

1 LEGAL SERVICES CORPORATION
2 BOARD OF DIRECTORS

3
4 MEETING OF THE
5 FINANCE COMMITTEE

6
7 Tuesday, October 14, 2008

8 11:09 a.m.

9
10 Legal Services Corporation
11 3333 K Street, NW
12 3rd Floor
13 Washington, D.C.

14 COMMITTEE MEMBERS PRESENT:

15 Michael D. McKay, Chairman
16 Lillian R. BeVier (by telephone)
17 Thomas A. Fuentes (by telephone)
18 Sarah M. Singleton
19 Frank B. Strickland, ex officio

20 OTHER BOARD MEMBERS PRESENT:

21 Jonann C. Chiles
22 Herbert S. Garten
 David Hall
 Thomas R. Meites
 Bernice Phillips-Jackson

1 STAFF AND PUBLIC PRESENT:
Helaine M. Barnett, President
2 Victor M. Fortunato, Vice President for Legal Affairs,
General Counsel, and Corporate Secretary
3 David L. Richardson, Treasurer and Comptroller,
Office of Financial and Administrative Services
4 Charles Jeffress, Chief Administrative Officer
5 John Constance, Director, Office of Government
6 Relations & Public Affairs (GRPA)
Jeffrey Schanz, Inspector General
Laurie Tarantowicz, Assistant Inspector General and
7 Legal Counsel
David Maddox, Assistant Inspector General for
8 Management and Evaluation
Don Saunders, NLADA
9 Patricia D. Batie, Manager of Board Operations, Office
10 of Legal Affairs (OLA)
11 Robert Stein, Standing Committee on Legal Aid &
Indigent Defendants (SCLAID), American Bar
12 Association (ABA)
Stephen Barr, Director, Media Relations
13 Danilo Cardona, Director, Office of Compliance &
Enforcement (OCE)
14 Treefa Aziz, GRPA
Sean Driscoll, LSC
15 Hillary Evans, NLADA
John Meyer, Director, Office of Information Management (OIM)
16

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1 PROCEEDINGS

2 (11:09 a.m.)

3 MR. MCKAY: I call the meeting to order.

4 Thank you all for coming.

5 This is the Finance Committee meeting, special
6 Finance Committee meeting, to address the budget
7 request for fiscal year 2010.

8 While we were waiting to begin, Mr. Fuentes,
9 who is on the phone, wanted to confirm who the members
10 of the finance committee are, and I will do that now.

11 I serve as chair.

12 Lillian BeVier, Tom Fuentes, Sarah Singleton,
13 and Chairman Strickland are on the committee.

14 We are honored to have with us Bernice
15 Phillips, Herb Garten, David Hall, and on the
16 phone -- is Jonann Chiles with us yet? We expect her
17 shortly.

18 So, we have a large turnout for the committee,
19 and thanks, everyone, for coming.

20 The first item on the agenda is approval of
21 the agenda.

22 Do I hear a motion?

1 M O T I O N

2 MS. SINGLETON: So moved. This is Singleton.

3 MR. McKAY: And a second from Mr. Fuentes?

4 MR. FUENTES: Yes.

5 MR. McKAY: Thank you.

6 All those in favor, say aye.

7 (Chorus of ayes.)

8 MR. McKAY: Opposed?

9 (No response.)

10 MR. McKAY: Approval of the agenda passes.

11 The second item on the agenda is a

12 presentation concerning the Fiscal Year 2009 budget

13 calculation error. We're hearing from Mr. Richardson

14 and Mr. Jeffress.

15 Good morning.

16 MR. RICHARDSON: Good morning, Mr. McKay.

17 For the record, my name is David Richardson,

18 treasurer of the corporation, speaking today in regards

19 to the budget miscalculation that was discovered in

20 September, about a month ago.

21 You're aware that we're certainly under some

22 tight financial restraints. We created a budget that

1 was, you know, approximately \$15 million, and at that
2 point, we went in and started making reductions,
3 because we realized that we were not going to have that
4 kind of money available.

5 One of the things that occurred was that we
6 eliminated all of the staff increases, and some
7 one-time payments in those -- staff payments.

8 There was an inadvertent error made that some
9 of the locality payments which we then pay
10 semi-annually was inadvertently eliminated. Talked to
11 the staff who created and helped put together the
12 budget for us, and I think Mr. Jeffress' memo is pretty
13 clear that it's -- it appears that they do not have a
14 real clear understanding that, when we were changing
15 from a semi-annual locality payment, that we were going
16 to pay it semi-monthly with our regular payment, the
17 payment itself was eliminated.

18 When I was reviewing the budget, putting
19 together some final figures, looking at some
20 projections, I discovered the error, the oversight
21 there, and made management aware of that, and certainly
22 apologize for that. We have put some additional checks

1 in place, making sure that staff clearly understands
2 the direction that they're given when they're creating
3 the budget. We do have some checks and balances
4 outside the budget with salaries, and those were not
5 used. I've made sure that they are communicated and
6 that they understand that there is a cross-reference.

7 We've also put into effect a review of the
8 current budget and current spending, so that we can
9 make sure that we have good, consistent information as
10 we're putting the budget together.

11 We've written those little program prompts
12 within our budget process, so we'll have that
13 information available.

14 Additionally, I will make sure to make the
15 time available to review the budget and make sure that
16 everything is consistent, as part of the additional
17 oversight there, and we'll review that with Mr.
18 Jeffress, our chief administrative officer, to make
19 sure that we have all of those checks and balances in
20 place and we're comfortable with the budget going
21 forward.

22 MR. MCKAY: Mr. Jeffress?

1 MR. JEFFRESS: I would add, Mr. Chairman, that
2 what David said -- and David gave a good rendition of
3 what happened -- was a calculation error within OFAS,
4 where the locality pay portion of the salaries was not
5 carried forward into the fiscal year, and David and I
6 have talked about how to revise our procedures to
7 ensure this doesn't happen again. As he said, we have
8 put an additional check on the calculations at this
9 point. Last year, the calculation was made by one
10 staff person without a second check. In the future,
11 David will make a second check of those calculations
12 himself.

13 Then I think I bear some responsibility, as
14 well, for not recognizing that the numbers presented
15 were -- were sufficient, and in the future, I will be
16 doing a check.

17 In the past, I've only checked the
18 calculations for that year, the budget for that year,
19 to ensure that the budget is consistent.

20 In the future, I'm going to check that budget
21 projection with the previous year's budget, and I think
22 that will help identify should there be money left out.

1 But these changes, both David's procedural
2 change for double-checking the calculations, my review,
3 and the fact that my review will include a comparison
4 with the previous year, have been reduced to writing
5 and incorporated in our accounting manual, so that in
6 terms of our internal controls, our internal control
7 procedures will be put in place to prevent this
8 happening in the future.

9 MR. MCKAY: Well, I'm confident it's not going
10 to happen in the future. That is, the locality pay
11 issue. I mean, David's going to be all over it. I'm
12 assuming you're going to be all over it. I'm assuming
13 staff in David's shop's going to be all over it. But
14 what concerns me as I hear this is what -- where else
15 might this happen? What other error might occur? And
16 I guess my question is, within the accounting world,
17 what -- are we employing all the tools that are
18 available to catch not just locality pay oversights but
19 other kinds of inadvertent errors or inadvertent
20 omissions, as it's characterized, make sure that those
21 don't happen again, or occur in another area?

22 Are we doing everything we can, instead of

1 just saying we're going to come back and double-check
2 the locality pay calculation?

3 MR. RICHARDSON: I personally think we are
4 doing everything possible to make sure that we have
5 covered all the bases.

6 Unfortunately, what we have this year is a
7 million dollars less money. So, when you start looking
8 at the issue of consistency, you've got to make
9 decisions within that million dollars as to where to
10 cut and where to put the money to most -- better serve
11 the corporation.

12 That is normally done by the directors. The
13 directors hand that information in to each vice
14 president. The vice presidents are to review it, and
15 then it comes to me, and then I put the full package
16 together that then goes to Charles and -- for his
17 review.

18 So, I think all the checks are in there, and
19 hopefully -- I mean, one of the things we've got -- as
20 I said, we started with \$15 million -- is what the
21 different directors were asking for.

22 We had to manage within the scarce resources

1 that we've got. So, there was some decisions to cut in
2 certain areas, but I think we have done a decent job in
3 identifying those and trying to make those cuts and yet
4 carry out the mission of the corporation.

5 MR. JEFFRESS: And I would say, Mr. Chairman,
6 that the salary calculation is different from the other
7 line items. The other line items receive pretty fair
8 scrutiny, particularly this current year, because we're
9 having to make reductions.

10 We went over each line item, where we could
11 cut back. The salaries really were set aside, thinking
12 that it was a straightforward calculation, and the
13 salary calculation did not receive the scrutiny that
14 each of the others did, but each of the others did
15 because we, in fact, were looking for, you know, a
16 million dollars in savings, to the extent we could find
17 it. We came up with over \$700,000 in savings as a
18 result of a pretty careful review, item by item, but
19 that review did not extend to salaries, and in the
20 future, it will.

21 MR. MCKAY: I'm wondering if it would make
22 sense -- and I don't want to overreact to this.

1 Obviously, this is a serious error which was discovered
2 and promptly reported, and I hear what you're -- what
3 you're saying, but I'm wondering, since -- since we're
4 going to have out outside auditor come in anyway and do
5 an audit, if we could simply add this to her list and
6 just simply present to her these memos and ask her to
7 look at the safeguards that are built in and make sure
8 that she agrees with your assessment that everything is
9 there, to make sure that we can check and double-check
10 to catch an error like this a little earlier in the
11 process.

12 MR. RICHARDSON: When we meet this afternoon
13 with the audit committee, we can make that request.

14 MR. MCKAY: Okay.

15 MR. JEFFRESS: It would be helpful to have
16 another set of eyes on it --

17 MR. MCKAY: It's a suggestion that's just a
18 thought that I have, and it occurred to me as I was
19 rereading things yesterday. I'm wondering if the
20 committee has a thought about that. But I've
21 taken -- I have one more question, then I'll open it up
22 for questions to other members of the committee.

1 In President Barnett's memo, she references
2 three vacancies, not filling two of the three vacancies
3 we currently have. That's in the second paragraph of
4 her memo.

5 I'm wondering if you, Charles, could identify
6 what those positions are.

7 MR. JEFFRESS: Yes. At the time of the last
8 board meeting, first of August, we had one vacancy in
9 the Office of Program Performance.

10 Since that board meeting in August, there's
11 been a resignation in the Office of Legal Affairs and a
12 second resignation in the Office of Program
13 Performance. So, there are currently two vacancies in
14 program counsel positions, in the Office of Program
15 Performance, and a vacancy in the Office of Legal
16 Affairs.

17 MR. MCKAY: How many vacancies are there in
18 the compliance shop?

19 MR. JEFFRESS: In Office of Compliance and
20 Enforcement, I don't believe there are any.

21 MR. MCKAY: Okay. Thank you.

22 That's all I have. Who else has questions?

1 Frank?

2 MR. STRICKLAND: The question I want to ask is
3 about your controls. I presume the process is -- and
4 these are not accounting terms, but in building the
5 budget, in the compensation area, have you now added
6 something to that process that specifically -- where
7 you asked yourself, in building the budget, on
8 compensation, has locality pay been included in this
9 calculation?

10 MR. RICHARDSON: Yes, sir, we have, and we
11 will verify that not only with the calculation but
12 monitor the consistency from year to year, to make sure
13 that everything is included.

14 MR. STRICKLAND: So, if we were to -- are your
15 controls something that are written down, in other
16 words, to guide you in -- in the process?

17 MR. RICHARDSON: They are not at this moment.
18 We have started drafting some information, and we'll
19 share it with staff and make sure that everybody
20 understands the checks and balances and the consistency
21 that we're looking for in the budget, yes.

22 MR. STRICKLAND: All right.

1 So, when you talk about controls, and checks
2 and balances, if they're not written down, where are
3 they?

4 MR. RICHARDSON: They're sort of the unwritten
5 procedures that we've been using and reviewing, and
6 possibly that's the reason that it was not followed in
7 this particular circumstance, because the employee did
8 not use a second line of check and balance that we had
9 in place, and when I went through that with them, they
10 clearly saw the error that was made, and of course, the
11 second problem, as Charles has said, I did not take the
12 time to review it. At this point, I will make sure to
13 do that in the future, make sure there's consistency in
14 moving forward, even if there is an error, but these
15 procedures will be put in writing and given to
16 the -- each employee who's handling it.

17 MR. STRICKLAND: Okay. Thank you.

18 MR. MCKAY: Herb.

19 MR. GARTEN: Many of us, when we get our
20 income tax information, get a schedule,
21 computer-generated, showing comparisons between the
22 current year and the prior year. Do you have in place

1 computer-generated statements indicating -- comparing
2 prior budgets and current -- your current budget?

3 MR. RICHARDSON: Yes, sir, we do.

4 MR. GARTEN: Well, would that have shown you
5 that something was missing?

6 MR. RICHARDSON: Yes, sir, it should have.

7 MR. GARTEN: So, a review of that statement
8 might have picked this up, and I presume that, in the
9 future, you will be looking at the comparative
10 statements.

11 MR. JEFFRESS: At the moment, they are not
12 produced on one sheet of paper. In the future, they
13 will be, though, make it a lot easier.

14 MR. GARTEN: Thank you.

15 MR. MCKAY: Any other questions?

16 (No response.)

17 MR. MCKAY: Thank you.

18 Well, I guess -- I just want to make
19 sure -- does everyone feel comfortable with my
20 suggestion that this issue be presented to Ms. Davis as
21 something she would double-check and look at, and make
22 sure that new procedures that are in place are adequate

1 and she doesn't have any other suggestions?

2 MS. SINGLETON: Yes.

3 MR. FUENTES: This is Tom Fuentes. I
4 certainly agree with that recommendation.

5 MR. MCKAY: All right. Thank you.

6 MS. BEVIER: I agree with that. I was going
7 to ask the same question you did, Mike, which is -- we
8 always seem to be fighting the last war, so let's try
9 to avoid it this time.

10 MR. MCKAY: All right. Very good.

11 Thanks so much.

12 Next item is a presentation on management's
13 recommendation for our Fiscal Year 2010 budget request
14 to Congress.

15 MS. SINGLETON: Before you leave, Chairman, do
16 we need to pass a modified budget resolution as a
17 result of this error?

18 MR. JEFFRESS: At the Finance Committee
19 meeting scheduled for the end of this month, there will
20 be a revised temporary operating budget presented to
21 you. At this point, you've authorized us to spend less
22 money than what we have. So, I think we're safe in

1 what you've authorized at this point, but you will have
2 a revised budget presented to you in the end of the
3 month.

4 MR. MCKAY: Thank you.

5 Mr. Jeffress and Mr. Constance.

6 MR. JEFFRESS: Thank you, Mr. Chairman.

7 To help with this presentation, if you printed
8 out attachment 2 to what was sent to you on a
9 black-and-white printer, it may not be clear.

10 So, David is handing out a clearer version of
11 attachment 2. It is the same information, but
12 hopefully clearer.

13 Mr. Chairman, I'm here -- this is Charles
14 Jeffress. I'm here to present management's
15 recommendations for the Fiscal Year 2010 budget
16 request.

17 Since consideration of the budget invariably
18 involves a discussion of Congressional strategy, John
19 Constance is here with me to assist in responding to
20 questions that you may have regarding the Congressional
21 submission, and also, at the conclusion of my
22 presentation, although it is not on the agenda, Jeff

1 Schanz will come up to speak briefly about the Office
2 of Inspector General's portion of this request. It is
3 included in the table which you have, but he will give
4 a verbal presentation of that, as well.

5 As you've seen from the material that was sent
6 to you in advance, management recommends that the board
7 request a total of \$495.5 million from Congress for
8 Fiscal Year 2010, and that amount is shown in detail in
9 attachment 1 to the material that was sent to you.

10 I would start by reminding ourselves of the
11 mission of the corporation, Legal Services Corporation,
12 to promote equal access to justice and to provide
13 high-quality civil legal assistance to low-income
14 persons. This is a mission affirmed by this board of
15 directors in the adoption of our strategic directions
16 in 2005.

17 Congress has declared, in the course of
18 establishing Legal Services Corporation as a part of
19 the LSC Act, that there is a need to provide equal
20 access to justice and a need for high-quality legal
21 assistance, and it's our obligation as a corporation to
22 inform Congress, as a part of our budget request, as to

1 the extent of that need.

2 The challenges before us as a country in the
3 provision of equal access to justice are greater now as
4 a result of there being more people in poverty. We
5 know that 51 million people, including 28.4 million
6 women and 17.6 million children, are eligible for
7 LSC-funded services, and this represents an increase of
8 over 1 million since 2006.

9 The new poverty snapshot provided by the
10 Census Bureau, which I just mentioned, does not reflect
11 this year's economic downturn, suggesting that even
12 more people are going to be eligible for LSC-funded
13 services than are currently documented in the
14 statistics.

15 Prices for food and utilities have risen.
16 Unemployment is up. Foreclosures continue to unsettle
17 communities. Economic erosion affects the poor
18 disproportionately, resulting in loss of housing, loss
19 of jobs, reductions in access to health care and jobs.
20 Legal aid helps those clients who have nowhere else to
21 turn for help.

22 The economic downturn and the mortgage

1 foreclosure crisis are not the only reasons we expect
2 to see an increased demand for legal services. Natural
3 disasters, such as Hurricanes Ike and Gustav, have
4 devastated parts of Texas, Louisiana, and Arkansas, and
5 increased the number of people with jobs, income, and
6 health care, and put more people at risk of consumer
7 fraud.

8 Just as an example of how that's affecting our
9 grantees and the need for legal aid, Lone Star Legal
10 Aid has closed more than 10,000 hurricane-related cases
11 since Hurricane Katrina struck 3 years ago. It's
12 helped thousands more through community outreach
13 efforts, and this was all before Hurricane Ike hit on
14 September 12th. So, the combination of greatly
15 increased poverty numbers and significant natural
16 disasters has increased the demand upon our legal aid
17 programs for more assistance.

18 In addition, and as this committee heard last
19 year, domestic violence continues to be a prevalent
20 issue in low-income communities.

21 Women living in disadvantaged neighborhoods
22 are more than twice as likely to be victims of domestic

1 violence compared with women in higher-income
2 neighborhoods. Couples who face extensive financial
3 strain had a rate of violence more than three times
4 that of couples with low levels of financial strain.

5 And of course, an overwhelming unmet demand
6 already existed for several legal services before the
7 economic downturn and before the recent natural
8 disasters. In 2005, LSC's Justice Gap report
9 established that, for every client who needed service,
10 we had to turn one away. That study and that finding
11 from that study has been validated by nine additional
12 state studies since 2005, when the Justice Gap was
13 reported. Eight of those nine studies since 2005 found
14 that unmet civil legal need greater than the 80 percent
15 figure determined by the American Bar Association back
16 in 1994.

17 LSC's Justice Gap report concluded that
18 Federal funding and non-Federal funding would have to
19 at least double from the 2005 level just to serve those
20 who actually sought help and were eligible to receive
21 it.

22 In 2006, recognizing the fiscal realities

1 confronting Congress, you, as a board, urged a funding
2 increase of 20 percent that year, with the goal of
3 doubling LSC's basic field budget by fiscal year 2011.
4 Today, two years away from that 2011 deadline, LSC's
5 appropriation falls woefully behind this goal.

6 If Congress had approved the board's increases
7 of 20 percent per year, the basic field appropriation
8 for FY 2009 would be nearly \$500 million, three-fifths
9 of the way towards completing our goal of closing the
10 justice gap. Instead, of basic field appropriate today
11 is at \$332 million.

12 For Fiscal Year 2010, based on the needs
13 documented above, management recommends requesting \$468
14 million for basic field services. That represents the
15 halfway point between the 2005 appropriation and the
16 stated goal of doubling the appropriation by 2011. We
17 won't get there by 2011, but our suggestion, our
18 recommendation to the board is that we strike -- for
19 2010, try to strike the halfway mark in reaching that.

20 In addition to the \$468 million for basic
21 field, of course, there are other components of our
22 budget request. Management recommends \$5 million for

1 Technology Initiative Grants. The corporation seeks to
2 provide tools so that those who we cannot serve can
3 help themselves. TIG helps LSC-funded programs
4 implement new systems that also enhance their own
5 efficiency and improve access to information.

6 The \$5 million which we recommend for TIG in
7 2010 will enable LSC to expand intake through on-line
8 systems, to expand assistance for unrepresented
9 litigants through development of additional automated
10 forms, and will explore innovative uses of
11 technologies, such as cell phones, as well as provide
12 support for the replication of other technologies, such
13 as live help, that have been demonstrated in states to
14 both improve and expand client services.

15 With respect to the Loan Repayment Assistance
16 Pilot Program, the third component of our budget
17 request, management recommends \$1 million for FY 2010.
18 The purpose of our pilot was to determine if loan
19 repayment assistance to legal services attorneys would
20 improve the recruitment and retention of high-quality
21 attorneys by LSC grantees by helping relieve the
22 crushing burden of law school debt. The pilot program

1 is now in its third year, and our evaluation for the
2 first two years demonstrate that the loan repayment
3 assistance substantially enhances attorneys' ability to
4 work in legal services, and it gives programs greater
5 flexibility and greater ability to recruit and retain
6 staff. Our pilot program has proven to be successful,
7 and participants in the program report that the
8 assistance significantly increases the likelihood that
9 they will stay with the program.

10 Our pilot and its success have played a role
11 in encouraging Congress to enact the 2008 Higher
12 Education Act, which includes loan repayment assistance
13 for civil legal aid attorneys. The law was enacted
14 this past summer. It authorizes appropriations to
15 begin in FY 2009, but the appropriations for that
16 program and the regulations to implement that program
17 are not in place at this time, raising concerns about
18 when it will actually begin. Therefore, management
19 recommends that LSC maintain the LSC LRAP in Fiscal
20 Year 2010 for the purpose of bridging the transition,
21 and that LSC phase this program out when the new
22 Federal Loan Repayment Assistance Program is

1 operational.

2 The final management category in the
3 request -- and the IG will be here shortly to speak
4 about his -- is what has been called in the past
5 Management and Administration, and we recommend
6 changing the title of that to Management and Grants
7 Oversight. We recommend this change since grants
8 oversight represents more than 50 percent of our
9 request for this category. We believe the name change
10 will provide Congress and members of the legal services
11 community a better description of one of our main
12 functions and a better description of the use of this
13 particular category of our appropriation.

14 Management recommends an \$18 million budget
15 request for FY 2010 for Management and Grant Oversight.
16 While this is an increase compared to previous years,
17 it continues to represent a very low percentage, only
18 3.6 percent, of the total LSC budget request for FY
19 2010. This level of recommended funding will expand
20 the corporation's oversight of grantee compliance with
21 the regulations and Congressional restrictions, and
22 will help enhance the quality of grantee services.

1 For example, based on the current resource
2 level in the Office of Compliance and Enforcement, the
3 expected cycle time that a recipient receives at least
4 one compliance review is approximately six years, maybe
5 longer. Based on a projected increased funding level
6 for FY 2010, the cycle time would be cut in half, to
7 approximately three years.

8 For the Office of Program Performance, in
9 Fiscal Year 2008, the program conducted program quality
10 reviews and program engagement visits at a rate of one
11 visit to each program every four years. With the
12 expansion requested for Fiscal Year 2010, the frequency
13 of visits will be increased approximately one every
14 two-and-a-half years.

15 To meet our challenges, LSC requires a budget
16 that continues to close the justice gap and that
17 invests for the future, in more effective oversight of
18 programs and grants, in the people who deliver legal
19 services to eligible clients, in technology, and in
20 initiatives that leverage Federal dollars to promote
21 partnerships and innovations. Management believes and
22 management recommends that an appropriate of \$495.5

1 million would be appropriate for LSC for Fiscal Year
2 2010.

3 A part of that appropriation, 3.5 million,
4 recommendation is provided by the Inspector General, as
5 funding for the Office of Inspector General, and at
6 this point, I'd like to invite Jeff Schanz up to
7 present to the committee his portion of this
8 recommendation.

9 MR. MCKAY: Mr. Schanz, good morning.

10 MR. SCHANZ: Good morning. Thank you very
11 much. I'm Jeff Schanz, the Inspector General of the
12 Legal Services Corporation. I welcome the opportunity
13 to present to you my first budget, which is for 2010.
14 Every other budget, I've inherited. What I'm seeking
15 for 2010 is a budget of \$3.5 million for Office of
16 Inspector General activities.

17 Since I've been on-board, we've had numerous
18 Congressional, GAO, and board requests. Our workload
19 is increasing exponentially, trying to pursue the twin
20 goals of communication, cooperation, and coordination,
21 both internal and external to the IG

22 That deals with our relationships with the

1 board, with management, and with the Hill. Internally
2 within the IG -- and this will cost a little bit -- I'm
3 trying to push production.

4 I want to be much more visible in the field
5 and visiting grantees where there are risks identified
6 by a risk assessment that we have developed, and
7 professionalism, which includes increased training
8 cost, so that this IG in the Legal Services Corporation
9 is one of the best in the ECIE community, and I think I
10 have the skill sets, and I need the funding to be able
11 to pursue those goals.

12 We've been very busy in pushing a few new
13 ideas and agendas that I've developed. One is
14 management information memos, where I am able to
15 communicate directly with management without waiting
16 for the full cycle of an audit or investigation, to
17 give them hot topic areas that can be addressed. I've
18 been able to do that successfully with the Finance
19 Committee, and in four instances of information sharing
20 with the president of the LSC in a formal, more formal
21 setting, but less formal than an audit report or an
22 investigative report.

1 I bring a lot of energy to the IG, and I want
2 the IG to be much more robust in its field presence.

3 We have had -- we have developed fraud alerts
4 based on four frauds, potential frauds that have been
5 identified during the last six months, and we've been
6 communicating directly with the executive directors,
7 identifying areas, systemic areas where issues are ripe
8 for an embezzlement or some fraudulent activities
9 generally in travel cost, rental cars, and in certain
10 instances of falsifying records.

11 So, I intend to continue on those paths of
12 making the LSC a much more efficient and effective
13 operation, and to have a much more robust field
14 presence with the grantees. GAO demands that, Congress
15 has been demanding it, and the board is demanding it,
16 and I need to be responsive to those.

17 So, my request has not been modified at all,
18 which I certainly appreciate, but that's my authority
19 by law.

20 So, the 3.5 is what the IG needs to continue
21 its operations and to build, ever so slightly, our
22 infrastructure in 2010.

1 Thank you, and I'll entertain any questions.

2 MR. MCKAY: Thank you.

3 Any questions for our Inspector General?

4 Sarah?

5 MR. JEFFRESS: Mr. Chairman, John Constance
6 has comments, too.

7 MR. MCKAY: We will do that, but I think we
8 will have some questions for the IG, and then we'll go
9 to Mr. Constance.

10 MS. SINGLETON: We received the August
11 11-month period financials from the treasurer just
12 shortly before we left, I think, and the Office of
13 Inspector General shows that it has under-spent the
14 budget through 11 months by over \$750,000. Given that
15 you have that kind of a positive variance from your
16 budget, why do you think you need an increase like
17 you've asked for?

18 MR. SCHANZ: Well, I inherited that carryover
19 with some vacancies. Those vacancies have not yet been
20 filled. What I have done since I've been on-board for
21 almost six months now is I've restructured the audit
22 staff to two teams. I believe very strongly in

1 teamwork. So, we have two teams, headed up by a senior
2 auditor, that will reduce our span of control to one to
3 four, so that we can really identify who is doing what
4 in a timely manner.

5 There have been reports that have not been
6 issued in a timely manner prior to my arrival, and to
7 me, that's untenable. If we do the work, the grantees
8 and management and the board should be able to see our
9 information.

10 So, that we're going to use in 2009, the
11 carryover surplus, in hiring those individuals in 2010.

12 Based on workload and based on fraud
13 indicators that we have developed, we see a need for an
14 additional investigator to round out the Assistant
15 Inspector General for Investigations, where they could
16 also have a two-person, two-team staff.

17 I don't believe anybody should be doing
18 reviews as an individual. I think you need at least
19 two people to constitute a team, and with those funds
20 that are being rolled over into '09, I intend to
21 increase, once again, production and professionalism,
22 with very specified training in contracts, very

1 specified training in grant auditing, and to take it
2 the next step further, which would be, if we could, get
3 some statisticians on staff, so we could project our
4 findings.

5 2010 is the -- 3.5 million is the amount that
6 was recommended by this board last year, and I believe
7 it's a consistent amount for what I intend to do with
8 the IG's office.

9 MR. MCKAY: Thank you.

10 Any other questions for our Inspector General?

11 Mr. Constance?

12 MS. BEVIER: Mr. Chairman, I have a question.

13 MR. MCKAY: Please.

14 MS. BEVIER: I want to know, Jeff, whether
15 your budget request includes or takes account of
16 possible increases in the kinds of activities that the
17 IPAs are going to have to do in order to bring the
18 whole corporation completely into compliance with the
19 kinds of safeguards that we need to have in place.

20 MR. SCHANZ: Well, we certainly will need to
21 budget for that, and that will be part of the increase.
22 We just heard earlier today that the chairman of the

1 Finance Committee wanted to see if our corporate
2 auditor, Nancy Davis, could do some additional work to
3 follow up on some of the things that Mr. Richardson had
4 talked about, and of course they can, but it costs, and
5 we'll talk --

6 MR. MCKAY: Does that come out of your budget?

7 MR. SCHANZ: Yes, it does.

8 MR. MCKAY: Well, that's all the better, then.

9 (Laughter.)

10 MR. SCHANZ: Well, then we will change this to
11 a \$3.8 million request for 2010.

12 (Laughter.)

13 MR. SCHANZ: But yes -- yes, Jonann, anything
14 that we ask the IPAs or the corporate auditor to do
15 must be funded. They are capable of doing it through
16 the AICPA standards. They have the skill sets and
17 experience to do it, but they will cost and bill us
18 additional money.

19 MS. BEVIER: This is Lillian again. I take it
20 it will mean some additional oversight or review of the
21 IPA reports on the part of your office. Is that not
22 correct?

1 MR. SCHANZ: I'm sorry. Could you repeat
2 that, Lillian?

3 MS. BeVIER: Certainly. I take it that it's
4 not only that the IPAs have to do more but also that
5 you're going to have to do more by way of reviewing
6 what the IPAs do and making sure that they have -- the
7 higher level of compliance that we are interested in
8 achieving.

9 MR. SCHANZ: That's correct. That's also one
10 of my initiatives that I didn't mention. We call them
11 audit suitability reviews, where we actually take a
12 look at the CPAs, the IPAs, working papers, and the
13 work that they produce, and make sure that there is
14 documented evidence for the work that they say that
15 they've completed of the grantees.

16 I intend to add a -- initially -- a temporary
17 or a student to start taking a harder look at that from
18 our perspective in the IG's shop, because we see 137
19 audit reports, and based on those audit reports, that's
20 a major component of our risk assessment plan, because
21 those identify what I call red flags, and yes, we will
22 pursue those, but everything, like I said, comes with a

1 cost, and in order to get the field presence that I
2 need with the IG, I need to have, well, 3.5 million,
3 and possibly more, as time goes by and I expand my
4 activities.

5 MS. SINGLETON: Perhaps I misunderstood your
6 prior answer, but it sounded as though you were
7 intending to pay IPAs out of your budget, and I don't
8 believe that's what happens. I think the local
9 programs pay for the IPAs.

10 MR. SCHANZ: Yes, they do. I stand corrected.
11 I confused that with the corporate auditor. Thank you.

12 MR. MCKAY: Any other questions for Jeff?

13 (No response.)

14 MR. MCKAY: Mr. Constance.

15 MR. CONSTANCE: Thank you.

16 MR. MCKAY: I understand there have been some
17 intervening events up on the Hill that may affect our
18 budget request, so perhaps you could fill us in on your
19 assessment.

20 MR. CONSTANCE: Well, anticipating some of
21 those questions, I wanted to make some comments
22 regarding the process, but before I do, the one thing

1 that I did want to say -- and this is a more minor
2 point but one that I wanted to mention in passing. As
3 far as the change of one budget category from
4 Management and Administration to Management and Grants
5 Oversight, it is something that we have discussed with
6 the Appropriations Committee, majority and minority
7 staff, House and Senate, and their only comment was
8 what took you so long, quite frankly.

9 I mean, there is a real understanding up there
10 that that -- that the term "administration" provides
11 somewhat of a knee-jerk reaction, I think, and it takes
12 a long time to explain -- for them to explain, up the
13 line, that it really is not overhead, it's in fact
14 oversight, and it's something that's an important
15 element of the program.

16 So, I have gotten feedback of a lot of support
17 for that change.

18 As to the overall process going forward,
19 uncertain would be the best way that I could certainly
20 describe it. As you're well aware, we have a
21 continuing resolution in place that's effective through
22 March the 6th of next year, that holds us at 2008

1 funding levels until the 2009 process is completed, and
2 I would say this. I mean, no one, obviously, has all
3 the cards right now. There is speculation all the way
4 from a full year continuing resolution at current
5 levels to a completion of the 2008 process, and
6 depending upon which experts you talk to, there is a
7 full range of opinion about that.

8 Obviously, it all has -- much of it has to do
9 with the election, much of it has to do with what
10 we're -- the country is going through right now in
11 terms of the financial crisis, and so, uncertain would
12 be the best way to describe it.

13 All we know is that we're at current levels
14 until 2008, until March 6th of next year.

15 The other thing that I would say, though, in
16 the context of coming forward with a proposal for 2010,
17 and one that maintains the principle approach that this
18 board has taken up to this point about actually looking
19 at the need and focusing on the need and making
20 requests that are associated with that need, that we've
21 had, certainly, other very, very uncertain times in
22 recent years.

1 We don't have to go back any further than
2 September 11, 2001, when it was clear the country was
3 going to war and that there was going to be a major
4 shift in domestic spending priorities, that I recall
5 going through a similar process in my former life, and
6 we and everyone that I was associated with at that
7 time, as well as all the other departments and agencies
8 around town, realized that their job didn't change.

9 Their job was to look at the needs of their
10 client, the needs of their mission, and focus on that,
11 and come forward with a recommendation that responsibly
12 addressed that, and that's what we did then, and that's
13 what I certainly hope we do now.

14 I would only say that we feel very, very
15 confident in the rationale behind the proposal that's
16 before you today. My staff and I are ready and anxious
17 to go forward and to advocate for this, and we stand
18 ready to answer any questions that you might have as we
19 do so.

20 MR. MCKAY: Questions?

21 MS. SINGLETON: I have questions, but I would
22 prefer to ask them after we hear from the public.

1 MR. MCKAY: Okay. I'm nervous about the \$18
2 million number, and I guess I will start by
3 asking -- and I know we asked for 17 million last year.
4 What's the difference between that request of last year
5 and the request this year?

6 MR. JEFFRESS: The difference is even more
7 increases for the Office of Compliance and Enforcement,
8 and the Office of Program Performance.

9 Followed the continued review of our oversight
10 operations, continued questions I think the Ad Hoc
11 Committee is pursuing, and expectations that we're
12 hearing from Capitol Hill, it would appear the
13 corporation needs to invest more heavily in that area.
14 So, the only increase -- the only difference from last
15 year is the additional increases for OCE and OPP.

16 MR. MCKAY: And in your memo, on page 5, you
17 address that by talking about beefing up the compliance
18 shop and program performance shop such that compliance
19 visits would be -- if we got the -- received the full
20 amount -- would be cut from six years to three years.

21 That would be visits out to grantees, would be
22 cut in half, and the program performance visits would

1 be cut from four years -- once every four years to once
2 every two-and-a-half years.

3 I'm wondering why we wouldn't work -- a little
4 closer for parity here, that it would be the same
5 amount of time for each one, compliance and program
6 performance, not necessarily that one is more important
7 than the other, but I'm just a little concerned about
8 the optics.

9 You know, all things being equal, of course,
10 program performance is more important, but if we don't
11 maintain the confidence of Congress that we are doing
12 our very best to enforce the restrictions and
13 everything else that needs to be enforced, that the
14 program performance side might not receive the funding
15 that we need, and so, I'm just wondering -- I'm just a
16 little concerned about the optics, as well as, really,
17 just the reality.

18 MR. JEFFRESS: The answer, I think, Mr.
19 Chairman, is in the nature of the visits. These things
20 mean special things to folks within the offices. So,
21 let me clarify some of that for you.

22 With respect to OCE, when we say a compliance

1 review, we are talking -- a full team, on site,
2 typically for a week, visiting each of the offices, and
3 again, one grantee might have multiple offices around
4 the state.

5 So, we're talking about an extended visit to
6 check on compliance, and those are the visits that we
7 call here our compliance review, and trying to reduce
8 the cycle to once every three years.

9 The Office of Program Performance mentions two
10 kinds of visits. We mention a program engagement visit
11 and we mention a program quality review. A program
12 engagement visit might be as simple as one person going
13 out for a day or two. It's engaging the program on a
14 specific issue, but it is not a team of people
15 evaluating the program from top to bottom, whereas a
16 program quality review is a team of people going out
17 and engaging a program.

18 If you wanted to have comparables, I would
19 suggest that we compare the program quality visits done
20 by OPP with the compliance reviews conducted by OCE.
21 The program quality visits, even at this rate, are not
22 going to be as frequent as one every three years, and

1 I'd have to go back to the staff and get you more
2 information as to what it's likely to be, but we
3 included program engagement visits here, because it is
4 some contact with the program, and we are speaking to
5 them about an issue, or more than one issue. But to
6 suggest that there are more frequent in-depth reviews
7 by OPP than there are by OCE would be inappropriate,
8 because we really are talking apples and oranges in
9 terms of the types of visits.

10 MR. MCKAY: Okay. Any other questions before
11 we get comments from the outside?

12 David?

13 MR. HALL: Just one small one, and it refers
14 to the loan deferral and forgiveness. Your philosophy
15 seems to be different than some of the public
16 comment -- I can't recall whether it was the ABA or the
17 NLADA -- which seems to suggest that there may be a
18 need for LSC having a program even after we clarify
19 what the Federal program is, because the Federal
20 program may not cover some of the needs we have.

21 Is your thinking that the Federal program
22 will, or is it that you -- because it doesn't appear

1 that you're taking a wait-and-see approach. It's more
2 that, once the Federal program is in place, we'll phase
3 ours out.

4 So, to me, that seems to suggest that you're
5 confident that the Federal program will address all of
6 the needs that you would have or our program would
7 have.

8 MR. JEFFRESS: I think there are two parts to
9 the response. First, the Federal program, once
10 established, will be much more generous than ours. We
11 limit -- three years is the limit. At the moment, we
12 are reimbursing up to \$5,600 of law school debt. So,
13 under our program, in three years, 16,800 is the most
14 you can get.

15 The Federal program has a \$6,000 per year
16 limit and up to \$40,000. So, if an attorney out there
17 who is seeking to work for a legal services program has
18 the option, they certainly would choose a Federal
19 program over the limits of our program.

20 Secondly, our program was designed as a pilot.
21 It was designed to prove a point, and to demonstrate
22 that it would make a difference, and we believe,

1 through the first two years of evaluations, it has
2 demonstrated that, it has proven that. It does make a
3 difference, and it was cited by the members of the
4 Congress in voting to endorse the Higher Education Act
5 program.

6 So, we believe we have proven our point, and
7 would be happy to hand it off to someone who is more
8 experienced and has a system for running these programs
9 on a regular basis, particularly since it's a more
10 generous program.

11 This issue did come up in the last meeting of
12 the board, when you were talking about the
13 reprogramming and whether we really wanted to continue
14 it on an permanent basis.

15 Management considered that view, because our
16 initially our view -- our thinking was, you know, we
17 set a three-year pilot, it's been three years, maybe
18 it's -- and we've proven our point, Congress has acted,
19 maybe it's time to let this die, but because another
20 program isn't set up yet, we are recommending one more
21 year.

22 As to the view that, even with the Federal

1 program in place, there might still be a need for an
2 additional program, I guess we can assess that
3 during -- during the upcoming year, but I'd say our
4 assessment at this point is we've proven our point, the
5 Feds are more generous, not clear that it's
6 advantageous to us to continue beyond next year.

7 MR. MCKAY: Bernice, then Herb.

8 MS. PHILLIPS-JACKSON: I just -- I'm trying to
9 understand why you're asking for 18 million instead of
10 working with the 17 again. Is it because we're
11 visiting programs more or we have more staff that we
12 have to accommodate or what? I'm not sure why.

13 MR. JEFFRESS: It's not because of anything we
14 are currently doing. We are currently spending, as you
15 know, everything we have, and perhaps a little beyond.
16 This is a recommendation that, in fact, the corporation
17 add staff, so that we can do more visits.

18 I think the expectation on us is that we do
19 more grants oversight. We are doing everything we can
20 with the existing money.

21 We recommend increasing the funds, so we can
22 hire more staff to do more of what we're currently

1 doing.

2 MS. PHILLIPS-JACKSON: So, it's a combination
3 of more staff and more visits.

4 MR. JEFFRESS: More staff and more visits,
5 that's right, and it's not -- it's not just to support
6 existing operations; it is, in fact, to expand
7 operations substantially.

8 MR. MCKAY: Herb.

9 MR. GARTEN: This particular question is
10 directed both to you, Charles, and to Jeff. First, to
11 you.

12 If you read the description of what you're
13 attempting to accomplish, both areas, you point out, in
14 the case of -- for the Management and Grants Oversight,
15 more effective oversight of programs and grants. Then
16 the OIG, in his report, request, talks about improving
17 LSC grant oversight.

18 To what extent is there overlapping or
19 duplication of efforts, and if funds are tight, how can
20 we adjust what each of you are trying to accomplish?

21 MR. JEFFRESS: Well, clearly, funds are tight.
22 We know that.

1 The way the statute is set out and the way the
2 Inspector General Act is set out, the Inspector General
3 is not supposed to assume responsibility for program
4 operations.

5 As mentioned in the GAO report repeatedly,
6 grants oversight is a management function. We cannot
7 delegate to the IG. We cannot assume that the IG's work
8 is going some way substitute for work that management
9 should do for overseeing grants.

10 Therefore, it's our obligation as management
11 to do the grants oversight, to do these program visits.

12 I will add, in addition to it being our
13 responsibility, our staff does a -- when they go
14 on-site, they send a team, they spend a week, they do a
15 very thorough review of the grantee's compliance with
16 the regulations and with the restrictions.

17 The IG's work is more in the nature of a spot
18 check, following up complaints, looking at the IPA's
19 work and determining if there are problems as
20 identified by the IPA, but they don't have routine
21 visits to grantees for the purpose of monitoring for
22 compliance and enforcement, unless things change. That

1 has not been a part of their work in the past.

2 MR. SCHANZ: And as much as I want to be
3 pro-active in this area, the reality is that an
4 Inspector General shop is primarily reactive once
5 issues have surfaced, either through OCE reviews -- but
6 it's very important to distinguish, is we have
7 oversight over the corporation itself.

8 That's the internal functions of an Inspector
9 General's office, is to make sure that the corporation
10 is being run as efficiently and effectively as
11 practicable.

12 In addition, we do have responsibility for any
13 issues that surface in the field that may be indicative
14 of fraud, waste, or abuse.

15 So, I will present to the board in October, in
16 Salt Lake City -- I'll present our potential work plan
17 for the Inspector General's office, but that doesn't
18 involve what we may get from GAO to take a look at the
19 corporation itself or to take a look at specific
20 programs that the corporation funds, examples being
21 possibly LRAP.

22 Congress is not happy with the fact that

1 monies were syphoned off from that, and we've
2 never -- I can never anticipate what Congress will ask
3 me to do, but I need to be responsive to that.

4 So, there's not really an overlap.

5 I look at what OCE and OPE does, and I can be
6 corrected if I'm wrong here, because they don't report
7 to me, is they're an in-house review process. The IG
8 is taking a look at the larger process, not grantee by
9 grantee but, potentially, issue by issue, that may be
10 endemic within certain grantees.

11 So, I have a macro view of what's going on in
12 the field, and I can build on -- and in fact, the GAO
13 Yellow Book requires us to build on the work of others.
14 It's called reliance on the work of others.

15 So, that's part of Helaine and my
16 communication, is I can build on the work that OPP and
17 OCE are doing, and see if there are any systemic
18 weaknesses from the corporate point of view that could
19 make these grantees more efficient.

20 MR. GARTEN: So, is it the position of both of
21 you that there's no duplication of efforts or
22 overlapping of responsibilities which you are proposing

1 in your budget request?

2 MR. JEFFRESS: I would say in the budget
3 request, there is not. It is important to note that
4 Congress, in the Appropriations Act, has given the
5 Office of Inspector General certain responsibility for
6 some grants oversight, and to that extent, there is
7 some duplication in law, it being required of the
8 corporation and it being assigned by that Appropriation
9 Act to the Inspector General, but that is duplication
10 in the law. It is required of each of us.

11 I think, to the extent we can coordinate our
12 work, which is what the Ad Hoc Committee has been
13 working with us on a lot this past year, to the extent
14 we can coordinate that work, we can make the activity
15 not be duplicated, even though there is some duplicate
16 responsibility.

17 MR. GARTEN: Do you agree with that, Jeff?

18 MR. SCHANZ: Yes, I do.

19 MR. GARTEN: Good. Thank you very much.

20 MR. MCKAY: Any other questions or comments?

21 Ms. Singleton has suggested that we receive
22 public comment and then get back to management. Unless

1 I hear an objection, we will do that, and leave item
2 number 3 open, and turn back to management if anyone on
3 the committee would like to do that, but let's open
4 this up to public comment, and I would propose that we
5 first hear from those who made written submissions, and
6 then open it up for anyone else who wanted to speak
7 today, and I know Mr. Stein from SCLAID is here.

8 I wonder if you could come forward and speak.

9 MR. STEIN: Thank you, Mr. Chairman. My name
10 is Bob Stein. As a member of SCLAID, I appreciate the
11 opportunity to appear before the committee this year to
12 explain the American Bar Association's recommendation
13 on FY 2010 LSC appropriation request, and before I go
14 into that, I'd like to extend the regrets of SCLAID's
15 chair, Deborah Hankinson, who has appeared before you
16 before, who could not be here today.

17 SCLAID and the ABA thank the members of
18 Finance Committee, and all the members of the LSC
19 board, for their strong leadership on appropriations
20 over the past, and using that set of circumstances as a
21 yardstick, we've calculated that the appropriation of
22 LSC should be approximately doubled to permit LSC

1 recipients to serve all eligible applicants. So, our
2 short-term goal was clear, that LSC needs an
3 appropriation of approximately 662 million.

4 While we have urged you to set that amount as
5 a near-term goal, we also recognize that it would be
6 impossible to reach that funding level immediately, so
7 we've recommended an incremental approach whereby the
8 662 million goal would be reached over the course of 5
9 years.

10 Now, in the fourth year of that incremental
11 approach, if we were to use that same theory, it would
12 mean an appropriation of almost 600,596,000, which is
13 4/5ths of the difference between 331 and the 662.
14 However, in view of the realities of the Federal
15 budget, this would be an unrealistic goal to recommend.

16 Therefore -- and I think it's
17 reluctantly -- we again recommend that you seek 530
18 million for FY 2010. The economic crisis facing the
19 country make this compromise goal even more difficult
20 to achieve.

21 However -- and I think Mr. Jeffress said this,
22 too -- we should not lose sight of the fact that the

1 crisis will increase the need for LSC services, and we
2 do this bearing in mind the LSC's Justice Gap study,
3 which has showed that grantees are so resource-starved
4 that they are turning away over one-half of those who
5 apply, and many people in need don't even need to
6 bother to apply, because they know it's fruitless, and
7 LSC, in our view, should make it a top priority to
8 serve those -- all those who apply.

9 And again, going back to the LSC concerns with
10 the economic times that we are now facing, the ABA's
11 view is that we are lawyers and we must look at the
12 legal needs, in addition to what the economic stresses
13 are, and we continue to believe that those needs are
14 enormous, pressing, and growing.

15 Your challenge is to seek an amount that moves
16 LSC closer to the goal of meeting at least the current
17 demand for its services, but that also is one that is
18 also sufficiently realistic.

19 If we are optimistic, and we continue to be,
20 and assume an FY 2009 result in the \$400 million range,
21 then we believe that our suggestion of 530 million for
22 FY 2010 would not be inappropriate, and we realize that

1 our approach to developing a budget number is very
2 inexact. We don't mean to be cavalier in our approach,
3 but merely to recognize that this an inexact science
4 and to suggest that sometimes, for purposes of
5 conveying a message, which we are trying to do, simpler
6 is better.

7 Our core recommendation is that you continue
8 to convey the important message that the current
9 appropriation, even with the significant increase we
10 hope will be achieved for 2009, is simply not enough to
11 let LSC do its job.

12 LSC has been starved for funds for many years.
13 Poor people in this country who are in desperate
14 straits because of legal problems are turned away every
15 day, because Congress hasn't provided enough funding.
16 People remain homeless because they lack an advocate to
17 deal with their legal problems.

18 LSC is not asking for funding for some
19 theoretical level of legal need, and you've documented
20 that more than a million people are turned away each
21 year. So, while we are all grateful for the strides
22 that have been made in closing the funding gap, there

1 is still a long way to go.

2 And since it has been raised, I'd like to
3 spend a few minutes talking about LRAP, and the ABA has
4 been very pleased that our 2001 recommendation that LSC
5 consider a program of loan repayment assistance for
6 lawyers employed by its grantees resulted in the
7 creation of just such a program, albeit on a pilot
8 basis, and we believe it's vitally important that the
9 entire legal aid community take every step possible to
10 continue recruitment of bright and committed new
11 lawyers, and also find ways to retain those young
12 lawyers once they begin their public service careers.

13 Newspapers increasingly carry stories of legal
14 service lawyers who are working other jobs in order to
15 make ends meet. We need to do all that's possible to
16 obtain and retain the next generation of advocates for
17 the poor, and Jim and Frank Strickland and Helaine
18 know, I have a personal interest in this, in that my
19 daughter-in-law has, for about seven or eight years,
20 been a member of the staff of Pine Tree Legal
21 Assistance in Maine, and I'm very pleased and proud of
22 the work that she is doing.

1 So, we are pleased that you have decided to
2 continue funding for an LSC loan repayment program, at
3 least for this year. We realize that Congress has
4 recently enacted legislation that also promises to
5 relieve some of the burden of educational debt for
6 legal aid lawyers, but even with this, the LSC program,
7 we believe, should continue.

8 Because the LSC is a well-known entity which
9 is respected by other legal aid funding entities, both
10 national and state, as well as local, and it is known
11 as a leader, the actions of LSC are often interpreted
12 as worthy of emulation by other actors in the arena,
13 and therefore, we believe that, while we have worked
14 diligently over the last seven years to create a broad
15 network of LRAP programs to bring more bright lawyers
16 into the field, and to retain them, we are concerned
17 that if the LSC eliminates its LRAP program, it could
18 begin to unravel the network supporting these lawyers
19 and that each of the LRAPs, those offered by LSC, by
20 states, the Federal Government, IOLTA programs, and law
21 school is a piece of a larger puzzle, and we believe
22 that the loss of any one of them would be unfortunate.

1 We are not asking LSC or Congress to be the
2 sole resource to ensure access to justice. As you
3 know, the ABA has been working very hard to create a
4 stable access-to-justice infrastructure that will draw
5 in bar leaders, judges, and others in each state. We
6 are doing our utmost to stimulate other sources of
7 funding, and to make sure that programs are in place to
8 provide service to all types of cases and clients.

9 LSC is the central player in the
10 access-to-justice system, and the piece that catalyzes
11 and knits them all together. It should remain the
12 cornerstone and have funding to at least be able to
13 serve all eligible applicants.

14 As in the past, the ABA will work closely with
15 you to advocate for an increase in LSC funding. Our
16 governmental affairs staff will coordinate with you,
17 your staff, and the staff and members of NLADA in this
18 lobbying effort. We will continue to make LSC funding
19 a key focus when bar leaders come to Washington next
20 April 21 to 23 for our annual ABA day in Washington.
21 Hundreds of ABA members come and advocate with their
22 state Congressional delegations for key association

1 legislative priorities, of which this is one of the
2 most important.

3 So, thank you again for this opportunity to
4 speak about the FY 2010 appropriate request. I thank
5 you for your bold leadership in the past.

6 I think an institution could get into trouble
7 if its supporters recommend less than the institution
8 itself does. It is a testament to your work and our
9 view of the importance of your work that we have
10 recommended a bit more than the internal
11 recommendation, with an appropriation that we hope will
12 further expand the ability of LSC to serve the many
13 eligible clients who are currently turned away by your
14 grantees.

15 Thank you.

16 MR. MCKAY: Thank you, sir.

17 Any questions for Mr. Stein?

18 Herb.

19 MR. GARTEN: Bob, of course the ABA has
20 recognized that IOLTA funding is going to be
21 substantially reduced, and we're going to be hit on
22 that front, also, making it much more important that

1 Legal Services Corporation obtained its funding.

2 MR. STEIN: Well, I agree, and I think that's
3 why we -- we were trying to be as optimistic and
4 realistic as we felt we could be, and that's why we
5 hoped that 530 was the number. What you've come in is
6 a little bit less than that, and we will work with
7 whatever we can to get it as high as possible.

8 MR. MCKAY: Any other questions or comments?

9 (No response.)

10 MR. MCKAY: Thank you, sir.

11 I wonder if we could hear from Mr. Saunders at
12 NLADA?

13 MR. SAUNDERS: Thank you, Mr. Chairman, and
14 good morning.

15 My name is Don Saunders. I'm the director of
16 civil legal services for the National Legal Aid and
17 Defender Association. I want to thank you, Mr.
18 Chairman, the committee, and the board for the
19 invitation to comment upon this most important function
20 of the LSC board. I would also like to take just a
21 moment, on behalf of the thousands of members of NLADA,
22 the many more thousands of attorneys and staff who

1 labor in the fields of equal justice, to thank you,
2 this board, for many years of steadfast support for the
3 concept of equal justice.

4 You have dealt in difficult times,
5 financially, in the Congress, and you have been a
6 beacon and a light for justice, and I think the field
7 recognizes that, and on their behalf, I want to thank
8 you for your past support, and certainly very strongly
9 support the recommendation that management presents you
10 today.

11 As Bob said, we, too, think that the strategy
12 of closing the justice gap over five years is a sound
13 one, and we even take a broader view than the ABA,
14 because the Justice Gap found 55 percent of the folks
15 were turned away. Therefore, the number that we seek
16 is a little higher than the ABA, and that is \$578.9
17 million for 2010, recognizing, however, that it's a
18 very strong statement from management, and we would
19 urge you to at least support that level.

20 Following Charles and Bob, it's very hard to
21 articulate anymore the need that you all know is there,
22 and I am not going to spend much time on that. I might

1 talk a little bit more particularly about certain
2 budget items, but as you recognize, behind those
3 justice gap numbers are real human needs and real human
4 stories. Certainly, the problems of domestic violence,
5 the problems facing elderly veterans, all of those
6 issues are very real and serious to the lives of the
7 people that your grantees represent.

8 I would suggest to you that the impending
9 financial crisis assuredly means, from past
10 experience -- I'm not sure we've experienced anything
11 like what we face now, but that millions of Americans
12 living on the edge will soon face the dire choices
13 caused by poverty, and many of those situations result
14 in a desperate need for legal counsel.

15 Certainly, the foreclosure situation is
16 evidence of that. Thousands upon thousands of people
17 will be faced with issues related to employment and
18 pensions, and as Charles pointed out to you earlier, in
19 those situations of economic crisis, domestic violence
20 is known to go through the roof.

21 So, you can anticipate that the direct
22 relationship between what is going on in this country

1 economically will be at the doors of your grantees, and
2 that would underscore dramatically the need for you to
3 be bold and assertive as you approach the Congress.

4 This is also an opportunity for you to send a
5 clear signal to the new administration about the
6 importance of this program. So, we would urge you to
7 continue your history of strong support and to at least
8 accept the recommendation of management, if not
9 increase it.

10 If I might take just a few moments to talk
11 about a few specific matters, I want to congratulate
12 your government relations staff for its advocacy around
13 the foreclosure issue. We were heavily involved in the
14 Congress as discussions took place around dealing with
15 the housing crisis, about the need for lawyers. We
16 batted a number of efforts around the Congress, and
17 finally, there was an appropriation, not to you but to
18 the legal aid community, potentially, to provide
19 representation for people facing problems with regard
20 to their homes, either as renters or owners.

21 I would expect that those conversations will
22 continue in 2010, and I would urge the LSC to be a part

1 of those conversations. However, we do not support the
2 approach that this current Senate bill takes for 2009
3 of earmarking money from the appropriation to the
4 corporation. We think the foreclosure approach should
5 be -- is a sound one, but there should be provisions
6 made in whatever bills move through the Congress to
7 address those issues.

8 I would also like to urge you to continue your
9 very aggressive advocacy on behalf of disaster victims.
10 I had the privilege of working with Helaine and so many
11 folks at the corporation with regard to the Katrina
12 relief effort, and I want to say that, being on several
13 calls in the Gulf recently, in response to Ike and
14 Gustav, the amount of progress that has been made in
15 dealing with the needs of poor people in disasters is
16 striking, is enormous. The work that your staff has
17 done with FEMA, with the Red Cross -- it was night and
18 day between the preparedness for Katrina and the
19 preparedness for Ike.

20 There is one missing piece in that equation,
21 and that is a recognition of the need for lawyers. The
22 ABA has done remarkably well in trying to bring

1 volunteers on-site, but it's clear from our experiences
2 in the Gulf and with Ike that lawyers or essential
3 legal aid is essential.

4 Many, many moons ago, we would engage in the
5 Congress around the emergency supplementals that go
6 forward around disasters, and those supplementals would
7 include a commitment for legal aid, for help there, and
8 I know that your staff works hard in what is a
9 different environment, but I would urge you to continue
10 aggressively when disaster strikes, to be making the
11 case for the importance of legal aid as a critical
12 first response.

13 We certainly support the continuation of the
14 LRAP program, which is in the recommendation to you, at
15 least for the next year. We have been aggressively
16 working with both the Department of Education and the
17 Department of Justice around the administration of a
18 variety of LRAPs that have passed, but if you look at
19 the student loan bill that passed, the 10-year
20 forgiveness bill, the Harkin bill, there is a long way
21 to go before the Federal programs are sorted out.

22 There is a prohibition, for example, of

1 participating in the civil loan repayment as well as
2 the 10-year forgiveness. We're trying to address that
3 regulatorily and through the Congress, but again, as
4 Charles pointed out, there's no appropriations yet.

5 Figuring out how many eligible legal aid
6 attorneys there are in the country, both your grantees
7 and outside, is not the easiest task. We've tried to
8 look at it, and we would think, Professor Hall, that in
9 the long run, it is better to address this problem
10 through the Department of Education, through sufficient
11 appropriations there, and we're not prepared at this
12 point to make a recommendation for the long run, as to
13 whether or not LSC should maintain its own program.

14 I think the preferable way would be to get the
15 Department of Education program, which is more
16 generous, which expands beyond your grantees, adequate
17 funding and adequate regulation. Until that time
18 comes, we're very strongly supportive of the
19 maintenance of the LSC program.

20 I would continue to support the ongoing
21 conversations with the Native American community. I
22 know there is continuing work between your grantees and

1 the National Association of Indian Legal Services. We
2 are working with them.

3 I understand the proposal is not quite ready
4 for prime time at this point, but I think those
5 discussions of catching up the programs who serve
6 Indian territory are critical, and we continue to be
7 working with your staff and with the Indian community
8 to try to bring a proposal forward to make up some of
9 the funding disparities that exist.

10 With regard to the questions Mr. Garten was
11 asking, we recognize very clearly the importance
12 of -- particularly in this environment -- your grant
13 oversight, the management. The concern we would
14 raise -- actually, we are working with your Office of
15 Program Performance and the Inspector General in doing
16 a full-day training on compliance related to the GAO
17 visits in our upcoming conference next month, but I
18 would just urge the board to continue oversight to make
19 sure that we are not over zealous in terms of our
20 interactions with the field, to the point that critical
21 resources are diverted.

22 I'm not prepared to talk about the funding

1 levels. I understand why they are there, but on behalf
2 of the field, I would urge you to continue to work
3 through the Ad Hoc Committee to use these visits and
4 these resources efficiently and effectively, while
5 recognizing the importance of those areas.

6 Again, I want to thank you, Mr. Chairman, and
7 the committee for the opportunity to speak on behalf of
8 our members, and I'm happy, again, to respond. We will
9 be working with the ABA assiduously in support of
10 whatever number you send to the Hill.

11 MR. MCKAY: Thanks so much.

12 Questions for Mr. Saunders? Sarah.

13 MS. SINGLETON: Mr. Saunders, I want to ask
14 you about your proposal that a million dollars be added
15 to the appropriation request for Native American
16 special grants.

17 MR. SAUNDERS: Yes.

18 MS. SINGLETON: I have two questions for you.

19 Last year when you proposed this, the
20 management objected to it because there was no data to
21 base the million-dollar request on. Do you have a
22 response to that, first of all?

1 MR. SAUNDERS: I understand where management
2 was coming from.

3 I think these conversations have gone on for a
4 long time. It's been frustrating in terms of -- in
5 terms of the fact it's taken so long to bring a
6 concrete proposal to you.

7 Part of the problem has been the resources
8 don't exist in the field, in the Native American
9 community, to necessarily put together the kind of
10 in-depth analysis that the staff is looking for.

11 I'm not really comfortable in explaining why
12 it's not before you, because I don't know the details
13 of that.

14 We urge you to continue to move as quickly as
15 you can to address these issues.

16 Again, one of the problems is the proposal is
17 dependent upon increases in appropriations which
18 haven't been forthcoming to this point.

19 MS. SINGLETON: Well, I think that leads me to
20 my second question.

21 Were we to put a line item in asking for a
22 million dollars and were Congress to say we will give

1 you the million dollars earmarked for Native American
2 programs but we're going to reduce your basic field
3 program grant by a million dollars, would your
4 organization support that?

5 MR. SAUNDERS: Only after an appropriate
6 cost-of-living increase to the basic field line. It
7 would be our first priority after that.

8 MR. MCKAY: Other questions or comments?

9 (No response.)

10 MR. MCKAY: Thanks a lot, Don.

11 Is there anyone else who would like to comment
12 on this topic?

13 (No response.)

14 MR. MCKAY: I'd invite the board's attention
15 to an e-mail that we received concerning -- dated
16 August 25th -- concerning allegations of waste in New
17 Jersey.

18 I also want to make sure the record is clear
19 that the committee's long-held interest and intent,
20 desire to hear from other folks -- as helpful as the
21 submissions have been today, we have extended
22 invitations -- in addition to the general notice that

1 was filed, we extended invitations to the Heritage
2 Foundation, the CATO Institute, the American Enterprise
3 Institute, the Brookings Institution, the Urban
4 Institute, the Center for American Progress, the Center
5 on Budget and Policy Priorities, the American Farm
6 Bureau, and the American Association of Retired
7 Persons.

8 We did not hear back from them. We hope to
9 hear from them and others in the future, but we've made
10 every effort to get the word out, how important this
11 meeting is in helping the committee come up with a
12 recommendation for a budget request number, and I do
13 ask -- I do thank staff for getting those invitations
14 out, and I would ask, certainly on my own behalf, but I
15 know it's consistent with the committee's desire, that
16 this be institutionalized and these invitations go out
17 every year for this special fall meeting of the finance
18 committee.

19 We've been meeting for an hour-and-a-half.
20 I'm going to propose we take a 10-minute break and then
21 we'd get back into -- turn back to management and open
22 our discussion to the topic at hand.

1 So, it will be 10 minutes.

2 So, we'll be back at 12:41 eastern time.

3 Thank you.

4 (Recess.)

5 MR. MCKAY: I call the meeting back to order,
6 and consistent with our previous discussion, we thought
7 we'd turn back now to management with some questions
8 and comments, and we'll start with Ms. Singleton.

9 MS. SINGLETON: I wanted to ask management
10 about the Native American funding.

11 I was disappointed to see the footnote that no
12 recommendation is ready at this time, because I do
13 remember, last year, at our budget meeting, I requested
14 that that be looked into and we see what could be done,
15 because I am convinced, at least anecdotally, that
16 Native American funding needs to be increased, and I
17 was willing to go along with management's belief that
18 we needed data to back up any request for an increase.
19 I'd like to know what's happened and what the hold-up
20 is in determining this issue.

21 MR. JEFFRESS: I'll be happy to give you an
22 overview. Karen Sarjeant is not here today. She has

1 been more directly involved in it. I'm sure Helaine
2 will add things if I forget them.

3 Following the meeting here, and your comment
4 and other board members' comments about this, Helaine
5 and Karen and others met with the Native American
6 Indian -- National Association of Indian Legal Services
7 group, NAILS, at a conference in October, and had a
8 lengthy discussion of what kinds of documentation would
9 be helpful in terms of documenting the need and demand
10 and appropriate funding level for Indian legal
11 services. I think she has reported on that to the
12 board.

13 The association, which goes by the acronym
14 NAILS, the National Association of Indian Legal
15 Services -- NAILS went back and put together some
16 information, presented it to LSC. We felt like they
17 could do more in terms of updating the Dalstrom report
18 from 1998, and gave them some suggestions on the areas
19 in which they might get additional information and
20 provide additional documentation.

21 They have now done that, provided what they
22 consider an update of the Dalstrom report, to the

1 extent they can, acknowledging they don't have the
2 resources to do as thorough an update as everyone would
3 like.

4 LSC responded to that update, and NAILS, just
5 last week or 10 days ago, responded to our response to
6 that, and that entire set of materials will be in the
7 board book for the meeting in Utah at the end of this
8 month.

9 The nature of the conversation, above all, the
10 documentation is what it is, and there are holes in it
11 that we all recognize.

12 Part of the nature of the conversation is,
13 assuming that there is a significant increase in
14 funding, what is the best way to increase the funding
15 for Native American programs.

16 A dedicated amount of funding has the
17 advantage of providing some dedicated funding. It also
18 has the disadvantage of being the limit of funding that
19 goes. So, there's some debate over whether a dedicated
20 funding amount and a basic field amount would be
21 appropriate or not.

22 There's also a question of whether we want

1 Congress to get into dedicating specific line items for
2 specific subsets of clients. So, that's a strategy
3 discussion that is useful, probably, for the board to
4 have at some point.

5 The second alternative in terms of increasing
6 funding is Native American funding is currently set at
7 2.81 percent of the basic field appropriation. That
8 was a management decision based on information
9 presented in 1998. It is conceivable that, should
10 there be a significant increase in funding, and should
11 the documentation support it, that there could be a
12 decision by management, with the board's concurrence,
13 or without -- it's basically been a management decision
14 to award grants -- a decision to increase that from 2.8
15 to some other percentage.

16 So, even once the documentation is there, the
17 strategy on how best to achieve an increase is still
18 being discussed, and I don't think there is a single
19 thought or any kind of consensus at this point as to
20 the best way to increase the funding.

21 MS. SINGLETON: I wanted to ask you about your
22 general numbers.

1 Am I doing the math correctly when I calculate
2 that you're asking for about a 41-percent increase?

3 MR. JEFFRESS: Let me ask what you're using as
4 a base. Are you using the \$350 million from '08 as a
5 base?

6 MS. SINGLETON: That's what I'm using as my
7 base, and subtracting that from 495.5.

8 MR. JEFFRESS: I have not done that
9 calculation, but you've got the calculator on your
10 machine. I trust your calculation completely.

11 MS. SINGLETON: I hate to tell you, but I did
12 that with a pencil and a paper.

13 MR. JEFFRESS: Okay. Well, that would be 145
14 over 350, so 41 sounds about right.

15 MS. SINGLETON: Do you have any reason to
16 believe -- you or John -- that there is anyone in
17 Congress or either of the possible new administrations
18 who is going to support a 41-percent increase?

19 MR. CONSTANCE: Well -- John Constance -- I
20 would say this, that, you know, clearly, the board
21 has -- has taken the approach of basing the request on
22 the need, and I think that has been a good approach.

1 It really has. It does not speak to the likelihood in
2 any one year or any set of circumstances what Congress,
3 in their wisdom, is going to -- what action they are
4 going to take, and so, in terms of that percentage
5 increase, you know, I would say I can't speak to what
6 their specific reaction is going to be.

7 I can say this, that we are certainly hopeful
8 that, first of all, the base that you're working that
9 from is going to be different.

10 You know, given the fact that the House and
11 Senate came up with 390 million as the total, if the
12 process goes forward, you know, we're hopeful that
13 that's going to be a smaller percentage increase,
14 obviously, but that being said, the reality is we have
15 set a number out there -- and I can tell you, in the
16 early conversations that I have had in the two previous
17 cycles that I've been here to participate in, you know,
18 the goal is out there, is that number. A conversation
19 with Congress always starts at a level somewhere below
20 that goal.

21 That was my experience where I was before.
22 That's my experience now, so -- but putting that out

1 there as a goal and taking the responsibility of saying
2 this is the identified need is a different -- you know,
3 is a different question, I know, than the one you're
4 asking. But that's certainly, philosophically, the one
5 we're taking.

6 MR. JEFFRESS: And I would point out, starting
7 from that 390 base, which is what the House and Senate
8 each approved, it's actually 27-percent increase.

9 MS. SINGLETON: What I am wondering is, if we
10 started this based on the year the Justice Gap was
11 published and we had a five-year plan for trying to
12 make up the Justice Gap, and we're now at least
13 three-fifths of the way through the five-year plan and
14 have never met any of the one-year of the five-year
15 goals, should we redo our five-year plan at some point?

16 MR. JEFFRESS: That's a very good question,
17 and obviously, the board should struggle with that.

18 I do think the year that we had a substantial
19 increase in both the House and the Senate versions, and
20 then it was rejected in the last-minute negotiations
21 with the White House, set us back; otherwise, our
22 trajectory would look much better than it does.

1 But the fact that the House and Senate have,
2 two years running now, approved significant increases
3 that don't yet show up in our budget -- I think it's
4 validation that, at least within Congress, there is a
5 recognition that this is the right direction to go and
6 the right thing to do.

7 They haven't been able to honor the full
8 request, but in fact, they have been recognizing that
9 this trajectory is the right trajectory to be on.

10 As to whether they can achieve that in the
11 final bill for '09, as to whether the White House signs
12 on, whenever that final bill is passed, I can't
13 predict, but I don't think it's a rejection of the
14 board's approach.

15 I think the job just hasn't gotten done,
16 despite majorities in both the House and Senate that
17 have supported it.

18 MS. SINGLETON: Well, I guess what I'm
19 suggesting is let's assume we still have the same goal.

20 What's the most persuasive way to get to it?
21 Is it to continue with our original five-year plan and
22 say here's where we had hoped to be, but we're not, so

1 give us more, or would it be to say -- to start over
2 and make this ground -- or year zero?

3 MR. JEFFRESS: And that's really how
4 management came up with this recommendation to you.
5 You notice we didn't suggest this year another
6 20-percent increase. We said, given where we thought
7 that the country should be in terms of funding legal
8 services, the doubling of the '05 budget, this -- 2010
9 will be the fourth year along the way -- let's pick a
10 number, pick a percentage, and say this is a reasonable
11 place to have gotten by the fourth year, and that's
12 what we did. We picked 50 percent, halfway.

13 We talked about 60 percent. You know, the
14 other numbers could have been chosen. ABA and NLADA
15 have chosen higher numbers than what we've chosen to
16 aim for, but we did say, after four years, halfway to
17 our goal seems to be a reasonable level to propose, and
18 that's what we're recommending to you.

19 MR. CONSTANCE: The only thing that I would
20 add to that is that I continue to be heartened by the
21 fact that the Congress -- and I would say not just at a
22 staff level but clearly at a leadership and member

1 level -- are very, very conversant now with the term
2 "justice gap." There is a clear understanding on the
3 part of both the chairs and ranking members and members
4 of the appropriation committees what that term means.

5 So, philosophically, how to get there, and
6 philosophically, how to position yourself in terms of
7 the dollars is a question that, you know, certainly,
8 the board can take up and discuss and debate, but the
9 fact that there is an understanding of a goal out there
10 is something that has already been achieved with
11 Congress, and I think that's a -- that's a very
12 positive context for this conversation to be held in,
13 because if they -- if you accept that, then it becomes
14 a question of where can we go in the -- on that scale,
15 you know, to get us there, and within what time frame,
16 so -- but the goal is clear up there, I believe.

17 MR. MCKAY: Any other questions?

18 Herb.

19 MR. GARTEN: Looking at your chart, the
20 population below the poverty line, if -- and I'm
21 really, in this case, the devil's advocate
22 position -- if you assume that that figure is going

1 to -- by 2009-2010 -- is going to increase by 10
2 percent, rather than by the 1 percent in the 2 years,
3 what is your argument about needing the additional
4 funds to the extent of what we're seeking?

5 If the poverty population is only going up 5
6 percent or 6 percent by the time this is projected out,
7 how do we justify our increase?

8 MR. CONSTANCE: Well, again, that assumes
9 where we are in the -- in the journey to even get to
10 the point where we are in a position to serve one-half
11 of the clients. I mean, I think that there is
12 a -- there is an understanding here that -- and we
13 wanted to demonstrate and will continue to demonstrate
14 that the growth of these numbers continues well beyond
15 where they were in 2005, when the Justice Gap report
16 was -- you know, was released.

17 I do think that one of the things -- no matter
18 how strategically the board approaches the question,
19 one of the things that these statistics, other
20 statistics, and just the age of our data from 2005
21 would indicate, as management has recognized, that
22 redoing the Justice Gap report is something that, you

1 know, clearly needs to be done, and is planned at this
2 point to be done, within our resource limits, but I
3 think that, again, the question of where we are on
4 this -- on this pathway -- we're clearly far enough
5 behind that a 1-percent increase in any one year, or a
6 5- or 6-percent increase, is only increasing the
7 population out there that would be, in fact, eligible
8 for the services.

9 MR. JEFFRESS: And I would add that the goal
10 we set of doubling the LSC's funding was in order to
11 serve 49 million people in poverty. That goal did not
12 assume any increase in the numbers of people in
13 poverty. It didn't even assume any inflationary
14 increases over that five-year period. We know what
15 we've seen in terms of cost of living. So, that goal
16 was only to get us to serve 49 million people, paying
17 the same salaries and the same travel and
18 transportation costs that we were paying back in 2005.

19 All of the increases since then, both the cost
20 of doing business and the number of people in poverty,
21 really add to that goal, even though we have never
22 increased the goal itself.

1 MR. GARTEN: The reason I posed the
2 question -- Sarah pointed out the percentage increase,
3 and when you relate it to the poverty population, we
4 should have an answer for that.

5 MR. JEFFRESS: Right.

6 MR. MCKAY: Any other questions or comments?

7 MS. BeVIER: I have a question, Mr. Chairman.
8 This is Lillian.

9 MR. MCKAY: Yes, Lillian.

10 MS. BeVIER: This is sort of an odd question,
11 I'm sure, but I have two problems, and they are
12 completely, utterly different, and what I really need
13 is some guidance from all committee members about how
14 to resolve them.

15 The first problem that I have with respect to
16 this budget request is the simple fact that no need in
17 this country is ever, ever going to be fulfilled 100
18 percent, and the idea that there will be unmet needs
19 for legal services seems to me to be completely
20 consistent with the fact that this is a world of scarce
21 resources, and Congress is going to have to parcel them
22 out, so -- and it's also true, I feel like, as a

1 citizen -- I'm a person who understands that need for
2 legal services has to be balanced with other pressing
3 needs in the country. So, that's my -- one pole of my
4 dilemma.

5 The other pole is, a very strong case is made
6 by Charles and by management's memo to us and by NLADA,
7 by the ABA, and I think by all of us, that this is
8 really important, and we are nowhere near our goal, and
9 therefore, what I do not understand, on the other pole,
10 is why don't we ask for as much as ABA tells us to?
11 It's far below what we really need.

12 So, I'm sort of stuck between a rock and a
13 hard place. We're not asking for anywhere near what it
14 is we need, and at the same time, I understand that we
15 have to recognize that there are other needs in the
16 country, but I don't understand how we do this dance
17 that tells us what number we pick that is so much less
18 than what we need.

19 So, I hope that people will address, and I
20 know you have been, sort of, that's what the
21 conversation has been about, but I'm really struggling
22 to figure out how to resolve this in my own mind.

1 MR. MCKAY: I think that's a good question.

2 I'm wondering, John, if you can talk a little
3 bit about that -- that is, the real need that's out
4 there, and then balancing that with what has happened
5 over the last couple of years, and the realities as you
6 see them up on the Hill.

7 MR. CONSTANCE: Two points that I would make
8 in regard to that:

9 In the last five to eight years, the demand on
10 the part of appropriators to really quantify need and
11 demand, in my experience, has increased dramatically.

12 I mean, you know, there was a point in
13 time -- everyone would like to think, certainly as a
14 taxpayer, that there was a very, very close look at
15 quantified need when you go up there for the
16 appropriations process, and to a certain extent, there
17 was, but with the Government Performance and Results
18 Act, and other related legislation that has supported
19 that, there is a great deal of need for really
20 quantified goals when you go up there to talk in terms
21 of that.

22 So, first of all, the sense that the need is

1 never going to be completely fulfilled, when you're
2 presenting in front of elected officials, the argument
3 is never going to be made that a 10-percent less or a
4 20-percent less of the demand of American citizens is
5 adequate. There will always be a desire on the part of
6 the process to look at 100 percent, however realistic
7 that is.

8 So, you know, my experience recently, in
9 recent years, has been there's a lot more need to go up
10 there with very hard numbers, at least as supportable
11 as you can provide them, particularly given the fact
12 that the discretionary budget is so much, as a
13 percentage, smaller than it was 10 or 20 years ago,
14 particularly in the non-defense area.

15 So, there's a lot of pressure on you to have
16 that goal-setting.

17 Second of all, in terms of the number -- and
18 the dance, Lillian, might be a very good term for it,
19 in terms of coming up with exactly what the number is
20 you're going to go up there with.

21 I must say that my voice at the table is
22 always the one arguing for the lowest number that is a

1 reflection of the principled approach to getting to the
2 goal, but a number that gets you in the room and a
3 number that gets you face to face with appropriators
4 having a serious conversation about those numbers, and
5 I would say that a 41-percent or a 50-percent -- our
6 executive directors heard a very, very direct
7 presentation by a long-term senior member of the
8 appropriations staff on the Hill of how realistic
9 anything more than 12 or 15 percent, you know, is in
10 the current environment. It's a very, very difficult
11 sale to make.

12 I would only say that -- you know, I certainly
13 support the rationale behind ABA's approach, and
14 certainly NLADA's approach. I would also say that
15 going in the door with a number that is of an order of
16 magnitude a little bit closer to where the base is is
17 always a good strategy to start conversations. It
18 enables you to focus a little bit more on the data that
19 you bring than otherwise might be the case.

20 MS. BeVIER: You're suggesting you get laughed
21 out of the room if we ask for what we need.

22 MR. CONSTANCE: I would say you don't get

1 locked out of the meeting, but in terms of any of the
2 other data that you bring, you know, it -- I won't say
3 it has no meaning. I would say that the context of it
4 is very difficult for appropriators to work with or
5 deal with. I think the sense is, Lillian, that there
6 is an understanding of what the goal is on the part of
7 all parties, and that's what I mentioned before, that
8 that's very positive, in my opinion, and I think
9 everybody understands what we're trying to do, and they
10 certainly are partners in that.

11 MS. BeVIER: Thank you.

12 Mr. Chairman, can I ask John one more
13 question?

14 MR. MCKAY: You bet.

15 MS. BeVIER: About the 41-percent increase,
16 what you've just implied is that it's asking for too
17 much, if the number that we're asking for is too high.

18 MR. CONSTANCE: I would say this, that I am
19 still operating -- being the eternal optimist, I am
20 still working on a 390, you know, base.

21 I think given the fact that not only did we
22 get both -- both houses of Congress with the same

1 number but we gave -- but we received a particularly
2 significant increase, I thought, from the House
3 appropriation number in the M&A category, that there is
4 an understanding that there is a great need, and I'm
5 hopeful that, as the process goes forward, the 390
6 turns out to be the base we're working from, and not
7 350.

8 MR. MCKAY: And that being the case, then
9 you're talking about a 25-percent increase.

10 MR. CONSTANCE: Reasonable, by comparison.

11 MR. MCKAY: Yeah. But not by comparison with
12 the yardstick that was presented by the speaker from
13 the Hill.

14 Are you finished, Lillian?

15 MS. BEVIER: Yes. Thanks.

16 MR. MCKAY: Very good.

17 Tom, you'll be next. Sarah's on, then you.

18 MR. FUENTES: Thank you.

19 MS. SINGLETON: From what I have seen or what
20 I've read -- because I have really looked very hard to
21 see what both potential administrations would have to
22 say about LSC and funding LSC.

1 I could find nothing from the McCain campaign,
2 but I saw the Obama campaign's position, which is a
3 12-percent increase every year for 5 years -- and
4 that's very consistent with what you said people in the
5 Congressional staff were telling you, that you could,
6 at best, look for a 12-percent increase per year.

7 So, to me, the game is to try to get them to
8 be as much above 12 percent as possible, and I don't
9 see how going in with this number, while I might like
10 the number under the sort of ABA theory that you need
11 to ask for more than what you're going to get, I don't
12 see how this number is strategically calculated to get
13 as much above 12 percent as we can realistically
14 expect, because it just seems too high to me.

15 MR. CONSTANCE: I would only say this, Sarah,
16 that, you know, we've -- I've been through two of these
17 presentations before, and I can't help but observe that
18 we're all -- the elephant in the phone booth with us
19 right now is the financial condition that's going on in
20 the country.

21 You know, basically, I'm sitting here thinking
22 that I'm about to argue with a member of a board that

1 has taken the 20-percent increase approach, you know,
2 every year, and try to justify the fact that we lowered
3 that 20 percent, you know, in terms of our -- the
4 grants portion of this request.

5 I would only say that I don't think that
6 atmosphere -- you know, again, back to my earliest
7 comment, I really think we need to continue to focus on
8 those overall goals. My experience is, if you want 12
9 percent, you don't ask for 12. If you want 15 percent,
10 you don't ask for 15. I think, from an overall
11 standpoint, you know, going in with a number that
12 realistically looks at what the overall gap is is an
13 approach that I'm very comfortable in going up there
14 and arguing.

15 MR. MCKAY: Mr. Fuentes.

16 MR. FUENTES: Thank you very much, Mr.
17 Chairman.

18 I think that Sarah has illuminated and really
19 gone to the core of this in identifying this 41-percent
20 figure. I think our board -- and we as a committee of
21 the board, in advising the board, have to preserve the
22 integrity of the image of our board, and therefore, of

1 LSC in terms of our image as people of fiscal
2 integrity, people of realistic appreciation of the
3 situation, not just in our one bailiwick but of the
4 world around us.

5 Our nation is at war. Our nation is at its
6 greatest financial crisis in its history. This
7 approach and the magnitude of these numbers, I think,
8 challenges the appreciation of reality by the board. I
9 think that it says that, hey, we're just moving along,
10 downstream with our special needs but not appreciating
11 the crises in our government, the crises in our nation.

12 I think that we have to get in touch with that
13 reality. I think, in light of the funding delays and
14 situation that we have dealt with budgetarily in the
15 current cycle, it is indicative that things ought to be
16 far more modest than what is presented to us by
17 management.

18 Likewise, I think that our Congressional
19 relations have suffered significantly in recent times.
20 Men of important and significant role in the support of
21 LSC on the Hill, especially in the Senate, have come to
22 question some of the decisions of the LSC board. I

1 think that our Congressional relations have
2 significantly deteriorated, and I think questions of
3 real substance have been asked.

4 I do not have the unfettered confidence to
5 think that we ought to go in with unrealistic numbers
6 in this environment. I think that a number at our last
7 request level would be more appropriate, or something,
8 certainly, within the more modest range, perhaps no
9 more than 10 percent, would be appropriate.

10 Thank you.

11 MR. MCKAY: Any other questions or comments,
12 or do you have a comment to that, John?

13 MR. CONSTANCE: The only thing that I would
14 say -- and I have been in support of two different
15 missions in my career in Washington, and the one thing
16 that I could not say in my old position that I
17 certainly can say in this one, that the point that Tom
18 makes regarding the financial crisis in the country,
19 and the rising waters that that is causing,
20 financially, for people, those nearest the bottom are
21 the most likely to drown in that increasing tide, and I
22 would only say that, in recognition of that, I fully

1 support our request.

2 I think it's even more supportable in that
3 environment, and I would only say I disagree -- one
4 would expect me to disagree, I would think, and I
5 sincerely disagree with the characterization of our
6 Congressional relations on the Hill, but that is, you
7 know, not going to be decided here, I'm sure.

8 MR. MCKAY: Any other questions or comments?

9 Dave?

10 MR. HALL: Not being a committee member, but I
11 certainly -- I think this discussion deserves, you
12 know, my comment.

13 I am not as concerned, as I think Sarah and
14 Tom and others have indicated, about this being a
15 unrealistic number, because I have always operated on
16 the position that there are others at an other level
17 who have to be concerned about balancing all of the
18 other needs.

19 I mean, we weren't assigned, as board members,
20 to run the government. We were assigned, as board
21 members, to oversee this corporation and the needs of
22 the people that this corporation is called to serve.

1 And if the individuals who are closer to that
2 need have given us a number that we, ourselves,
3 understand is not even getting us close to addressing
4 the full need, and if the person who we have charged to
5 tell us whether Congress is open to receiving this type
6 of number and that we have been making progress at
7 least in regards to getting people to understand that
8 there is a need and we have a plan for addressing it,
9 then I don't know why we wouldn't go with the lower of
10 the three numbers that have been presented to us today.

11 And that's not to say that the ABA number or
12 NLADA's number is unrealistic, but I think it is
13 suggesting that management's number is one that
14 demonstrates that the board is trying to be very, very
15 thoughtful in carrying out its primary mission and yet
16 also being sensitive to the point that any number is
17 not going to fly there.

18 So, just as a member of the board, and clearly
19 not as someone who can vote on the Finance Committee, I
20 think we have to give a lot of deference to what
21 management is suggesting in this regard, and especially
22 John Constance's assessment of what is realistic on the

1 Hill, because we are not there, and I think that's why
2 we have him here, and if we trust his judgement about
3 the individuals who he's talking to and the staff
4 people he's talking to, then I think it's kind of
5 difficult for us who may visit there rarely to then
6 second-guess that judgement, unless we just feel it is
7 out of line in some strong way.

8 So, I guess I just voice my support for
9 management's recommendation and the rationale behind
10 it.

11 MR. MCKAY: Thank you. We're morphing into
12 item number 5 on the agenda.

13 So, I would like to ask if someone could move
14 the adoption -- that is, that we recommend the
15 adoption -- recommend to the board the adoption of
16 Resolution No. 2008-014 -- so we can have that on the
17 table.

18 MR. STRICKLAND: Is it 015?

19 MR. MCKAY: I'm looking at 014, but if
20 it's -- okay.

21 Well, for the record, Sarah, could you just
22 confirm the one that I have in front of me says 014?

1 MS. SINGLETON: It does.

2 MR. MCKAY: The latest version apparently is
3 015, and for some reason, I don't have that.

4 MR. GARTEN: My book shows 015.

5 MR. MCKAY: Okay.

6 MS. SINGLETON: What was sent out on the
7 e-mail is 014, because that's what I have, also.

8 M O T I O N

9 MR. FUENTES: Mr. Chairman, apparently that
10 dies for lack of a motion, so I would like to offer an
11 alternative motion, and I would like to move that this
12 budget be referred back to management for redevelopment
13 at a 10-percent increase over current year funding.

14 MR. MCKAY: Well, I'm going to exercise my
15 prerogative, Tom, if you don't mind. I do want to get
16 the resolution out on the table, so that we can discuss
17 it, and then we'll take it from there.

18 I'm asking for a resolution for the adoption
19 of 2008-015.

20 Is there a motion?

21 MS. SINGLETON: I so move.

22 MR. MCKAY: Do I hear a second?

1 MR. STRICKLAND: Second.

2 MR. MCKAY: And then, Tom, you're certainly
3 free to be the first to discuss why this should not
4 be --

5 MR. FUENTES: Where did the first and second
6 come from?

7 MR. MCKAY: The motion was from Sarah.

8 MS. SINGLETON: Yes.

9 MR. MCKAY: And the second was from Frank.

10 MR. FUENTES: Is Frank a voting member of the
11 committee? I thought Frank was an alternate or ex
12 officio member of the committee, not a voting member of
13 the committee.

14 MR. STRICKLAND: I think the bylaws say that
15 I'm an ex officio voting member.

16 MR. MCKAY: Tom, do you want to first speak to
17 this motion, please?

18 MR. FUENTES: I would move, as an amendment to
19 this motion, or as a substitute, whichever you would
20 prefer, the return -- referral back to management of
21 this budget to reconstruct at a 10-percent increase.

22 //

1 M O T I O N

2 MR. MCKAY: So, this is a motion to amend?

3 MR. FUENTES: Or alternative, whichever
4 you -- whichever works best for you.

5 MR. MCKAY: I think it's a substitute motion.

6 Do I hear a second?

7 (No response.)

8 MR. MCKAY: It fails for lack of a second.

9 I just want to confirm that the current
10 resolution that is in front of us, that is 015, breaks
11 out in detail -- it has the same number that was in the
12 motion that was e-mailed to all of us, but it breaks
13 out -- we're getting copies. It simply sets forth, if
14 I may steal this from your binder, Mr. Garten, the
15 numbers that -- the separate line items that were set
16 forth on attachment 1 of the e-mail that we received
17 from management, and additional copies are being handed
18 out shortly.

19 MR. JEFFRESS: Mr. Chairman?

20 MR. MCKAY: Yes.

21 MR. JEFFRESS: Technical matter. If you
22 wanted to append the attachment 1, which is -- the

1 management memo, it has that breakout --

2 MR. MCKAY: Yes.

3 MR. JEFFRESS: -- of the 495.5.

4 MR. MCKAY: Thank you.

5 Are there any other comments regarding the
6 resolution?

7 MS. SINGLETON: I have comments, because
8 I -- I regret to do this -- I mean, it actually pains
9 me to do this, but I want to propose a different number
10 other than what management proposed. However, I have
11 not calculated the impact on the individual line items
12 that are contained in the new resolution that was not
13 sent prior to the meeting. At least I didn't see it
14 prior to the memo.

15 I believe that it would be strategically
16 better to propose a number that is arrived at as
17 follows. I'm willing to credit John's belief that the
18 appropriation for Fiscal Year 2009 ultimately will be
19 taken up by Congress in the spring or sometime, and
20 that the 390 which has already been approved by both
21 houses would be adopted. Therefore, I'm -- I'm willing
22 to operate off that number, rather than our 2008

1 number.

2 I would suggest that what we should be asking
3 for, then, is a 24-percent increase over that number,
4 which is double the 12 percent I believe we are likely
5 to get. In total, that would equal a 45 -- I'm
6 sorry -- I believe it would be \$483 million as our
7 total request.

8 I would -- in the fashion of the former
9 senator from Texas -- reduce every line item by
10 whatever percentage that would be, and I believe that
11 would be -- it would be a total decrease of 12.5
12 million, and I don't know what the percent is that
13 would have to be applied to each of the line items, and
14 I would move that as an amendment to the motion I made
15 to adopt the resolution as proposed by management.

16 MR. MCKAY: Is there a second?

17 MR. STRICKLAND: Second.

18 MR. MCKAY: Discussion?

19 MR. FUENTES: I would like Sarah to enunciate
20 that just a little further.

21 After you made the statement, Sarah, about the
22 line item approach, could you clarify a little bit for

1 me?

2 MS. SINGLETON: Yes. I believe I understand
3 your question, Tom.

4 What I would do is -- the difference between
5 the number that I propose and the number that
6 management proposed is 12.5 million.

7 I do not know how that number translates into
8 a percent of the total, but what I would propose to do
9 would be to apply whatever that percent is to each of
10 the line items that are stated in the resolution,
11 2008-015, so that each one is reduced by that percent.

12 In other words, the IG asked for 3.5 million.
13 Multiply that by the percent and reduce it accordingly
14 by that amount.

15 Management and Grants Oversight is 18 million.
16 You would multiply that by that percent and reduce 18
17 million by that amount, and so forth, throughout the
18 entire line item.

19 MR. FUENTES: Thank you for that response. I
20 would just comment that I think your intent is noble,
21 and I think that your direction begins to approach a
22 more realistic strategy.

1 However, you confess that it's a 24-percent
2 increase, and I think 24-percent increase is
3 unrealistic in these times.

4 I don't feel comfortable at that level. I
5 think that if every government agency took this
6 approach in -- across the board, the bankruptcy of the
7 nation would come even faster than it seems to be
8 coming.

9 I think that it's a typical Washington
10 approach to reach for the sky and continue to compound
11 the burden of the American taxpayer, and I know that we
12 cannot affect the entire operation of the United States
13 Government, but we, as directors of this corporation,
14 can affect our little part of the world, and I think
15 that we have that responsibility not only to do the
16 best and most realistic job that we can for those
17 people that we serve but also to be concerned about our
18 fellow citizens in general, the American taxpayer.

19 So, I could not support this.

20 MR. MCKAY: Herb.

21 MR. GARTEN: With all due respects, Tom and
22 Sarah, I think I have interpreted -- done the

1 calculation of what your intent was, and if you start
2 with 390 million and you increase it by 25 percent, or
3 97,500,000, you get to a figure of 487,500,000, which
4 is \$8 million less than the 495.

5 MS. SINGLETON: I just increased it by 24
6 percent, not 25 percent.

7 MR. GARTEN: I didn't have a calculator. It
8 was easier for me to do 25 percent. But I'll be
9 glad -- if you want to take a few minutes, I'll do it.
10 I'll be glad to do it.

11 MS. SINGLETON: I was just trying to explain
12 what I think is the difference between our numbers,
13 that's all. Go ahead.

14 MR. GARTEN: I think a very practical solution
15 would be to start with the 390 million, add 25 percent
16 to it, come up with the 487,500,000, and we're reducing
17 the requested budget by \$8 million, and again, I'm not
18 voting on this. I'm not on this committee. I'm just
19 here to --

20 MR. STRICKLAND: I thought you were on the
21 committee.

22 MR. GARTEN: No.

1 MR. STRICKLAND: Oh, that's right.

2 MR. GARTEN: I'm on the Audit Committee, not
3 the Finance Committee.

4 MS. BeVIER: Mr. Chairman, this is Lillian.

5 MR. GARTEN: Sarah, do you agree, assuming
6 it's 25 percent, that the way I calculate it was the
7 way you intended?

8 MS. SINGLETON: Yes, I do agree that we were
9 calculating it the same way, although we were using
10 different percents.

11 MR. GARTEN: One percent difference.

12 MR. MCKAY: Lillian.

13 MS. BeVIER: Yes. I'd just like to ask Sarah
14 what her rationale is for picking 24 percent, as
15 opposed to 15 or --

16 MR. FUENTES: -- 41?

17 MS. BeVIER: -- or 19 or whatever.

18 I realize that your goal is to get a little
19 bit ahead of what we are likely to get under a kind of
20 scenario that John describes, but how did you -- how
21 did you land on 24 percent?

22 MS. SINGLETON: I multiplied 12 percent by 2.

1 MS. BeVIER: Okay. So, you asked for twice as
2 much of a increase, twice as much as we think we're
3 going to get in terms of an increase, over the amount
4 that we didn't actually get before.

5 MS. SINGLETON: Well, let me start with the
6 end first.

7 The amount we didn't get before was actually
8 the amount that Congress did vote for us, and my
9 understanding is that's still in play, that the
10 continuing resolution didn't use that number, but it
11 could very well come up in the spring of the year
12 again, and if John says I'm wrong, I'll back off that,
13 but --

14 MS. BeVIER: It's just that I wanted to figure
15 out how you got to twice the 12 percent that John said
16 we might get of the 499, so --

17 MS. SINGLETON: I agreed with John's approach
18 that you don't go in asking for what it is that you are
19 likely to get, and it seemed to me that asking for 24
20 percent increase, which was twice the amount, might get
21 us at least the 12 percent but was more calculated to
22 get us over the 12 percent mark than the number that

1 management was using, and because I think I -- I mean I
2 know I disagree with Tom Fuentes about what our role
3 should be and also about whether or not this -- what
4 we're doing is talking about a core function of
5 government that ought to be funded at a higher level.

6 MS. BeVIER: You disagree with Tom that we
7 should be taking an overall view.

8 MR. McKAY: I'm sorry. Could you say that
9 again, Lillian?

10 MS. BeVIER: I'm sorry. Yes. Sarah disagrees
11 with Tom that we should be considering this from a
12 broader perspective than Legal Services Corporation,
13 and the second -- now I've forgotten your second
14 disagreement with Tom, so I won't ask you about that,
15 but I'm not sure what you meant with your last
16 statement about your disagreement with Tom Fuentes.

17 MS. SINGLETON: Well, my disagreement is -- I
18 do believe we are taking a broad view, because I
19 believe we are not asking for funding at the level that
20 we should have if we were trying to fulfill the Federal
21 Government's legitimate role in seeing that poor people
22 have legal representation. So, I believe, by reducing

1 that number, we are taking a broader view.

2 I think where Tom and I might disagree is on
3 what is the significance of providing legal services to
4 poor people in the overall scheme of the commonwealth.

5 MR. FUENTES: Well, I think Tom ought to speak
6 here.

7 MS. BeVIER: Can I pursue this just a second
8 with Sarah, Tom? And then you can certainly come in.

9 I'm not sure what you -- what you're saying
10 the implication is of the fact that we are not a core
11 function of government or we are a core function of
12 government.

13 Because we're not a core function of
14 government, it's okay for us to ask for a bigger
15 percent increase than the core functions of government
16 would get, or because we are a core function of
17 government, we should be asking for -- I mean, I just
18 need to know your thinking, because I need to know
19 whether --

20 MS. SINGLETON: Okay.

21 MS. BeVIER: -- where I am with respect to
22 what you've just said.

1 MS. SINGLETON: My position is that it is a
2 core function of government and that it is a core
3 function of government that has received certain
4 reductions over and above what other parts of the
5 government have received, and therefore, is justified
6 in asking for a larger increase than other functions of
7 government.

8 MS. BeVIER: Thank you.

9 MR. McKAY: Tom?

10 MR. FUENTES: Well, maybe I missed something,
11 but the first mention of a 12 percent, which has been
12 doubled to get to this 24 percent proposal, was offered
13 to the committee earlier in this meeting as a survey of
14 what a new White House might allow, and there was no
15 number that could be detected for the McCain campaign,
16 but 12 percent was suggested by the Obama campaign, and
17 so, now we come to LSC potentially going on record by
18 this motion to do twice what the Obama campaign has
19 indicated it might do if in the White House. I don't
20 know that that's a way to develop the budget of the
21 LSC.

22 MS. SINGLETON: Point of clarification. I

1 think the first time 12 percent was mentioned was John
2 Constance mentioned it as one of the numbers that he
3 was hearing from Congressional staff, 10 to 12 percent
4 as a potential increase.

5 MR. CONSTANCE: Clarification of that. I was
6 relating a conversation that the executive directors
7 heard from a senior member of the House Appropriations
8 Committee in saying that, you know, those were the
9 percentages within which, you know, basically the Hill
10 context usually -- you know, usually works at the very
11 high end.

12 All I would point out is we've been between 8
13 percent and 12 percent in my tenure here in terms of
14 decisions by the House or the Senate as far as our
15 appropriation.

16 I mean, that has been the range of increases
17 that we have seen by one house or the other, and so,
18 that being the -- that being the context, I mean, I was
19 only saying that that is certainly the range within
20 which it's discussed on the Hill.

21 I would also add one other clarification, and
22 that is that, you know, certainly no one should take

1 from my earlier remarks that 390 million is the likely
2 outcome. It's the range of outcomes that could occur
3 with a new administration and a new Congress, I might
4 add. I mean, you know, one of the real variables that
5 we're dealing with right now in this season are, you
6 know, who is going to be sitting in what chair, not
7 only in the White House but also in Congress, by the
8 time spring of next year rolls around and this is
9 looked at again.

10 So, there's a full range of possibilities
11 there, with, you know, a very dynamic situation.

12 The range that we hear on the Hill is either,
13 you know, a full year continuing resolution, at current
14 levels, or taking up the individual appropriations
15 bills again, at which point 390 -- all I'm saying is,
16 since that's the number for both houses, you know,
17 that's a -- you know, that's a pretty good base point
18 if they, in fact, take up the individual appropriations
19 again.

20 Thank you.

21 MR. FUENTES: Well, Mr. Chairman, Tom Fuentes
22 again. If that be the case -- I appreciate your

1 clarification of that, John -- that says, then, to me,
2 that this 41 percent may not be totally clear or, in
3 the case of Sarah's proposal, that the 24 percent might
4 not actually be reality, because are not those figures
5 both calculated based on the 390, and if it's not the
6 390 and it's a smaller number, that 41 percent could
7 be, what, 50-something percent, or what is the 24
8 percent in that case?

9 MS. SINGLETON: No, I believe that the 41
10 percent is calculated off 350, which is the number that
11 we currently have under the continuing resolution, and
12 it's based on 2008 funding.

13 MR. FUENTES: Is that correct? Could somebody
14 clarify that, verify that?

15 MR. CONSTANCE: That is correct.

16 MR. FUENTES: Thank you.

17 MR. MCKAY: Any other discussion?

18 Jeff Schanz.

19 MR. SCHANZ: Yes, sir. Jeff Schanz, IG

20 I do want to throw out a cautionary note as we
21 embark in this, is the IG has independent budget
22 authority that should not be compromised by management

1 or the board. We have authority to go directly to the
2 Hill. So, whatever calculations that the Finance
3 Committee, together with management, embarks in, they
4 should be exclusive of the IG's request for \$3.5
5 million.

6 Thank you.

7 MR. STRICKLAND: May I pose a hypothetical
8 question to John Constance?

9 Do your best on this, John.

10 How likely is it that an appropriations
11 committee would, on its own motion -- you remember,
12 arguments have been made to the Hill that LSC's budget
13 is behind as a result of various factors, level funding
14 for X number of years and so on. How likely is it that
15 an appropriations committee would suddenly -- that is,
16 without any advocacy by LSC about its own
17 budget -- decide to fill that gap, if you understand my
18 question.

19 In other words, suppose we are being funded
20 currently at 350 million, and the American Bar -- we'll
21 just pick the ABA as one group -- has advocated some
22 substantial increase in order for LSC to catch up with

1 where the ABA thinks it should be, right or wrong.

2 How likely is it that the Congress would, all
3 of a sudden, step up and recognize that and say we've
4 allowed this gap to occur, we need to fill it. Isn't
5 that highly unlikely?

6 MR. CONSTANCE: The answer to that is yes,
7 that's highly unlikely. Only one or two times in my
8 memory, in my tenure in Washington, have small programs
9 been increased to very, very dramatic levels, and in
10 those cases, literally all stars aligned, including the
11 leadership of those organizations, politically, with
12 the White House, and it is a very, very unlikely event
13 to occur, that that kind of a leap would, in fact,
14 occur to close that kind of gap in one step.

15 Alternatively, looking at that gap as a goal
16 and continuing to work towards filling that gap is
17 something that I think, you know, as a -- as a matter
18 of process, you know, is certainly the rationale that's
19 ongoing right now with our appropriations committee,
20 recognizing the gap and working with us to try to fill
21 that.

22 MR. HALL: Maybe I'm reading too much into

1 Frank's hypothetical, but being a law professor, that's
2 part of what I do.

3 How likely would it be for an appropriation
4 body to fill a gap when the agency itself is not asking
5 for it?

6 MR. CONSTANCE: It would be even less likely
7 under those circumstances.

8 MR. MCKAY: That only happens with the
9 Department of Defense.

10 (Laughter.)

11 MR. HALL: And so, what I pull from the
12 hypothetical is that if we are not pushing, if those
13 who are charged to be responsible for this is just
14 saying to Congress, you know, do whatever, or give us a
15 small amount, that that sends the wrong message.

16 At least, that's -- it may not be what the
17 intent of the hypothetical was, but I --

18 MR. STRICKLAND: But yes, it was, and a
19 similar hypothetical, I guess -- if we are -- let's
20 just pick a round number.

21 Suppose we really want to achieve a 10-percent
22 increase. Are we likely to get a 10-percent increase

1 if we advocate 10, or under the Washington way of doing
2 business, do you always have to advocate for some
3 amount greater than what you hope to get?

4 MR. CONSTANCE: Whether it be in salary
5 negotiations, Mr. Chairman, or working with Congress
6 towards an appropriation, I think that would certainly
7 the case.

8 MR. STRICKLAND: Yeah, I was isolating it to
9 Congress.

10 (Laughter.)

11 MR. STRICKLAND: Thank you.

12 MS. SINGLETON: Mr. Chairman, I would like to
13 follow up with the IG, if I may.

14 MR. MCKAY: Please.

15 MS. SINGLETON: Are you suggesting that the
16 board has no authority to suggest a number in its
17 resolution and to propose a number to Congress that's
18 different than what the IG asked for?

19 MR. SCHANZ: Well, I am in possession of a
20 memo that the chairman of the board provided to
21 Congress on December 22, 2003, to Sensenbrenner and to
22 Chris Cannon, and I quote, "Additionally, the LSC IG

1 has independent budget authority, helping to ensure the
2 IG's independence. Each year, the IG prepares a budget
3 which is submitted as a separate line item in the LSC
4 budget. Neither the board nor LSC management has
5 attempted to change the amounts requested by the IG,"
6 end quote.

7 MS. SINGLETON: To me -- and it's hard to
8 factor when someone's reading to you -- that does not
9 say that the board could not put in a different number.

10 It does suggest it has to be a separate
11 number, but it does say that the board could not submit
12 a different number to Congress than what the IG asked
13 for.

14 MR. SCHANZ: Well, if that was to occur, I
15 would request it would be based on an independent
16 deliberation of the board, as to what the board expects
17 of the Office of Inspector General, as opposed to being
18 just a line item subject to a aliquot cut or aliquot
19 increase that you had previously suggested.

20 MS. SINGLETON: What is the percent of
21 increase you're asking for?

22 MR. SCHANZ: Our increase is from --

1 MR. MCKAY: Just over 10 percent.

2 MR. SCHANZ: It's actually -- yeah, just over
3 10 percent. Thank you.

4 MS. SINGLETON: From what number?

5 MR. SCHANZ: From our current allocation. If
6 we had gone with your suggestion of 24 percent, our
7 budget request would be 3.9 million, and that's not
8 what we're requesting. We're requesting 3.5, in order
9 to meet -- perform my statutory functions.

10 MS. SINGLETON: I'm sorry. You're not
11 answering my question.

12 Where do you get your base number that you're
13 saying it's 10 percent more than?

14 MR. SCHANZ: The lowest of the House and the
15 Senate was \$3,162,000. To increase that to 3.5 million
16 is roughly a 10-percent increase from '09 to '10.

17 MS. SINGLETON: And the lowest of the House
18 and the Senate is what you're actually receiving this
19 year, or are you receiving something lower than that?

20 MR. SCHANZ: We're receiving 3 million. We're
21 receiving something lower than that. We're subsidizing
22 our increases and my new priorities with carryover

1 funds from prior years.

2 MS. SINGLETON: Okay. But I'm just trying to
3 understand the math right now.

4 So, what you're saying is you based your 10
5 percent on what you hope to get if the continuing
6 resolution is revisited, although you put it at the
7 lower of the two potential numbers that have been
8 authorized by one of the Congressional committees.

9 Is that correct?

10 MR. SCHANZ: That's partially correct. In
11 addition, we went with 3.5, because that's what the
12 board had approved last year, for our '09 allocation.
13 Congress subsequently reduced that amount, but last
14 year's board approved a \$3.5 million budget for the
15 Office of Inspector General.

16 MS. SINGLETON: All right.

17 I think, then, that if -- I'm, at this point,
18 withdrawing my prior proposal, because I think the IG's
19 budget needs to be treated separately, and I don't know
20 if it needs to be in a separate resolution for us to do
21 that, but I need some time to look at the math of
22 what's happening to the other things.

1 MR. MCKAY: So, you're withdrawing your
2 motion, and the original --

3 MS. SINGLETON: And the original motion
4 stands, which would be to approve what management
5 authorized or requested.

6 MR. MCKAY: Is there further discussion on
7 the --

8 MS. SINGLETON: And by the way, mine never had
9 a second, so --

10 (Laughter.)

11 MS. SINGLETON: -- it wasn't there anyway.

12 MR. MCKAY: I missed that. I'm sorry. I
13 thought it was out there. I thought there was a
14 second. Yes, Frank seconded it.

15 MS. SINGLETON: You did?

16 MR. STRICKLAND: Yeah.

17 MS. SINGLETON: Okay.

18 MR. MCKAY: So, we're back to the original
19 resolution.

20 Is there any further comment on that
21 resolution as it originally stands?

22 (No response.)

1 MR. MCKAY: Sarah, do you want more time to
2 come up with a new number?

3 MS. SINGLETON: Yes. I would like to ask the
4 chair to recess for 10 minutes.

5 MR. MCKAY: Hearing no objection, we'll recess
6 for 10 minutes.

7 (Recess.)

8 MR. MCKAY: We will call the Finance Committee
9 back to order, and we have on the table Resolution
10 2008-015, and Sarah had been working on some numbers,
11 and is there anything -- did you want to propose a new
12 motion, or do you have an additional comment, Sarah?

13 MS. SINGLETON: No.

14 MR. MCKAY: Okay. Are there any other
15 comments about the motion as it now stands?

16 M O T I O N

17 MR. STRICKLAND: Could you restate --

18 MR. MCKAY: It is Resolution 2008-015,
19 recommending to the board the adoption of the
20 resolution that would essentially adopt the
21 recommendation from management that we
22 recommend -- make a budget request to Congress in the

1 amount of \$495,500,000 for Fiscal Year 2010.

2 I will just briefly state that I will support
3 this resolution. There obviously is a true need.

4 We articulated that in our Justice Gap report,
5 that has been an important part of our appropriations
6 strategy over the last 3 years, including the
7 incremental increase of our appropriate request
8 of -- by 20 percent, so that by -- after 5 years, we
9 will have reached the level that we think is necessary
10 to more appropriately address this justice gap.

11 And over these years, we've adjusted our
12 appropriation request, budget request, because of the
13 budget realities, but speaking of budget realities,
14 there's a true fiscal crisis right now, financial
15 crisis that our country is facing. But in the same way
16 that we have, I think, appropriately, set aside \$700
17 billion to address that part of the crisis, there's
18 another crisis, and Mr. Constance put it very well, is
19 the rising tide of the budget crisis, the financial
20 crisis, the fiscal crisis facing our country.

21 The first to be hit by this are low-income
22 people, and I certainly keep that in mind. I rely on

1 the advice and expertise of Mr. Constance, as he judges
2 the folks up on the Hill, and that's both the majority
3 and the minority members and staff, and so, I will
4 support this resolution. I do it with mixed emotions,
5 recognizing that there is a true financial challenge up
6 on the Hill, but our mission is a very important one,
7 and we ought to be coming in there swinging in support
8 of that mission. So, I will be supporting this
9 resolution or the recommendation of the resolution to
10 the full board.

11 Are there any other comments or --

12 MR. STRICKLAND: I join you in that position,
13 Mr. Chairman.

14 MR. MCKAY: Thank you.

15 Any other questions or comments?

16 MR. FUENTES: Mr. Chairman, Tom Fuentes.

17 MR. MCKAY: Yes, sir.

18 MR. FUENTES: I will not be supporting this
19 resolution. I think the 41-percent increase is
20 unrealistic. I think it is above and beyond what can
21 be reasonably considered by the Congress, and I think
22 that we have an obligation to deal in realities. I am

1 totally empathetic to our need and the challenges of
2 the LSC, and our responsibilities, but I think, also,
3 that in these times of national financial and economic
4 crises, that we also have to deal with the realities of
5 the world around us. Thank you.

6 MR. MCKAY: Thank you.

7 Any other questions or comments?

8 (No response.)

9 MR. MCKAY: Unless I hear an objection,
10 we'll -- can I hear someone call for the question?

11 MR. STRICKLAND: Call the question.

12 MR. MCKAY: All those in favor of recommending
13 this board resolution -- this resolution to the board
14 for adoption, say aye.

15 (Chorus of ayes.)

16 MR. MCKAY: Opposed?

17 (Chorus of nays.)

18 MR. MCKAY: We'd better get a vote. Let's do
19 a roll call vote of the committee, then.

20 I'll call the roll, then.

21 Mike McKay, aye.

22 Lillian BeVier.

1 MS. BeVIER: No.

2 MR. McKAY: Tom Fuentes.

3 MR. FUENTES: No.

4 MR. McKAY: Sarah Singleton.

5 MS. SINGLETON: Yes.

6 MR. McKAY: Frank Strickland.

7 MR. STRICKLAND: Aye.

8 MR. McKAY: The vote is three to two in favor.

9 Thank you. The next item on the agenda is
10 consider and act on other business.

11 (No response.)

12 MR. McKAY: Hearing none, can I hear a motion
13 to adjourn?

14 M O T I O N

15 MR. FUENTES: So moved.

16 MR. McKAY: Second? Is there a second?

17 MS. SINGLETON: Second.

18 MR. McKAY: All right.

19 Thank you very much. Thank you for your good
20 work.

21 (Whereupon, at 2:07 p.m., the committee was
22 adjourned.)