

LEGAL SERVICES CORPORATION  
BOARD OF DIRECTORS

TELEPHONIC MEETING OF THE  
FINANCE COMMITTEE

OPEN SESSION

Thursday, June 16, 2011

11:05 a.m.

Legal Services Corporation  
3333 K Street, N.W.  
Washington, D.C. 20007

COMMITTEE MEMBERS PRESENT:

Robert J. Grey, Jr., Chairman  
Sharon L. Browne  
Martha L. Minow  
Father Pius Pietrzyk, O.P.  
Robert E. Henley, Jr. (Non-Director member)

OTHER BOARD MEMBERS PRESENT:

John G. Levi, Board Chairman  
Charles N.W. Keckler  
Victor B. Maddox  
Laurie I. Mikva  
Gloria Valencia-Weber

STAFF AND PUBLIC PRESENT AT THE CORPORATION'S OFFICES:

James J. Sandman, President  
Kathleen Connors, Executive Assistant to the President  
Victor M. Fortuno, Vice President for Legal Affairs,  
General Counsel, and Corporate Secretary  
David L. Richardson, Treasurer and Comptroller  
John Constance, Director, Office of Government  
Relations and Public Affairs  
Stephen Barr, Communications Director, Office of  
Government Relations and Public Affairs  
Treefa Aziz, Government Affairs Representative, Office  
of Government Relations and Public Affairs  
Sean Driscoll, Special Assistant, Office of Government  
Relations and Public Affairs  
Lora M. Rath, Deputy Director, Office of Compliance  
and Enforcement  
Jeffrey E. Schanz, Inspector General  
David Maddox, Assistant Inspector General for  
Management and Evaluation, Office of the  
Inspector General  
Charles Greenfield, Program Counsel III, Office of  
Program Performance  
Holly Mowforth, Helaine M. Barnett Summer Fellow  
  
Don Saunders, National Legal Aid and Defenders  
Association (NLADA)  
Robert Stein, American Bar Association Standing  
Committee on Legal Aid and Indigent Defendants  
(SCLAID)  
Rebekah Diller, Brennan Center for Justice

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

2 (11:05 a.m.)

3 CHAIRMAN GREY: The minutes have been  
4 distributed. Are there any corrections or additions?

5 MR. RICHARDSON: Robert, if I may, the minutes  
6 were not distributed. They will be handed out and  
7 included in the July Finance Committee meeting.

8 MR. SANDMAN: They've been circulated by  
9 e-mail this morning.

10 MR. RICHARDSON: This morning? Okay.

11 MS. BROWNE: This is Sharon Browne. I  
12 received a copy of the minutes.

13 CHAIRMAN GREY: Yeah. Me, too.

14 MR. SANDMAN: This is Jim Sandman. I'd make a  
15 suggestion. The draft of the minutes, as circulated,  
16 makes reference to several resolutions, written copies  
17 of which, I believe, were distributed at the meeting,  
18 but which are not attached to the minutes.

19 And I think the minutes will make more sense  
20 and we'll have a better record of what the Committee  
21 decided if we were to append the written resolutions to  
22 the minutes before they're approved.

1                   CHAIRMAN GREY: That's a good point. Why  
2 don't we just table those until we meet in Seattle and  
3 approve the minutes at that point. Is that okay with  
4 everybody?

5                   DEAN MINOW: Yes.

6                   MS. BROWNE: Yes.

7                   FATHER PIUS: Yes.

8                   CHAIRMAN GREY: Fine. Item No. 3 is public  
9 comment regarding LSC's 2013 budget mark. And do we  
10 have Robert Stein and Don Saunders on?

11                  MR. STEIN: It's Bob Stein. I'm here.

12                  MR. SAUNDERS: Don Saunders. How are you?

13                  CHAIRMAN GREY: Good. How are you all? Thank  
14 you for joining us.

15                  Are you prepared to go forward?

16                  MR. STEIN: I am.

17                  MR. RICHARDSON: Robert, if I may, is Rebekah  
18 Diller on line from the Brennan Center?

19                  (No response.)

20                  MR. RICHARDSON: She is not. Okay. Because  
21 she had sent a message that she would only be available  
22 for the first half hour of the meeting. But evidently,

1       she's not been able to make that.

2           MS. DILLER: Hello?

3           MR. RICHARDSON: Yes? Is that Rebekah?

4           MS. DILLER: This is Rebekah. I'm here. I  
5 was just unmuting my line.

6           MR. RICHARDSON: Okay. Robert, if you don't  
7 mind, why don't we ask Rebekah to go first?

8           MR. STEIN: That's fine.

9           MR. SAUNDERS: All right.

10          CHAIRMAN GREY: Is that okay with everybody?

11          DEAN MINOW: Sure.

12          FATHER PIUS: Fine.

13          CHAIRMAN GREY: Rebekah, you've got the floor.

14          MS. DILLER: Well, thank you so much, and  
15 thanks for letting me go first. I submitted some  
16 written comments which hopefully were distributed to  
17 you all, the thrust of which is just basically, as you  
18 all know, the need continues to be tremendous.

19           At the Brennan Center, we've been gathering  
20 examples of some of the impact of recent cuts, and we  
21 detail these in our written submission, going into  
22 layoffs and closed offices and more clients being

1 turned away.

2 And our concern is that in the FY '13 budget  
3 request, we would hope that LSC would not come in at a  
4 number lower than it did for FY '12 because our concern  
5 was that to do so would signal that the situation was  
6 somehow not as dire as it is for all the grantee  
7 programs.

8 The other thing that we talk about in our  
9 written submission is that we think it's important that  
10 LSC use its bully pulpit role here to just make clear  
11 just how dire the need is and how much the programs are  
12 hemorrhaging under both federal cuts and IOLTA drops  
13 and state cuts.

14 So I think the rest of -- I think that's  
15 pretty much a summary of what we've submitted in  
16 writing. And I'm happy to answer any questions, if  
17 folks have them.

18 CHAIRMAN GREY: Thank you, Rebekah, and thank  
19 you for your time and energy and being on the call.

20 Are there any questions for Rebekah?

21 (No response.)

22 CHAIRMAN GREY: All right. Mr. Stein?

1                   MR. STEIN: Thank you. And thank you again  
2 for the opportunity to let me come in and make a  
3 recommendation on behalf of the ABA and SCLAID. As  
4 with Rebekah, you have our memo, so I only want to  
5 cover a couple of point.

6                   First, I think Terry Brooks and Anne  
7 Carmichael are on the call, so if you have any tough  
8 questions, please ask them, not me, after I finish.

9                   To cut to the quick, based on the current  
10 overall resource environment, it is our view that LSC  
11 should seek a minimum -- and I want to emphasize that  
12 word -- of \$450 million for FY 2013. If the resource  
13 environment were not as dire as it was, we certainly  
14 would have recommended a much, much hire appropriation,  
15 but believe that this would be both unrealistic and not  
16 credible. And at this point, we think it's important  
17 to make a credible recommendation.

18                  In the memo, we offered two perspectives on  
19 how LSC might calculate the amount that is required to  
20 fulfill its mission. And I think both are worthy of  
21 your consideration.

22                  First is a look at a legal needs study, to

1 leverage some of the empirical work which has been done  
2 in states by the Brennan Center and others in examining  
3 the legal needs of the poor. Studies have been done  
4 using many different methodologies and by many  
5 different researchers, but I think it's clear that all  
6 have come to the same conclusion, and it's hard to  
7 argue with those findings: The need is far, far  
8 greater than our ability to meet it at this time.

9                 There's another way to possibly think about  
10 this, which is to begin to assess what the demand is  
11 for the services. And that would emulate in some way  
12 what is being done in the business world, which goes  
13 beyond assessing the need, and before a business  
14 invests in something, they examine what the actual  
15 demand for the product or services will be in the real  
16 world.

17                 And I think that LSC might look to some  
18 analogous enterprises to estimate the demand for the  
19 services. In our memo, we talk about prepaid legal  
20 services as one analogy for that.

21                 We hope that LSC will pursue the collection of  
22 data so that it will enable it to more accurately

1 predict the real world demand. And again, by any  
2 measure, the resources needed are going to be much  
3 larger than the amount currently available.

4 One question which is frequently asked in  
5 conjunction with the budget, and I've been asked this  
6 when I've appeared before the Finance Committee in  
7 years past, is can't we use pro bono as a way to bridge  
8 the gap between the amount of federal funding that can  
9 be obtained and the amount of resources that are really  
10 needed. And some have argued that pro bono  
11 contributions by private lawyers can fill the gap.

12 I think that is a flawed argument. I'm sure  
13 the bar can do more. Pro bono is already an important  
14 component of the delivery system. But even with all of  
15 the current contributions of pro bono, we are at best  
16 meeting 20 percent of the need for service. So even if  
17 we doubled the amount of pro bono, we'd only make a  
18 small dent in the overall problem.

19 And, moreover, this doesn't mean that LSC can  
20 step down its funding or services because a robust  
21 legal aid structure is needed if communities are  
22 providing the infrastructure, training, and expertise

1 so that LSC provides an administrative layer, if you  
2 will, and LSC funding provides that, to match needy  
3 clients with willing volunteer lawyers to make pro bono  
4 work. And we need an adequate LSC budget so that this  
5 can continue.

6 At the same time, state and local bar  
7 associations also immense amounts of funding and  
8 in-kind support to keep the pro bono system going, and  
9 I believe it will continue to do so.

10 Just one other brief mention about pro bono.  
11 The ABA is convening a national summit next fall to  
12 examine how to make this component of the system more  
13 effective. And one other reference we make in our  
14 memo, where we highlight several specifics within the  
15 \$450 million request, is that we support the  
16 continuation of the LSC LRAP program. Even though it  
17 is small, it is important as a step to make it clear  
18 that LSC is supportive of lawyers not just joining  
19 legal services organizations but making it a career,  
20 and the removal of some of their debt will help this.

21 Thank you, and again, I'd be happy to answer  
22 any questions.

1                   CHAIRMAN GREY: Thank you, Bob, for that very  
2 comprehensive analysis. And it's always a pleasure to  
3 have you do that.

4                   Don?

5                   MR. SAUNDERS: Thank you, Robert. And I beg  
6 your indulgence with my laryngitis this morning, but I  
7 think I can get through.

8                   On behalf of all of my colleagues at NLADA and  
9 our 1900 members, I want to really express our  
10 gratitude to the Committee, the Board, and to your  
11 terrific staff for, really, the aggressive advocacy  
12 you've demonstrated during your tenure around the  
13 essential federal support that provides the basic  
14 framework for our nation's system of legal aid.

15                  We, like the Brennan Center, urge you to stand  
16 firm with regard to your budget request for 2013. The  
17 \$516.5 million that you sought last year in our view  
18 remains clearly justified and sends a strong signal of  
19 support in what we too recognize to be a very, very  
20 difficult funding situation in the Congress. But now,  
21 more than ever, it's important for LSC to send that  
22 strong signal of need, given the growing number of

1 clients that your grantees are seeing and the huge  
2 number of problems that are going unserved in this  
3 country.

4 I have had the opportunity in prior years to  
5 discuss with you many ways of looking at the justice  
6 gap in this country, particularly related to some of  
7 the findings in the earlier LSC report. Today I just  
8 want to spend a moment in really outlining one other  
9 way of looking at what has happened over the last 30  
10 years in this country with regard to federal support  
11 for legal services, and share with some of the Board  
12 members who may not be as familiar with the history of  
13 federal support for legal aid how we got to where we  
14 are today and how far behind we are.

15 As I think you all know, both Senator Harkin  
16 and Representative Scott introduced legislation in the  
17 last session of Congress that would have reauthorized  
18 LSC at a funding level that was equated to the funding  
19 level that existed in 1981, \$321 million. I want to  
20 talk about why the approach that was taken in 1981 that  
21 was the lodestar for the Harkin legislation is still  
22 relevant today, and how it illustrates just how far

1 behind we have fallen in our nation's commitment to the  
2 cause of equal justice.

3 We've talked a lot lately, and I think very  
4 appropriately, about the promise, the constitution's  
5 promise, to establish justice. The idea in 1976  
6 through 1980 was brought to fruition in this country by  
7 definition of our commitment to a national foundation  
8 of a minimum access delivery system. It set a  
9 benchmark and a definition for the federal commitment  
10 to equal justice, and it was tied to factors that are  
11 still relevant today.

12 The concept, in expanding legal services from  
13 its creation, was to create a very minimal core  
14 infrastructure to support the delivery of legal aid in  
15 every county in the United States. As you know, before  
16 the creation of Legal Services, LSC, great parts of the  
17 country, huge parts of the country, had no access to a  
18 legal aid program whatsoever.

19 In defining how the government would create  
20 that fundamental foundation, the formula was created to  
21 fund two lawyers, including the supervisory and support  
22 capacity that two lawyers would need, for every 10,000

1 eligible clients. That construct was based upon what  
2 had worked in existing programs prior to LSC.

3 The New England programs, for example, were  
4 funded a little over \$7 per poor person. If you take  
5 that approach, that \$7 per poor person generates enough  
6 funding for an office to have two lawyers and support  
7 personnel for 10,000 people, you've got a core level of  
8 \$70,000.

9 That again was never seen, even in 1976  
10 through 1981, as providing anything other than the  
11 infrastructure upon which a system could be built. But  
12 it was very successful in expanding the reach of your  
13 grantees nationally to cover rural New Mexico, or the  
14 mountain West, or many, many parts of the country that  
15 had never had access to legal services prior to the  
16 federal commitment.

17 If you look today, by any measure of how far  
18 we have come as a country in terms of the erosion of  
19 that federal infrastructure, I mean, you've seen the  
20 figure, I'm sure, that if you just inflate to today's  
21 dollars the \$321 million appropriation for LSC, you  
22 would be looking at almost \$800 million in today's

1 dollars. Again, that would just support the basic core  
2 infrastructure as it existed in '81.

3 The other big change, obviously, is there were  
4 43 million eligible clients for your services in 1981.

5 That has grown, unfortunately grown, to 63 million  
6 eligible persons today. That is one in five Americans  
7 is eligible for your service.

8 If you equate both inflation in terms of the  
9 value and purchasing power of the dollar and add almost  
10 a 50 percent growth in the client population that is  
11 eligible for your services, the equivalent  
12 funding -- again, I'll remind you, to fund just the  
13 basic core function of a national system -- would be  
14 well over a billion dollars.

15 Another way of looking at the erosion over  
16 time, over the last 30 years, in the federal component  
17 of legal aid is that if you look at the 4400-some  
18 lawyers that now work for your grantees combined with  
19 the number of eligible clients, rather than having a  
20 two-lawyer office responsible for 10,000 clients, that  
21 figure has grown to over 28,000. The equivalent of the  
22 availability of legal services to the non-poverty

1 population in this country is one for every 273 folks.

2 So what we have seen since 1981 is a system  
3 where federal support has fallen by a factor of two,  
4 while the number of eligible clients has grown by  
5 nearly 50 percent. You can make extrapolations among  
6 the number of cases that have been closed by those  
7 equivalent units over time, and it really demonstrates  
8 how far we need to go to just get back to the level  
9 that was created there.

10 I think if you're struggling, which we have to  
11 do, with 63 million people eligible for our services,  
12 that to try to figure out what the actual need is, if  
13 you think through that unit of 10,000 people being  
14 served by two folk, that would be the equivalent of  
15 4,000 households. Even the most conservative studies  
16 would suggest that a household would have one legal  
17 problem a year. The legal needs studies assume a whole  
18 lot more.

19 That would be in the nature of 4,000 cases  
20 that would be potentially eligible for service by your  
21 grantees. And currently, your figures -- admittedly,  
22 we need to work on our data-gathering -- but you're

1 closing somewhere around 250 to 275 cases per client  
2 unit, per household.

3 So by looking at those numbers, by  
4 understanding the history of that, I think you can see  
5 the enormous erosion in federal support. Whether you  
6 look at the concept of people who are unable to be  
7 served by your grantees, the legal needs studies, or,  
8 really, an analysis of the roots of the federal  
9 commitment to equal justice, as evidenced by the Legal  
10 Services Corporation, we certainly see that the need is  
11 overwhelming, and more than justifies a continuing  
12 request for \$516.5 million.

13 We have anecdotally, and it's quite prevalent  
14 now -- we are seeing that programs are having to lay  
15 off significant numbers of staff, advocacy staff,  
16 through attrition or through direct layoffs. We fear,  
17 with further cutbacks, we're going to get to the point  
18 where offices are going to be closed. Access to your  
19 grantees is going to be ever more limited. Intake is  
20 going to be ever more limited. So clearly, we urge you  
21 to be aggressive, even though we fully understand the  
22 challenges you'll face in the current atmosphere in

1 Congress.

2 Just a few ancillary points. We, too, support  
3 the continuation of the LRAP program. Particularly  
4 with the demise of the Department of Education program,  
5 we think it's important that LSC stay involved in this.  
6 We would suggest you might look at ways in which the  
7 program could be reconsidered in light of some of the  
8 other existing LRAPs that exist, but we very much  
9 support the continuation of that and the technology  
10 program.

11 With that, Mr. Chairman, injure want to  
12 reiterate our appreciation for all your work and the  
13 Committee's work, and commit to you, as you know, the  
14 full efforts of NLADA to support and work with LSC as  
15 it pursues funding for 2013.

16 CHAIRMAN GREY: Thank you, Don. Thank you to  
17 Bob and Rebekah for your continued support and  
18 commitment, your very thoughtful comment and  
19 suggestions. It is great to know that there are allies  
20 of LSC that follow closely the important work that is  
21 done, and that we can count on you for your guidance  
22 and counsel. So thank you for being here.

1                   Is there anyone else on the phone or on the  
2 conference that would like to address the Committee?

3                   (No response.)

4                   CHAIRMAN GREY: I am in receipt of a letter  
5 addressed to Vic Fortuno from Lisa Rickard, who is the  
6 president of the U.S. Chamber Institute for Legal  
7 Reform. Her letter indicates, in response to the  
8 notice, that the Chamber and the Institute for Legal  
9 Reform would recommend that the LSC request for 2013  
10 appropriations be consistent with or below the 2010  
11 funding levels. And they've indicated there a  
12 long-term interest in not removing the limitation of  
13 class actions as a way to better manage the litigation  
14 in this country.

15                  Any other comments or suggestions regarding  
16 the budget that anyone else has received that they  
17 would like to share?

18                  PROFESSOR VALENCIA-WEBER: Mr. Chairman, this  
19 is Gloria Valencia-Weber.

20                  CHAIRMAN GREY: Hey, Gloria.

21                  PROFESSOR VALENCIA-WEBER: How are you doing?

22                  CHAIRMAN GREY: Fine. I hope you are.

1                   PROFESSOR VALENCIA-WEBER: I'm looking at the  
2 letter from Lisa Rickard, and in terms of the text, I  
3 was wondering if in the past or even recently, the  
4 Chamber had identified specific cases or activities  
5 that fit the terminology they use, "speculative or  
6 activist-inspired private litigation." That's their  
7 terminology of what they do not think LSC should be  
8 involved in.

9                   I'm just curious as to have we had specific  
10 identification of those kinds of litigation or  
11 activities?

12                  CHAIRMAN GREY: Is anyone on the call from the  
13 staff or other able to answer Gloria's question?

14                  MR. CONSTANCE: This is John Constance. For  
15 the record, I'm director of Government Relations and  
16 Public Affairs.

17                  Gloria, no. I don't know that there have been  
18 specifics. The letter that was created in the 2011  
19 cycle, as I recall, also made these kinds of relatively  
20 broad charges, but no specifics as to those were  
21 brought forward.

22                  PROFESSOR VALENCIA-WEBER: Thank you.

1                   MR. LEVI: And does anyone ever meet with the  
2 Chamber to understand their position better or to  
3 really, in a sense, deal with some of the myths that  
4 seem to be central to that letter? And is that not  
5 inappropriate? John?

6                   MR. CONSTANCE: John again, John Constance. I  
7 believe that the previous board did have a delegation  
8 that met with the Chamber at one point. I would also  
9 like to -- given the fact that I've got the floor, I'd  
10 like to point out that the Chamber is recommending an  
11 increase in funding for LSC for 2013.

12                  We're currently at 404. If we went to the  
13 2010 level, we would restore our level to \$420 million,  
14 which is the highest that the Corporation has reached  
15 in history. So while they are making these charges,  
16 the core recommendation that they are making is an  
17 increase and not a decrease in our funding.

18                  MR. LEVI: I understood that. I do think  
19 there's a surprising, still -- and it's not surprising,  
20 given the limited ability of a few Board members and of  
21 a small staff to cover all the bases. But more  
22 information is better than less.

1                   FATHER PIUS: I think if you look at the  
2 Institute for Legal Reform's website, they have a  
3 fairly extensive section on class actions, with all  
4 their research and news and their position. I mean,  
5 their positions are rather broad, but they do have a  
6 number of research papers they cite to. So that's  
7 probably where they're getting the information from.

8                   MR. LEVI: Yes. And we can't help them on  
9 that front. But we can certainly articulate what's  
10 happening in our grantees and their attempts to deal  
11 with the population that they're seeing in record  
12 numbers.

13                  MR. MADDOX: John, this is Vic Maddox. I  
14 haven't seen the letter that --

15                  MR. LEVI: Oh, it's in the packet.

16                  MR. MADDOX: All right. I haven't seen it.  
17 I'm actually in my car listening.

18                  MR. LEVI: Well, then, be careful. Don't  
19 drive off the road.

20                  MR. MADDOX: I'm on a Bluetooth. It's fine.  
21 I just wanted to mention that Louisville Legal Aid  
22 Society has just recently filed a complaint against the

1 Jefferson County, Kentucky School District alleging  
2 disparate impact of disciplinary procedures in the  
3 schools, and claiming that the assignment of students  
4 who have been disciplined to special schools that are  
5 designed to deal with that kind of student is  
6 discriminatory, and alleging all manner of violations  
7 of civil rights and the like.

8                   And the lawsuit was filed as co-counsel with  
9 the Southern Poverty Law Center. And I have to tell  
10 you that it troubles me that our grantees are using  
11 legal aid services, Legal Services Corporation dollars,  
12 to pursue litigation of that sort which I think is  
13 inconsistent with the primary purpose of the grant for  
14 legal aid societies around the country.

15                  I haven't spoken with the executive director  
16 about it yet, but I plan to. I want to mention this  
17 because, frankly, the use of the word class is  
18 troubling. When I see legal aid grantees like the  
19 Louisville Society using federal dollars for litigation  
20 that I think really takes away from serving the needs  
21 of women who are abused, or children who are denied  
22 child support, or people who have their homes

1 foreclosed on, and the like.

2                   And again, I don't have all the facts. I  
3 haven't spoken to the director yet. I plan to. But  
4 the lawsuit is a matter of public record. It's been  
5 filed with the Department of Education in Washington,  
6 and it asks for a broad range of affirmative relief  
7 against the school district that would ultimately cost  
8 millions of dollars.

9                   So it's troubling to me as a Board member, and  
10 I just wanted to point that out.

11                  CHAIRMAN GREY: Any other comments with regard  
12 to LSC funding?

13                  DEAN MINOW: It's Martha, Robert, Martha  
14 Minow. This is a longer term issue. But I very much  
15 appreciate the support from NLADA and others. But I  
16 think it must be clear that simply repeating any kind  
17 of formula about how need is assessed is not persuasive  
18 to those who are critical. And it makes me think that  
19 we have a much greater need for developing the kind of  
20 research that indicates the effectiveness of legal  
21 representation and, as Vic just said, in different  
22 domains, in particular areas.

1                   So this is not necessarily for this Committee,  
2   but it is raised by the questions that are on the  
3   table.

4                   CHAIRMAN GREY: Thank you.

5                   Any other comments or thoughts?

6                   FATHER PIUS: Can I just ask -- this is Father  
7   Pius -- just a quick question, just on the scheduling  
8   of the -- I know this is all part of -- this conference  
9   call is in lead-up to our FY '13 fiscal recommendation.

10                  What's the rest of the schedule on that? Will  
11   the Committee then make its recommendation to the Board  
12   at our July meeting? Or can you just remind me of how  
13   we're going forward?

14                  CHAIRMAN GREY: Is Vic Fortuno on?

15                  MR. FORTUNO: Yes, I am.

16                  CHAIRMAN GREY: Vic, we just had an e-mail  
17   exchange. Could you share that with Father Pius?

18                  MR. FORTUNO: Yes. The substance of the  
19   exchange was that you've heard some proposals today,  
20   and that you might want to consider taking some time to  
21   study these proposals carefully and scheduling a  
22   meeting for the very near future so that you could

1 actually discuss the competing proposals, and to do  
2 that before the management recommendation is submitted  
3 so that that discussion might help to inform the  
4 management recommendation.

5 That recommendation would be made -- I think  
6 the discussions so far have been -- on the 27th. You  
7 would get it some time shortly before that, and on the  
8 27th be able to take up management's recommendation,  
9 the hope being that the Committee be in a position to  
10 settle on a recommendation to make to the full Board at  
11 the meeting in Seattle next month.

12 MR. LEVI: But the Finance Committee would  
13 have its meeting, but its recommendation would not be  
14 forwarded to the Board -- I guess it would be  
15 forwarded, but the Board would not expected to act on  
16 that at that meeting.

17 FATHER PIUS: When were we thinking of acting  
18 on it, John? Have we set a date?

19 MR. LEVI: We would be acting on it later on.  
20 I promised people we would not do the two-step type of  
21 dance, and I'll schedule either a phone call or we'll  
22 do it at another time, in September or, I guess,

1 traditionally when they have acted.

2 MR. CONSTANCE: John, this is John Constance.

3 By virtue of the fact that, I think appropriately, you  
4 had moved up the schedule for our deliberations this  
5 year, we're on the hook for on or about Labor Day  
6 having this submitted to OMB.

7 MR. LEVI: Okay.

8 MR. CONSTANCE: So that's the end point of the  
9 process that we have, that we're kind of on the hook  
10 for at this point. It also -- and I don't want to  
11 obviously get into it now -- it also would be the same  
12 time that OMB would be expecting to receive a  
13 legislative recommendation regarding language on the  
14 census issue.

15 So they have informed us that both of those  
16 would be timely the first week in September.

17 MR. LEVI: Well, my point, though, is that in  
18 July, which is what I hoped, the Finance Committee  
19 would deliberate and come up with a recommendation. It  
20 would be forwarded to the Board. The Board would study  
21 it, and we'd take it up a few weeks later, probably by  
22 phone call.

1                   MS. BROWNE: This is Sharon Browne. When the  
2 management comes up with its recommended budget for  
3 2013, and if it changes, could we make sure that any  
4 changes are backed up with some justification, and not  
5 just an increase in the budget but I'd like to know how  
6 the money would be spent and why.

7                   CHAIRMAN GREY: Yes. Sharon, this is Robert.  
8 I don't want to presume anything, but I do think that  
9 it is our responsibility to be able to justify what  
10 we're doing. So whatever we decide to do, we ought to  
11 be able to justify. It's not if it goes one way or the  
12 other. I think it's time for us, with the present  
13 group assembled, that that's something we do every  
14 time, for anything that we do.

15                  MS. BROWNE: Okay. I appreciate that.

16                  CHAIRMAN GREY: I appreciate the comment.

17                  MR. CONSTANCE: Robert, this is John  
18 Constance. Speaking just out of sheer personal  
19 interest and personal terror as the guy that's going to  
20 be the one carrying this eventual message to Capitol  
21 Hill, I just wanted to say this, that I think it was a  
22 very, very good decision on your part and on Chairman

1 Levi's part to flip this around in some way and have  
2 the public input today, prior to management putting  
3 together our proposal.

4 I think it would be very, very helpful,  
5 though, to have some sense, before management puts  
6 their proposal together, of what your reaction was to  
7 what you heard today and what kind of input you're  
8 going to find persuasive for management, particularly  
9 in the area of basic field.

10 I mean, obviously we're going to be able to  
11 craft recommendations and a structure as to what  
12 happens at 3333 K Street. But in terms of the grant  
13 program itself, and while I would completely support  
14 what Martha said regarding that old formulas may not be  
15 as persuasive as we'd like them to be, what the  
16 formulas are or what the metrics you all are going to  
17 be looking for in evaluating management's proposals  
18 would be very, very helpful, I think, going forward.

19 CHAIRMAN GREY: John, this is Robert. I think  
20 we're on the same page. And we're not going to  
21 put -- we're going to do this with -- John, I think,  
22 has laid out a very constructive approach that will

1       fully inform the decision-making on this process of  
2       budgeting. And we're going to take all the steps that  
3       are necessary to inform each other, the give the  
4       maximum amount of information to be digested for an  
5       informed decision.

6                   So that's a long way of saying we'll do the  
7       preliminary discussion that Vic Fortuno outlined, and  
8       then we'll be prepared to make a recommendation for the  
9       Board's consideration. And as everyone has indicated,  
10      we're going to do that in a very thoughtful manner and  
11      be able to back up whatever it is we are going to  
12      suggest.

13                  MR. LEVI: One other thing I'd like to mention  
14       for management's consideration. I would ask them to  
15       make a phone call to David Stearn, who let me know of  
16       the fact that in the mid-'90s, LSC had a program that  
17       was called the Rural Legal Corps.

18                  And it used \$200,000, and then that was  
19       matched by Equal Justice Works and others, that then  
20       supported a year-long fellowship that, like a  
21       clerkship, got recent graduates of law schools to go  
22       out in rural America and spend a year. And the results

1 from that were dramatic in terms of helping rural  
2 America deal with the lack of lawyers available, and  
3 some actually ended up living where they worked.

4 This is the kind of program that I know, even  
5 in talking with Republican members, they would be  
6 interested in knowing that it's leveraging a federal  
7 dollar. That we're coming up with initiatives of this  
8 kind is a matter of great interest to them, too. And  
9 many of their states are affected by this.

10 So I'd like to understand whether this isn't  
11 something we could, even in this budget, put a small  
12 amount in to restart something like that. We need help  
13 from you all, though, to -- and this is a little ahead  
14 of our strategic planning process.

15 But because I've become aware of this, I don't  
16 want to wait another year to have it considered. And  
17 we have to talk to Equal Justice Works. Would they be  
18 willing to match it, and what number are we talking  
19 about? It doesn't have to be a particularly big  
20 number. But that's the kind of thing I would like to  
21 see consideration of.

22 The other thing I'd like to see consideration

1 of from management is the kind of thing that we all  
2 understand. Take, for example, the Chicago office.  
3 When is the last time they had a raise? How many  
4 people were laid off? What's happening with their case  
5 load? Maybe you could give us a snapshot of what's  
6 happening in a couple of our grantees so that, in a  
7 sense, the number isn't so global but has some  
8 grounding in addressing concerns at a local level.

9                 And I think that, to me, would be helpful. I  
10 know what Martha's talking. We can't accomplish all of  
11 what Martha's talking about in this short period of  
12 time, but can we do some of it?

13                 So those are two questions for management.

14                 MR. SANDMAN: This is Jim Sandman. We'll  
15 follow up on both.

16                 MR. LEVI: And happy birthday, Jim.

17                 MR. SANDMAN: Thank you, John.

18                 MR. LEVI: That was a heck of a present,  
19 wasn't it? It is his birthday today, folks.

20                 CHAIRMAN GREY: Happy birthday, Mr. President.

21                 DEAN MINOW: Maybe the present is we won't  
22 sing.

1                             (Laughter.)

2                             MR. SANDMAN: I appreciate that.

3                             MR. LEVI: But I think that will help people  
4 understand. When we hear from these programs about the  
5 fact that their salaries have been cut, they're the  
6 lowest-paid in the profession, they haven't had a raise  
7 in years -- well, that's the kind of message that  
8 Congress wants to hear. And when I've talked to -- I  
9 won't name names, but both sides of the aisle, they  
10 don't know this.

11                          CHAIRMAN GREY: John, as always, you make a  
12 lot of sense. But I was surprised, when I had the  
13 conversation I had with Eric Cantor, how little he  
14 knew.

15                          MR. LEVI: Yes. Right.

16                          CHAIRMAN GREY: And I think it is important  
17 that our story -- that we have a way of informing  
18 people, in a very cogent manner, what is happening on  
19 the ground. And that ought not ever be stale, and  
20 ought to always be current and vital to our mission and  
21 our discussions with others.

22                          MR. LEVI: And it's become clear to me that if

1 we don't do this, nobody is.

2 CHAIRMAN GREY: Well, I think that's  
3 right -- well, there are a lot of people out there --

4 MR. LEVI: No. I don't -- look.

5 DEAN MINOW: Let me make a suggestion as far  
6 as --

7 MR. LEVI: I shouldn't -- I don't mean nobody.

8 That's unfair.

9 DEAN MINOW: -- as to John Constance has a  
10 question, what metrics would the Board be looking to to  
11 assess management's recommendation. And my  
12 suggestion -- it's not global -- but among the metrics  
13 we're interested in, as these comments indicate, is an  
14 ability to talk in a finer grain detail about rural  
15 versus urban needs and the special difficulty where  
16 there are no possible pro bono services. That's one.

17 And second is this idea of leveraging,  
18 matching, as well as finding ways to recruit and retain  
19 younger staff people; and therefore, the importance of  
20 dimensions of the program that do that.

21 And a third, to the extent that it's possible,  
22 is to -- without going all the way in the direction

1   that I indicated, could nonetheless talk about those  
2   areas where there's no dispute. There's no  
3   partisanship about need, instead of these global,  
4   per-person legal needs.

5                    MR. LEVI: Yes.

6                    FATHER PIUS: Yes. This is Father Pius. And  
7   I might even ask that the total funding picture,  
8   especially the way in which federal funding has taken a  
9   larger share of the funding for our grantees and to  
10   help us understand how that's changed, especially over  
11   the last two or three years.

12                  MR. LEVI: Yes. For example, when John  
13   prepares me, or any of us, for visits with  
14   congressional members, and you give us, for example,  
15   the last three years of IOLTA data, I think, if I  
16   recall correctly, from 2008 to 2010 it went from 110 to  
17   68 million, something like that, and projected to go  
18   even lower this year.

19                  And then what you've been showing when -- it  
20   doesn't matter what district I'm going to -- what  
21   congressional district, that is -- the facts seem to be  
22   almost uniformly the same: less money coming in to the

1 entity, more need going out, more pressure on the  
2 grantee.

3 I had a conversation with Governor Thornburgh,  
4 who's going to be on our pro bono task force. He'd  
5 gone up to the Pittsburgh grantee, where he as a young  
6 lawyer, I think, did some work. And he was stunned at  
7 the pressure they were under.

8 I think these stories are not unique. I think  
9 these are the stories of almost every single grantee.  
10 Somehow, the budget proposal needs to reflect that.

11 CHAIRMAN GREY: John -- by the way, all of  
12 you, Father Pius, Dean Minow, John -- those are very,  
13 very important comments you all made.

14 John and I had a long conversation about this  
15 formula concept, and a lot of these issues were raised  
16 in our discussion that was a part of an earlier  
17 discussion he had with the ABA and folks.

18 And so, John, I think what you're hearing,  
19 maybe you and David, with Jim and Vic, can take the  
20 very, I think, salient points and give that back to us  
21 in that discussion that we're going to have on the 27th  
22 or thereabouts so that we might feel like we're on the

1 same page going forward.

2 MR. CONSTANCE: We can certainly do that,

3 Robert. Not a problem.

4 CHAIRMAN GREY: I mean, you get the same  
5 impression that I get, that this is very much the  
6 direction that we were discussing?

7 MR. CONSTANCE: Yes. I think it is. The  
8 challenge that we have -- and again, I think that one  
9 of the approaches, and certainly it's the approach that  
10 ABA has presented today as well as NLADA, is to look at  
11 a number that is well out there, clearly, in terms of  
12 what the total need is.

13 And I think one can argue about how you  
14 accomplish that or how you get there. Then there are  
15 two other numbers in play. One is something a lot  
16 closer to what the President's request has been over  
17 the last several years, which is probably a number  
18 that, certainly in political terms, is within the realm  
19 of the possible.

20 And between those two goalposts, between those  
21 two numbers, is the number out there in the 500 million  
22 plus, which I'm often asked, what is that number? What

1     does that number represent? What do we buy for that  
2     number?

3                 And so that's what I mean regarding the  
4     metrics. I think the number of these percentages, the  
5     number of these things that we can do -- but I think  
6     the dilemma that this Board has, and I think previous  
7     boards have had, is that, is that in-between number and  
8     what does it really represent?

9                 CHAIRMAN GREY: Well, that's not for this  
10    meeting.

11                MR. CONSTANCE: Oh, I understand.

12                CHAIRMAN GREY: Yes. Well, and what I think  
13    we are looking for is a very thoughtful and informed  
14    conversation with the staff, now that we have the  
15    comments from the public and the suggestions from the  
16    organizations of interest. I think then we can work  
17    towards some of the -- not work, we can be better  
18    informed and make a thoughtful recommendation.

19                But without deciding next time, let's have a  
20    vigorous, informed discussion about how we get there.

21                MR. LEVI: Yes. And Robert --

22                MR. MADDOX: John, I'm sorry. Victor Maddox

1 here. I have to ring off. But I just want to say I  
2 think this has been a very helpful meeting. I  
3 appreciate the public comments and the discussion among  
4 the Board. It's been extremely informative and  
5 helpful. And I'm looking forward to continuing the  
6 discussion.

7 So thanks for putting this together this way.  
8 And I'll be hanging up.

9 MR. LEVI: And Vic, thank you. I'm sorry  
10 you're having to hang up. I'm not going to say  
11 anything you would be upset about, I promise.

12 (Laughter.)

13 MR. MADDOX: All right. Take care.

14 MR. LEVI: What I am going to say is it  
15 occurred to me that we're getting together in Cambridge  
16 as a Board on the 2nd of August, and that if the Board  
17 has questions -- the Board could decide in Seattle that  
18 it likes the presentation, or it wants questions, or  
19 whatever -- it has questions, it wants more  
20 information.

21 We might be able to figure out a way to use  
22 some of the time there, when we're all together to

1 address that as a part of the budgeting process as  
2 well. It might extend the meeting an hour, but it  
3 might be well worth it.

4 So I just throw that out there. I just  
5 realized, in terms of the scheduling, that we are  
6 coming back together again ten days later. And maybe  
7 that would be helpful in the process.

8 CHAIRMAN GREY: That's a good thought, John.  
9 And just make sure we make -- if we decide to go that  
10 route and --

11 MR. LEVI: Well, what it means is that, based  
12 on the Board's and the Committee's questions that might  
13 come up in Seattle, that there you would have  
14 basically -- it's not even two weeks, but it's  
15 something like that -- the following week to really see  
16 if they could get dealt with, or at least progress made  
17 and the Board given some sense of where it's going by  
18 the 2nd, that it would feel comfortable that we don't  
19 have to get together in person again, at least, to  
20 handle the budget thereafter.

21 But I just think, in terms of people's  
22 schedules, if that seems realistic, we might want to

1 consider adding -- I want people to be able to get home  
2 the night of the 2nd. But I will talk with Mattie and  
3 the strategic planning folks and see if it's possible  
4 that we can take an hour from somewhere for the finance  
5 end of things.

6 CHAIRMAN GREY: Thank you, John.

7 PROFESSOR VALENCIA-WEBER: This is Gloria. I  
8 want to also propose -- not necessarily for that August  
9 meeting -- but we need to talk about what is behind the  
10 number we're requesting. And certainly we have to deal  
11 with the metrics that we tell our story for the  
12 ultimate number we request.

13 What I also want us to spend some time in the  
14 future discussing that which cannot be reduced to a  
15 metric or arithmetic or even demographic analysis.  
16 We've already touched on some of this in the materials,  
17 the letters submitted today and John's discussion about  
18 the potential for a rural legal fellowship.

19 And that is that there are some very important  
20 and substantive qualitative issues that do not lend  
21 themselves to counts, to formulas. And this is true of  
22 all of our rural areas. We have a number of counties

1       in which there are your lawyers, even if you had the  
2       money to buy the services. And it's part of what has  
3       evaded, from my looking at the past materials, for  
4       instance, analyzing the Native American needs. I have  
5       not yet delved into the migrant needs analysis.

6                  But there are some things that are going to  
7       defy metric measures but that are substantive and  
8       important and justify our providing those legal  
9       services.

10                 CHAIRMAN GREY: Thank you, Gloria. Those are  
11       very important comments that we will be sure to factor  
12       in as we consider this. Very important.

13                 Any other comments?

14                 FATHER PIUS: Just a very quick one. Father  
15       Pius. In terms of, especially, the management's  
16       report, if there's an increase that's proposed, what  
17       might be helpful is what does that increase give us in  
18       concrete terms. I don't know if you've done that  
19       before, but if you give X million dollars more to these  
20       grantees, how many more lawyers does this mean? How  
21       many more cases does this mean that's handled? That of  
22       thing. That might make a good presentation.

1                   Anyway, just something to think about.

2                   CHAIRMAN GREY: Not something to think about,  
3 something we've got to do if we're going to do it.

4                   MR. LEVI: I mean, when we heard from the  
5 fellow in Western Virginia that, well, that 15 million  
6 cut may not seem like a lot to us, but it caused him in  
7 a program that had only a handful of FTEs to lose a  
8 half FTE, that 30,000, that's what it means.

9                   See, that staff, we -- for budgeting, those  
10 are the stories we need to --

11                  FATHER PIUS: Yeah. And it's that kind of  
12 concrete detail, I think, that's important for  
13 making -- you know, we're talking, what does this mean  
14 in terms of lawyers hired? How much more are we  
15 getting out of this for this amount of money? And if  
16 we can make the case that we're getting a lot more than  
17 we realize, that's going to make a difference.

18                  PROFESSOR VALENCIA-WEBER: I think  
19 that -- this is Gloria -- that's very important,  
20 including, possibly, some of the stories of our more  
21 recently hired cohort of lawyers. Why, given the  
22 disparity between our salaries and what's otherwise

1 available both in private or governmental employment,  
2 why they're choosing that.

3 I recently had a conversation with two of my  
4 recent New Mexico graduates, each of whom is now  
5 working for a legal services grantee. And their  
6 decision-making process was interesting to me. The  
7 potential for LRAP relief was possible, but their views  
8 about what they hope to do at this point are certainly  
9 aspirational and they're trying to live up to them.

10 Why are the lawyers in the new cohort making  
11 this decision, and what we can do to make this become a  
12 career choice for them, is critical.

13 CHAIRMAN GREY: Very good. Thank you.

14 Any other thoughts or comments?

15 MR. LEVI: Thank you, Mr. Chairman. You're  
16 doing a great job.

17 CHAIRMAN GREY: Well, no. Thank you. This  
18 has been -- I think this is very helpful, and the  
19 staff. And I hope that this will be of great help in  
20 where we want to go as a Board and as the Finance  
21 Committee of the Board. We'd like to understand what  
22 we think is important, and we want to hear what you

1 think is important from a staffing standpoint or for  
2 the negotiation process to be successful.

3 So who's going to contact -- Jim, you're going  
4 to make sure that we get realigned with a meeting to  
5 have this discussion?

6 MR. SANDMAN: Yes.

7 CHAIRMAN GREY: And I think at that point we  
8 will have a good idea of what we want to do when we get  
9 to -- after that meeting, we should have a pretty good  
10 idea of what we want to do when we get to Seattle.

11 Anything else?

12 PROFESSOR VALENCIA-WEBER: Just thank you for  
13 the meeting.

14 CHAIRMAN GREY: Great. Thank you.

15 There being -- so let's see. No. 4 is  
16 consider and act on other business. Is there any other  
17 business?

18 (No response.)

19 CHAIRMAN GREY: If not, I'd entertain a motion  
20 to adjourn.

21 //

22 //

1

M O T I O N

2

FATHER PIUS: So moved.

3

MS. BROWNE: Second.

4

CHAIRMAN GREY: It's been moved and seconded.

5

All in favor say aye.

6

(A chorus of ayes.)

7

CHAIRMAN GREY: Have a good weekend. Thank  
you.

8

(Whereupon, at 12:00 p.m., the Finance  
Committee meeting was adjourned.)

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