to do is we have looked at
10 several awards programs and criteria. And so we are
11 now looking at what our criteria should be for this
12 award. We want to make it something that's meaningful
13 yet not too cumbersome for our programs to participate
14 in.

15 And so we've come up with criteria that we
16 will further refine. But they focus on deduction to
17 helping to close the justice gap, making an outstanding
18 contribution to legal services, possibly using
19 innovative strategies to accomplish work on behalf of
20 clients.

21 And we're also looking at having a criteria
22 that focuses on pro bono work that helps our programs,

1 and helps our programs be in a better position to do
2 more for clients, so that overall, it will be a focus
3 on pro bono week.

4 We tried and talked about whether we should
5 have certain categories of, you know, an award for work
6 in a particular substantive area like foreclosure. We
7 decided that when we start talking about 137 programs,
8 that it was probably a better idea to have some broad
9 criteria, have a short nomination form, have a fairly
10 simple internal process.

11 And then once we make that designation as a
12 national honor roll, we would like to take the
13 opportunity then to really kind of market that so that
14 we would use LSC updates. We would -- now that we have
15 the capacity with a communications director on our
16 staff, that we would work very hard to get features and
17 information about the awardees of the national honor
18 roll into local bar publications, and we would use our
19 statewide websites to get information out.

20 And we think that this will be a really good
21 way for LSC and our programs to homeowner and model the
22 kinds of involvement that we are looking for and

1 appreciating from the private bar when they work with
2 our programs on behalf of clients.

3 So at our January meeting, at the annual
4 meeting in Washington, we would be presenting to this
5 committee a proposed nomination format and the criteria
6 because we would like to then put this out some time
7 March/April of 2009 in order to have everything
8 dovetail with the October celebration.

9 CHAIRMAN HALL: Do you have a sense of how
10 many people you plan on honoring and how do you, with
11 138 --

12 MS. SARJEANT: That's right.

13 CHAIRMAN HALL: -- grantees maybe nominating
14 more than one individual? What do you --

15 MS. SARJEANT: Well, we have talked about a
16 range of how many we should let have each program
17 nominate. And, you know, once you get past two, you're
18 into really heavy numbers.

19 So I think we're going to try to limit the
20 number of nominations per program. And then we do have
21 to make some decision about how many are we going to
22 then have on the final honor roll because if we just

1 set it up so that every program gets one, you know,
2 there's -- some people feel that that's a good way to
3 do it. Other people feel that it's not quite enough
4 selectivity to it. So I think we're probably going to
5 make a much smaller honor roll so that it really has
6 that distinction.

7 So those are the two PAI updates.

8 CHAIRMAN HALL: Okay. Questions about that
9 part of Karen's report on the private attorney
10 involvement?

11 MS. SINGLETON: Mr. Chairman, I have a comment
12 occasioned by the last area you were discussing. If
13 you are going to limit the number of people who can get
14 the award, I think you need to think of some way to
15 weight the availability of projects for people to work
16 on because a person from a predominately rural state is
17 not going to have the opportunity to work on the 9/11
18 crashing of the, you know, Twin Towers.

19 And so you need to -- it doesn't mean their
20 hour is any less valuable. So you just need to have
21 some weighting that goes on --

22 MS. SARJEANT: That's right.

1 MS. SINGLETON: -- so you're not favoring one
2 geographic type.

3 MS. SARJEANT: Thank you.

4 CHAIRMAN HALL: Any other questions or
5 comments on that part of Karen's report?

6 (No response.)

7 CHAIRMAN HALL: Are you going to move into the
8 loan repayment as well?

9 MS. SARJEANT: Yes. So regarding the pilot
10 loan repayment assistance program, we have begun what
11 we consider the second round, with each round covering
12 a three-year period, of this pilot program October 1.
13 And this is a critical pilot for us. We have currently
14 \$500,000 to fund this next round, and we have figured
15 that that will allow us to do approximately 42 loans,
16 forgivable loans, of \$5600.

17 The criteria for the participating attorneys
18 are the same. They will be eligible, newly recruited
19 attorneys and attorneys with up to three years of
20 experience in the program.

21 We have received -- we received almost 300
22 applications from attorneys in 55 programs for these

1 42 loans. We're in the process, almost to the end of
2 the process, of selecting the attorneys who will
3 receive these loans. And we will be announcing the
4 selection some time in November, and they will be
5 retroactive to October 1.

6 MR. MCKAY: How many applicants were there?

7 MS. SARJEANT: Three hundred.

8 MR. MCKAY: Thank you.

9 MS. SARJEANT: Almost 300 applications. And
10 they represented 55 of our programs. And we have 42
11 available slots, approximately.

12 MR. MCKAY: Thank you.

13 MS. SINGLETON: Mr. Chairman?

14 CHAIRMAN HALL: Yes?

15 MS. SINGLETON: What fiscal year are these
16 people getting these loans?

17 MS. SARJEANT: This started October 1 of 2008.

18 So this is for --

19 MS. SINGLETON: This is in 2008's budget?

20 MS. SARJEANT: Right -- no. This is the -- we
21 were awarded -- this is for FY '09.

22 MS. SINGLETON: Well, what did we reprogram?

1 MS. SARJEANT: '08. '08.

2 CHAIRMAN HALL: I don't know if you want to
3 get into this at all. But with 300 applicants and our
4 funds being available only for 42 of those, is it your
5 sense that the other people who applied qualified but
6 we just didn't have enough resources? Or these were
7 individuals who submitted applications, and they really
8 didn't meet the criteria for our pilot program?

9 MS. SARJEANT: I think that we're going to
10 find that some of them -- most of them met the
11 criteria, and there were a few that did not. But there
12 is -- I mean, there's a huge need, so --

13 CHAIRMAN HALL: Yes. So my next question is:
14 Because we had -- and this may be the piece you don't
15 want to get into, but we had this discussion that came
16 up in part at the Finance Committee and has been on
17 other conversations.

18 Is it your understanding that the amount of
19 money that is going to be available through the new
20 congressionally mandated program once the details are
21 ironed out would be able to address the needs of not
22 just the people who we now are awarding but all these

1 others as well? Do you have a sense?

2 I know part of your argument is more money
3 would be given to each individual. But I guess I'm
4 raising a more fundamental question, which goes to
5 whether, at the end of our pilot, do we continue to
6 stay in business?

7 Because if we have this number of applicants
8 who are still -- who meet the criteria but we aren't
9 able to satisfy, will that be the same problem when
10 they apply for the federal -- or for the funding
11 through the new congressionally mandated program?

12 MS. SARJEANT: Well, let me answer your
13 question this way. I think that the pilot program that
14 LSC is operating is a pilot, and that is the
15 appropriate role for us, that we should operate a pilot
16 program. It has now -- and we are getting ready to do
17 the third year evaluation of the pilot.

18 We think that we have established the need for
19 LRAP. We think we've established that there's a huge
20 demand out there for it. And I think that our role
21 going forward is not to necessarily keep LSC in the
22 business of being the LRAP agency, the actual agency

1 that provides the LRAP, but we now need to do -- and,
2 you know, whether it is our government relations
3 function or our other function as we talk with other
4 providers, other funders, we need to find other sources
5 of funding to support loan repayment in programs.

6 And I don't -- you know, in my position as
7 vice president, with the other responsibilities that
8 are by statute given to LSC, I'm not sure that -- well,
9 I'm more than not sure. I don't think LSC should be in
10 the ongoing business of operating an LRAP program, not
11 because it's not important, but because we operate to
12 some degree pilot projects, establish those facts that
13 help others then take up the mantle to provide those
14 projects.

15 CHAIRMAN HALL: I hear that, I guess. And,
16 you know, it may be that we need to devote another
17 agenda item where we can look at this in a more
18 comprehensive manner because though I think that is a
19 very persuasive argument, I think the other side of
20 that is the constituency that we are serving will
21 consistently need this. And the reason the pilot was
22 started was because we felt it was having an impact on

1 our ability to attract and retain.

2 If the congressionally mandated program isn't
3 addressing that need completely, or even, you know, in
4 a significant way, then our program hasn't gone away.
5 We may have achieved one of our goals, which is to get
6 others in the game. But we may not have gotten to the
7 core of our problem.

8 I mean, in my classic example, I think law
9 schools -- we wouldn't feel that because this program
10 was created by Congress that we would dismantle our
11 programs even though it certainly costs staff time and
12 it creates other sorts of headaches for our
13 administrators because they have other things to do as
14 well.

15 But it's because we believe our students may
16 not be able to get that need addressed through other
17 programs, and we want to at least be there. And I --
18 you know, this is just my personal opinion and I
19 certainly have not talked to other members of this
20 committee about it.

21 But I just think that decision of not
22 continuing, and though it is a finance issue on one

1 level, since provisions, I think, saw this as an issue
2 relating to the quality of the delivery -- because if
3 we can't attract bright, dedicated people and retain
4 them, that has an impact on the quality of services we
5 provide.

6 So I would be interested in probably having a
7 more in-depth discussion as to what our future role
8 should be in regards to this, you know, giving due
9 respect to the place where you are right now.

10 MS. SARJEANT: I think that would be a fine
11 discussion for this committee to have because I do
12 think that on a lot of those points, there's no
13 disagreement. This is -- it's a major issue for our
14 programs. Being able to both attract and retain high
15 quality advocates to our programs is and has to be a
16 priority for us.

17 The question is, to me, you know, when we're
18 running a pilot, and this time -- and even
19 previously -- we had many more applicants for these
20 funds than we had funds. And so, you know, I don't
21 want to keep running a project where we're having to
22 turn away almost 250 people. I think that's a problem.

1 But more importantly for the role of the
2 Corporation, I think once we've established -- and we
3 can have a longer discussion about this -- but once
4 we've established that this is something that is
5 absolutely necessary, then I think we have the
6 responsibility, whether it's going to the IOLTA
7 programs, back to the government to get, you know,
8 better funding for the program that is now being put in
9 place, going to, you know -- I think we need to think a
10 little creatively.

11 Maybe we can expand out to the broader
12 community outside of just the legal community. I don't
13 know. But this is -- it is a problem. I know the law
14 schools are in a little different position than we are
15 because the law schools can accept donations to fund
16 their programs.

17 I know the law school -- which gives me the
18 opportunity to say The Ohio State University -- I know
19 that we do. We accept donations from alumni and others
20 to support the LRAP program. LSC isn't in a position
21 to do that. And I think that does make a difference in
22 our ability to run a program that's going to really

1 meet the need that's out there.

2 CHAIRMAN HALL: Well, we shouldn't continue
3 this debate. But it gives me an opportunity to say The
4 Northeastern University School of Law pays for it out
5 of its operating account. Now, there certainly are
6 contributions that come from people on the outside.
7 But it also has been something that we designated as
8 part of operating because we feel it is so fundamental.

9 MS. SARJEANT: Right.

10 CHAIRMAN HALL: But I think, unless there are
11 other comments -- yes?

12 MR. MCKAY: We just would like Creighton to
13 get equal time.

14 MS. SINGLETON: I'm not even going to
15 advertise my law school.

16 My thought is I would very much like to talk
17 about this further. But I would like to do it if we
18 can wait until after the Harkin amendment is funded and
19 is operating. But at the same time, I don't want to
20 miss the opportunity for this committee to make a
21 recommendation to the Finance Committee about whether
22 we should continue to put this in our budget request as

1 a line item in our budget proposal.

2 So if there's any way to work out the timing
3 to give the federal government's program as much time
4 as possible under the Higher Education Act to try to
5 work --

6 MS. SARJEANT: Yes. I actually don't know
7 what the timing is. John Constance may have a better
8 idea. I don't know. But we could certainly -- for
9 example, this might not address your timing issue. But
10 we could have a discussion at the January meeting on
11 this, and the staff who have been involved in operating
12 the project would be available to share their thoughts
13 on this also.

14 CHAIRMAN HALL: And do we have a sense that we
15 would have a better sense of where the Harkin bill
16 would be?

17 MS. SINGLETON: Maybe John or Don could come
18 up and tell us what they know about that issue.

19 MR. CONSTANCE: John Constance, director of
20 government relations and public affairs for the
21 Corporation.

22 The timing will be -- at least the order will

1 be as such. I mean, the first thing that they're going
2 to have to do is, at the Department of Education, which
3 is the agency with the responsibility, they're going to
4 have to do regulations associated with the application
5 process, the evaluation, and the award, in terms of
6 this LRAP -- their LRAP program.

7 And probably after that would be the point at
8 which they will be requesting funding. They have a
9 \$10 million cap on that funding in terms of the
10 authorized level within the bill.

11 We have reached out to the Department of
12 Education, and we do now have the name of the
13 individual that will be doing the regulatory package
14 for them on LRAP. We promised the executive directors
15 at the ED conference this past summer that we would do
16 that so that both the Corporation and the grantees
17 could weigh in in the rulemaking process associated
18 with that.

19 So we've reached out. We do now have a
20 contact. And in fact, we've asked this week for an
21 outline of what their internal plan is, both for
22 rulemaking and funding. So we should have that within

1 the next, you know, brief period of time.

2 I think it would be 2010 would be the
3 earliest, and I would even question whether they're
4 going to overlap, do any overlap, of their regulatory
5 and their funding. But that would be the earliest.
6 2011 would be the most likely first request window for
7 them to fund that program.

8 MS. SINGLETON: But I'm not certain we have
9 to rush to get our discussion in right away, do we?
10 Because our fiscal year 2010 budget has this in it
11 already. And so we would really be talking about
12 something happening in 2011 also. And I'd rather not
13 talk about it in the abstract. I'd like to know what
14 impact that Higher Education Act is having, if there's
15 anyway to do that.

16 CHAIRMAN HALL: I feel comfortable with that.
17 I guess the only caveat is that as long as we do not
18 put off our discussion to the point where it would keep
19 us from being able to make a recommendation because I
20 would hate for us to stop our program or stop at least
21 requesting funding for our program before we know
22 what's really going to happen and what the impact would

1 be.

2 MS. SINGLETON: I agree, Mr. Chairman.

3 CHAIRMAN HALL: So maybe once you get the
4 timeline from them, we could have another discussion as
5 to whether we try to have this on the agenda in January
6 or whether we need to push it back to a further -- a
7 later date.

8 MR. CONSTANCE: We'd be happy to provide that
9 to the committee, Mr. Chairman. And I would also say,
10 to follow up on Sarah's comment, you know, the
11 management recommendation regarding the 2010 budget was
12 a recognition of the fact that that would be a bridge
13 year no matter what the Corporation decided to do going
14 forward. We pretty much knew that it was unlikely for
15 the Department of Education program to be funded in
16 2010, which was the reason for our request.

17 CHAIRMAN HALL: Any other questions, either to
18 John or Karen on this topic?

19 (No response.)

20 CHAIRMAN HALL: Okay. Thank you, John.

21 Next item?

22 MS. SARJEANT: Okay. The next item is an

1 update on the Native American delivery and funding.
2 And in the board book, you have the NAILS update to the
3 Dahlstrom-Barnhouse report, our comments back to NAILS
4 about the update and pointing out the areas that we had
5 some questions about, and then also included are NAILS
6 comments back to us.

7 Let me say that LSC -- I mean, there's no
8 question that we're concerned about the funding and the
9 service delivery issues for the special populations.
10 And as you know, it's been established that LSC
11 management has the discretion to set the Native
12 American funding amount provided it does not go below
13 that amount that's required by statute. And it's
14 currently a little more than is required by statute.

15 We have consistently said, and I think -- and
16 I believe, and Levon Henry, who's the representative
17 for NAILS, is here and may join this discussion. But I
18 think we're in agreement that in order for LSC to make
19 different funding decisions about how the Native
20 American funds should be allocated, to which programs
21 should they be allocated, are there states that should
22 be included that aren't included -- all of that

1 information requires some updated current data so that
2 we have an articulated rationale when we make a funding
3 decision.

4 There's been some discussion back and forth
5 about how to get that data. And we have taken the
6 position -- at one point we were going to try to
7 support the request to get the data. The requests got
8 more expensive. We're not in a position to work on
9 that now. And I think we're at a point of trying to
10 figure out with our own staff what information we can
11 research and find to support the kinds of information
12 we have indicated to NAILS that we need to have
13 updated.

14 One other point on this is the Office of the
15 Inspector General has indicated to us that they are
16 going to re-engage on their audit of the Office of
17 Information Management. And as part of that audit,
18 they are looking at the funding processes for both --
19 for the special population funding.

20 So at some point I expect to get some -- that
21 LSC will get some information from the Inspector
22 General's office on what they think are some of the

1 issues. I think we all agree that the data we
2 currently are using is dated. It needs to be updated.
3 And the issue is just how to do that.

4 And I believe that NAILS is in agreement with
5 us that currently, at the funding level that we are at
6 right now, that there is not going to be any change
7 made by management until there is some significant
8 increase in the funding and we have the supporting
9 data.

10 CHAIRMAN HALL: Go ahead, Sarah.

11 MS. SINGLETON: Mr. Chairman, I would like to
12 hear from Levon Henry.

13 CHAIRMAN HALL: I concur.

14 MR. HENRY: Mr. Chairman, members of the
15 board, Levon Henry representing the National
16 Association of Indian Legal Services.

17 As Karen had mentioned, we are in agreement
18 about the request that had been made previously, and
19 the NAILS steering committee has talked about this
20 particular issue. We realize that there is limited
21 funds that are available. Our point that we did make
22 in our reply was that our initial request, or where

1 this request comes from, was at the time when LSC had
2 anticipated an increase in their overall funding. And
3 so that's what started this proposal.

4 We've gotten to the point where you have, as
5 you see in your packet, the update on the Dahlstrom-
6 Barnhouse that the Native American programs put
7 together, and also the questions from LSC. We have
8 been talking with a data collection firm in Phoenix,
9 Arizona. They have given us a short proposal that
10 would offer certain services as far as data collection.

11 One of the points that they make in the
12 proposal is that the difference between the NAILS
13 update to the Dahlstrom-Barnhouse report and what LSC
14 is looking for, those statistics don't really compare,
15 apples to oranges, if you will. And what they propose
16 is doing an apples to apples study, so to speak.

17 And that's where we are right now. And we
18 believe that if we have all the updated information,
19 both what LSC is looking for and what NAILS would like
20 to provide to LSC, we can make a better decision on
21 where things go.

22 And so that's where we are at this particular

1 point. I just took a look again at the proposal that
2 was made from the firm in Phoenix, and we're probably
3 talking somewhere just under \$15,000, depending on how
4 you look at it. They've broken it up into several
5 tasks, four tasks that they would do, each one of them
6 given a certain amount of time and also a dollar
7 amount.

8 So depending on what you want, sort of like
9 the buffet, you pick and choose what you need. And
10 depending on what -- if there is funding available, we
11 might be able to do this with the Legal Services
12 Corporation.

13 The other question that the steering committee
14 had talked about is whether or not there is other
15 funding available to do this in collaboration with LSC.
16 There are people that we are trying to get in touch
17 with. It may take a while to do this. We're not
18 certain if a small amount would be funded, but it's
19 something that we're looking into.

20 So it's something that we continue to work on.
21 And we feel that if LSC would like the information, we
22 have the source to get this information. We have

1 everybody but the small amount of funds that are
2 necessary to collect the data. And that's where were
3 are at this point.

4 MS. SARJEANT: Let me just -- and I think that
5 we may have a big of a difference of opinion because my
6 recollection of the letter from the data collection
7 firm or analysis firm was that when we looked at it, we
8 thought that there were pieces of data that were adding
9 to the -- potentially adding go the costs of the
10 proposal that weren't necessary to collect in order for
11 us to add to the database that we need for making a
12 funding determination.

13 But even if and when we are able to agree on
14 what the information is that we both agree we need to
15 have to do this, our concern is that right now we don't
16 have -- as you all know from reviewing our budgets, we
17 don't have the money, which is why I indicated -- and I
18 don't know how far we'll be able to go with it. But
19 LSC at this point is looking at what our own staff can
20 do to gather some of this data as opposed to paying
21 someone else to do it.

22 CHAIRMAN HALL: And your sense of the

1 viability of that approach? Because it does seem like
2 this is our responsibility as opposed to NAILS. And, I
3 mean, am I wrong on that? And if it is our
4 responsibility, then do we have staff that could do the
5 work in a way that would come, maybe not as good as
6 this firm, but that would give us some of what we need?

7 MS. SARJEANT: I think we can probably get
8 some of it, but we're not going to -- you know, I
9 cannot sit here and say that we could get all of it, or
10 I'm not sure how long it would take once we had
11 agreement on what the information was we're looking
12 for.

13 And I agree. I think it is an LSC
14 responsibility. I think NAILS is a definite partner
15 with us, that part of what we need to do is talk about
16 and be sure we're all clear on this is the information
17 we need in order for LSC to make a decision.

18 But, you know, I do agree that whether it's --
19 you know, whether it's a basic field issue or a Native
20 American funding issue, it is our responsibility to
21 gather that information.

22 CHAIRMAN HALL: Attorney Henry, would you have

1 any objection or do you feel that if it was done by
2 staff, that that could still come close to gathering
3 the type of information that NAILS feels is necessary?

4 MR. HENRY: I don't think we would have any
5 objection. I mean, we would have some concerns about
6 where the data was collected and how it was put
7 together.

8 In this particular case, the data firm that
9 we're talking about had looked at both reports, had
10 identified what areas needed to be reconciled, and all
11 of that. And so they have that information available
12 right now. And really what they're looking for is
13 just -- they're ready to go.

14 In terms of where they get the information,
15 the firm that we are talking to has some experience in
16 doing this type of data collection. And whether or not
17 NAILS personnel or Indian Legal Services personnel
18 would be able to go to all those areas the same way
19 with legal services personnel, you know, it would take
20 a while to do all of that.

21 And so going back to like, say for instance,
22 the first report, the Dahlstrom-Barnhouse report, that

1 was funded by the Corporation. And this particular
2 one, if we are able to do that, would really bolster
3 the initial report. And so that's really what we're
4 looking for, is just to make sure that we have all the
5 information collected from the proper places.

6 The steering committee for NAILS has talked
7 about it, and we figured that if we were going to do
8 that or if anybody else was going to do that that
9 had -- they would have to have the time to do it. And
10 so if we are going to do it ourselves, we don't know
11 how long it's going to take. You know, it would have
12 to have someone who's devoted --

13 CHAIRMAN HALL: Sure.

14 MR. HENRY: -- to do that specifically for a
15 short period of time and get it done. So that's really
16 what we're looking at.

17 CHAIRMAN HALL: Sarah?

18 MS. SINGLETON: Mr. Chairman, Karen, Levon, it
19 seems to me that we have a line item in our budget
20 that's reported on for outside consulting fees. If the
21 management and NAILS were able to get together to
22 determine what statistics are needed, or at least, even

1 if NAILS thought they needed other statistics that LSC
2 didn't think it needed, at least as to the ones that
3 LSC thinks it needs, it may turn out that since this
4 outside consultant has access to all these databases,
5 it might be in fact more cost-effective to use an
6 outside consultant rather than using in-house personnel
7 given that I know that your group is fairly stretched,
8 is stretched pretty thin right now, Karen.

9 And I don't recollect that 100 percent those
10 outside consulting dollars are already earmarked for a
11 particular contract. So I'm not convinced that there
12 isn't something that could be done by way of an outside
13 consulting contract.

14 So what I would like to ask, Mr. Chairman, is
15 that the staff continue to work with NAILS to, number
16 one, try to nail down -- well, that's a bad word in
17 this instance -- try to figure out exactly what
18 information, data, is needed; that once that is figured
19 out, that you go back to the consulting firm and get a
20 new estimate for how much that would cost; that NAILS
21 see whether it can find any funding to obtain that
22 data, and any additional data it believes is needed

1 that LSC doesn't think is needed; and that we then look
2 at our consulting contract budget to see whether or not
3 we wouldn't be able to fund this out of that budget.

4 MS. SARJEANT: I don't --

5 MS. SINGLETON: And I think it ought to be
6 done, not like next week, but it should be done so that
7 if in fact there is any additional money that would
8 come out of an appropriation for '09 because they stop
9 working on a continuing resolution and actually vote on
10 the kinds of appropriations that they talked about
11 before, that we would be ready and would know what it
12 was we need to do.

13 MS. SARJEANT: I don't have any concern about
14 working with NAILS to get to a clear definition of what
15 information it is we need. I really -- you know, I
16 have some concerns about allocating money that's in
17 either OPP or OCE's consultant line to this right now,
18 just given other issues that we're dealing with.

19 I also have a concern about the expectation of
20 how quickly this can be done. I think, if we were
21 talking at something for, you know, being in a position
22 to have the information for 2010, yes. But if you're

1 talking about something that we would have it by --
2 when does the CR run out?

3 MS. SINGLETON: March.

4 MS. SARJEANT: -- by March, you know, that's a
5 real stretch. We have --

6 MS. SINGLETON: Okay. Forget that part. If
7 you can't do it by then, you can't do it.

8 MS. SARJEANT: But working about what it is
9 about what it is we need to know, I don't have any
10 issue with our working together to do that. But I do
11 think that the decision on what information, the final
12 decision on what information, should be the
13 Corporation's since we're going to be -- you know,
14 we're going to work to clear that up.

15 But again, as I recall that document, there
16 were pieces of data in there that aren't necessary for
17 us to have. So that's what I'd like to clear up.

18 MS. SINGLETON: All right. My suggestion was
19 that yes, ultimately LSC would figure out what data it
20 thinks it needs, and it would be responsible one way or
21 the other for obtaining that data, whether it does it
22 through staff or through an outside consulting

1 contract. If NAILS thinks that other information is
2 needed, then I think that that is going to be NAILS'
3 responsibility to find the funding for that.

4 But as to what you agree on, at least, all
5 I'm suggesting is get the estimate from the outside
6 consultant and see if in fact it might not be more
7 cost-effective to have them do it under a consulting
8 contract than to use personnel.

9 MS. SARJEANT: Okay.

10 CHAIRMAN HALL: Other questions? From any
11 committee members?

12 (No response.)

13 CHAIRMAN HALL: I certainly concur with Sarah.
14 I think we all are on the same page that this is a
15 priority for us, and it is constituency that we are
16 very concerned about. And if the question is what is
17 the fundamental data we need to move forward, then that
18 is something that the two people who are before us can
19 kind of wrestle that down.

20 And even if this fiscal year is very tight and
21 we are stretched, we all know that. I think Sarah's
22 point is, well, after agreeing on the data, it may turn

1 out that -- I mean, I heard the 15,000 figure thrown
2 out, I assume based on the person doing or the agency
3 doing everything.

4 It may be that what you feel you ultimately
5 need may cut that in half -- and I'm just throwing
6 that -- and when you compare paying, you know, 7,000,
7 10,000, to somebody else versus asking your staff to
8 take on another responsibility when they are strapped,
9 you know, it may be something worth doing.

10 So I don't think it's the role of the board to
11 tell you how to get it done. But I think we all agree
12 that it's information we need. And so maybe Sarah's
13 advice about the next steps would be the appropriate
14 way to proceed.

15 MS. SARJEANT: We will follow that and see
16 where it leads us.

17 CHAIRMAN HALL: Okay. Thank you. Anything
18 else you'd like to add, Attorney Henry?

19 MR. HENRY: No, sir. Thank you.

20 CHAIRMAN HALL: Thank you.

21 We have had you here, Karen, for quite some
22 time. Is there still more? I know we have the --

1 we've got to go back to the technology report. But did
2 you have something else? Did I overlook --

3 MS. SARJEANT: No. I'm --

4 CHAIRMAN HALL: You're finished?

5 MS. SARJEANT: I'm finished.

6 CHAIRMAN HALL: Okay. Any questions of Karen
7 before she sits?

8 MR. MCKAY: Thanks for everything.

9 CHAIRMAN HALL: Thank you very much.

10 We'll next go to the technology criteria
11 report. Welcome.

12 MR. JEFFRESS: Thank you, Mr. Chairman.
13 Charles Jeffress, the chief administrative officer, and
14 giving you an update on our technology capacities for
15 LSC grantees.

16 The information in your book that begins on
17 page 54 has the technology capacity document. As you
18 will recall, at our last meeting we went over the
19 response to the survey from grantees as to to what
20 extent they had these capacities already, to what
21 extent it was a challenge for them to get there, and
22 whatever feedback they wanted to give us on this chart,

1 and we went over the responses.

2 Today I'd propose to tell you, based on their
3 responses and our staff work on what we can do to
4 respond and help them, I have a list of things that we
5 are going forward with to try to be of assistance to
6 grantees in improving their technologies. And I'm
7 going to go over them here briefly.

8 Before I do that, I would also point out that
9 this chart that's in your book we did modify in a few
10 slight ways based on the feedback. And I will go over
11 the minor changes we made. And it would be our intent
12 then to communicate to grantees this final document as
13 well as what our plans are to assist -- things we're
14 going to do in the next few months to assist them to
15 improve their technology. It would be our intent to
16 communicate that prior to the NLADA conference later in
17 November.

18 So let me start first with just a few changes
19 that we made to this chart. The responses to the
20 survey indicated that there was some confusion or lack
21 of clarity on some items, and we wanted to try to
22 clarify the chart where it needed to be.

1 The first one is on page 14 of the chart,
2 which is page 67 of your board book. You will recall
3 that at the last meeting, we pointed out there seemed
4 to be a relatively low number of programs that were
5 providing support to private attorneys in a pro bono
6 program, a relatively small number providing
7 technological support to them.

8 The statewide websites, which we developed
9 models for and which every state now has, have a
10 section on that statewide website that is supposed to
11 be dedicated for support for private attorneys. And,
12 you know, some states have done more with it than
13 others. But we had not referenced that in this
14 document previously.

15 In order to remind people that this is
16 something that is available to them, they have a means
17 to provide the support and to call it to their
18 attention they should be using it, we have inserted at
19 the top of the Needed Capacities or Functions column on
20 page 14 a bullet that reminds people of the statewide
21 website section dedicated to support for private
22 attorneys.

1 And again, that is something that we have
2 required in the past. We had not referenced it earlier
3 in this document and we felt like we should given that
4 it appeared that perhaps grantees weren't doing as much
5 with this as they could be.

6 At the bottom of that same column, we made a
7 slight change. And again, this is not redlined so you
8 don't see what we deleted here. But the last bullet in
9 that column is about if an external instant messaging
10 system is used to communicate confidential client data,
11 encrypted.

12 Previously we had just said, encrypt your IM
13 system. But now we're -- a number of folks -- as a
14 matter of fact, most people do not. And so there may
15 be no reason to encrypt an IM system if it is in fact
16 just messages back and forth. So we modified this to
17 say encrypt it if you're communicating confidential
18 data.

19 On page 17 -- as you can see, these changes
20 are reflective of what we heard, but not major changes
21 to the capacities. On page 17, the row that has
22 Communication on the left, intranet, what should be in

1 place, needed capacities or functions, we say an
2 intranet for communications to staff. Previously we
3 had specified some capacities of that intranet.

4 We said it should provide staff with the
5 ability to develop and use blogs and wikis and others
6 tools. Quite a few grantees either don't use those,
7 don't see the need for them even though they might have
8 the capacity. And after considering their response, we
9 took out the requirement the capacity for blogs and
10 wikis. We do think the intranet is appropriate, but
11 did not add the blogs and wikis to that.

12 And the final change that we made on page 71,
13 page 18 of the capacities document, under Human
14 Resources Management, previously we had a bullet there
15 that said that grantees should have the capacity to
16 maintain all appropriate personnel records, including
17 individual employee records.

18 And in fact, the most common way of
19 maintaining individual personnel files is keep a folder
20 in a locked cabinet in a personnel office and not in
21 fact to put them on computers. And after talking to
22 folks, we thought that was probably a pretty good

1 practice, so we deleted that capacity for individual
2 employees records to be kept on their electronic
3 system.

4 But those were the three changes. There are a
5 couple of other typographicals and minor things. But
6 those were the three changes that we made that we
7 thought were responsive to things that were pointed out
8 to us by grantees.

9 Of great import, though, I think, are the
10 things that the Corporation has committed to doing over
11 the next few months to assist grantees to enhance their
12 technology capacities.

13 First, quite a few grantees reported they did
14 not have automated document assembly, that is, that
15 they couldn't use boilerplate language from different
16 places and put it together in one document. They were
17 still writing all their documents, each one one at a
18 time.

19 This capacity is available. The document
20 assembly software is available. And Glenn Rawdon of
21 our staff, who works with TIG, worked with LexisNexis
22 and convinced them to make that software available free

1 of charge to any LSC grantee that does not currently
2 have a document assembly software.

3 They have done so. We've notified people that
4 it is available. So we hope that will in fact enhance
5 people's ability to do these automated documents, and
6 we put out a press release thanking LexisNexis for that
7 contribution to legal services programs.

8 In addition to the ability to put them
9 together, obviously you need the building blocks so you
10 can say you've got the boilerplate language there.
11 That language is available, but people that haven't
12 done it before may not know where it is.

13 So we're going to send out a notice with links
14 to sites where that boilerplate language is available
15 so people who get this capacity can then populate their
16 software with the boilerplate language, so again,
17 hopefully enhancing the document assembly for grantees.

18 The third thing we're committed to doing is
19 helping increase access of volunteer attorneys to
20 electronic pleadings, brief banks, substantive law
21 materials, and training. As I say, every statewide
22 website is supposed to have this. Some are doing more

1 than others.

2 What we will be doing is sending to everyone
3 where some of the best work is, where some of the best
4 examples of information and materials are. Some of
5 that can no doubt just be copied and pasted. Some of
6 it is state-specific and would have to be modified.
7 But we will be pointing grantees to where they can get
8 information to populate their website section for
9 private attorneys to assist private attorneys.

10 The fourth area: We thought, in response, you
11 remember, to the survey there was not attention to
12 training in what people responded to us. We fund a
13 number of training opportunities, many of them through
14 the National Technology Assistance Program, NTAP. But
15 we haven't necessarily publicized those as LSC-
16 sponsored trainings.

17 We will now, through our LRI updates, through
18 LSC updates, publicize the availability of those
19 training opportunities, where people can get them,
20 particularly to the extent there are things that people
21 can do over the web without having to travel to another
22 location to do them. But we will make a greater effort

1 to point out where those trainings are available for
2 people that need them.

3 Fifth, a suggestion was made that we webcast
4 important meetings and technology sessions so that
5 people can take advantage of the information without
6 having to travel to the location. We are going to
7 pilot that this year with the TIG conference in January
8 in Texas.

9 The Illinois program has this capacity and has
10 offered to bring their capacity there and actually
11 webcast a few of our sessions. And we will see how
12 that goes, and if it works well and it subscribed well
13 by users, it'll be something we will do more of in the
14 future.

15 Seventh, in terms of website accuracy and
16 compliance with Section 508, which is for people with
17 disabilities to be able to access websites, I'm not
18 sure the grantees, in responding to the survey, were
19 aware of whether or not their websites were compliant,
20 but quite a few said they were not.

21 The models that LSC funded initially are
22 compliant with Section 508. And there are still some

1 states that develop their own. If they are not
2 compliant, we're going to send them links to how to
3 make them compliant, links that are available through
4 the federal government, what you do to a website to
5 make it compliant and how to do that.

6 And we will be reminding those that have, you
7 know, enhanced the model which we provided with their
8 own development to assure that the enhancements that
9 they made are also compliant with Section 508.

10 Eighth, there was a sense in the response to
11 the survey -- and this was comments at the end --
12 people wanted to know more about what TIG grants have
13 been successful, who had done well and what they were
14 doing. Apparently we're not publicizing well enough
15 the successes that the individual TIG projects have.

16 And so we will -- through our LRI, through LSC
17 updates, we're going to publicize the TIG reports and
18 abstracts of those that are successful and those that
19 can be replicated by other programs.

20 There was several comments from grantees that
21 the case management systems, the last time we reviewed
22 the capacities of the case management systems that are

1 on the market -- and I think there's seven or eight of
2 them on the market -- was five or six years ago. And
3 perhaps it's time to do another review and evaluation
4 of them.

5 We agreed with that, and a TIG grant has been
6 awarded for an evaluation of case management systems.
7 LSC will not be doing it, but it will be done by a
8 grantee, looking at all of the systems on the market.

9 Related to that, grantees often wonder what's
10 the best software to get for different kinds of
11 applications that they have. And there was a
12 suggestion that we develop a rating system for the
13 software that grantees might conceivably use in their
14 work.

15 It sounded like a good idea. We have awarded
16 a TIG grant to a grantee to develop a rating system,
17 and this will not be LSC-recommended. We will not be
18 recommending particular software for folks. But we
19 will list the software that are in use and will give
20 users of that software an opportunity to rate it on the
21 internet so that people can how others rate it.

22 We see these all day, you know. You can rate

1 hotels and restaurants and everything else. We will
2 develop a system for rating software that the grantees
3 use.

4 One grantee pointed out that, ironically, we
5 can send our monthly checks to them electronically, but
6 we send them a letter in the mail that their check has
7 been cut and should be available electronically. They
8 suggested we send them an e-mail instead. We will do
9 that. We can go paperless one more direction.

10 Two grantees pointed out that the link from
11 our recipient information network to LRI, where our
12 best practices information is available, wasn't clear.
13 It was hard to find. So we will put a clearer link
14 there to make that clearer.

15 And finally, the twelfth thing that they were
16 committed to doing here in the next few months, in
17 planning the TIG conference, we're using the results of
18 the survey to design workshop sessions where it appears
19 there's the greatest need, where people have reported
20 they don't have the capacity and need the capacity, no
21 doubt want information on how it can be used and where
22 to get that capacity. So we will be using the results

1 of the survey to design sessions at the TIG conference
2 to assist grantees.

3 Those are the ones we are committed to. There
4 were other ideas that are good ideas that we will not
5 get to right away, that we're going to continue to
6 explore. But I wanted to give you all an update.
7 Since we had told you what the feedback we got from
8 grantees, I wanted to let you all know how we're trying
9 to be responsive to them and what we're trying to do to
10 assist them in upgrading their technology.

11 MS. SINGLETON: Charles, somehow in your
12 numbering I missed either 5 or 6. Can you tell me what
13 they are?

14 MR. JEFFRESS: Okay. I've got 12 total. I
15 may have run a couple of these together. Five on my
16 list was webcasting the TIG conference sessions.

17 MS. SINGLETON: I got that one. So what's
18 six?

19 MR. JEFFRESS: Make compliant with Section 508
20 website compliance.

21 MS. SINGLETON: I had that one.

22 MR. JEFFRESS: Four would have been marketing

1 existing technology training opportunities.

2 MS. SINGLETON: Okay. I got all those.

3 MR. JEFFRESS: I'm not sure which two I ran
4 together. I'll be happy to give you my copy of this
5 list so that you can use that.

6 MS. SINGLETON: Okay. All right.

7 CHAIRMAN HALL: Other questions for Charles?

8 (No response.)

9 CHAIRMAN HALL: Have you notified your
10 grantees of these 12 items that you plan to do, or is
11 that something you are in the process of doing?

12 MR. JEFFRESS: This will be in the cover memo
13 accompanying the technology capacity document when it
14 goes out. So we will be responding to the survey and
15 giving them the final document and telling them what
16 we're doing to help.

17 CHAIRMAN HALL: Okay. Good. Any other
18 comments or questions?

19 (No response.)

20 CHAIRMAN HALL: Thank you, Charles.

21 Next item on the agenda is public comment, if
22 there is any.

1 (No response.)

2 CHAIRMAN HALL: Seeing that there's no public
3 comment, I'd consider and act on any other business
4 that committee members would like to bring before the
5 Provisions Committee.

6 (No response.)

7 CHAIRMAN HALL: Hearing none, I will entertain
8 a motion that we adjourn.

9 M O T I O N

10 MR. MCKAY: So move.

11 CHAIRMAN HALL: Meeting adjourned. Thanks to
12 staff for being before us and giving some excellent
13 reports, and also to Attorney Henry. Meeting
14 adjourned.

15 (Whereupon, at 3:22 p.m., the Provisions
16 Committee meeting was adjourned.)

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