

LEGAL SERVICES CORPORATION  
BOARD OF DIRECTORS

MEETING OF THE GOVERNANCE  
AND PERFORMANCE REVIEW COMMITTEE

OPEN SESSION

Sunday, April 14, 2013

4:07 p.m.

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

COMMITTEE MEMBERS PRESENT:

Martha L. Minow, Chairperson  
Sharon L. Browne (by telephone)  
Charles N.W. Keckler  
Julie A. Reiskin  
John G. Levi, ex officio

OTHER BOARD MEMBERS PRESENT:

Robert J. Grey Jr.  
Laurie Mikva  
Father Pius Pietrzyk, O.P.  
Gloria Valencia-Weber

## STAFF AND PUBLIC PRESENT:

James J. Sandman, President  
Lynn Jennings, Vice President for Grants Management  
Rebecca Fertig, Special Assistant to the President  
Victor M. Fortuno, Vice President for Legal Affairs,  
General Counsel, and Corporate Secretary  
Mark Freedman, Senior Assistant General Counsel,  
Office of Legal Affairs  
Atitaya Rok, Staff Attorney, Office of Legal Affairs  
Katherine Ward, Executive Assistant, Office of Legal  
Affairs  
David L. Richardson, Comptroller and Treasurer,  
Office of Financial and Administrative Services  
Jeffrey E. Schanz, Inspector General  
Laurie Tarantowicz, Assistant Inspector General and  
Legal Counsel, Office of the Inspector General  
Thomas Coogan, Assistant Inspector General for  
Investigations, Office of the Inspector General  
David Maddox, Assistant Inspector General for  
Management and Evaluation, Office of the  
Inspector General  
Carol Bergman, Director, Office of Government  
Relations and Public Affairs  
Carl Rauscher, Director of Media Relations, Office of  
Government Relations and Public Affairs  
Lora M. Rath, Deputy Director, Office of Compliance  
and Enforcement  
LaVon Smith, Office of Information Management  
Eric Jones, Office of Information Management  
Allan J. Tanenbaum, Non-Director Member, Finance  
Committee (General Counsel, Equicorp Partners)

Chuck Greenfield, National Legal Aid and Defender  
Association (NLADA)  
Don Saunders, National Legal Aid and Defenders  
Association (NLADA)  
Terry Brooks, American Bar Association  
Dominique Martin, Law99.com

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

2 (4:07 p.m.)

3 CHAIRMAN MINOW: This is the Governance &  
4 Performance Review Committee, and we're going to try to  
5 come to order. We have a quorum.

6 As we start this Committee, I'd like to know  
7 if anyone is willing to approve the agenda.

## 8 M O T I O N

9 MR. LEVI: So move.

10 MS. REISKIN: Second.

11 CHAIRMAN MINOW: All in favor?

12 (A chorus of ayes.)

13 CHAIRMAN MINOW: Thank you very much. And how  
14 about the minutes from January 26th? A motion?

## 15 M O T I O N

16 MR. KECKLER: So moved.

17 CHAIRMAN MINOW: Thank you.

18 MS. REISKIN: Second.

19 CHAIRMAN MINOW: Thank you. All in favor?

20 (A chorus of ayes.)

21 CHAIRMAN MINOW: Wonderful. So let's move to  
22 the staff report on implementing the GAO

1 recommendations, and we welcome Carol Bergman. And  
2 Carol, you may have a prefatory comment or two, and  
3 then let's walk through where we are.

4 MS. BERGMAN: Okay. Thank you very much, Dean  
5 Minow.

6 The really good news is that on March 27th,  
7 GAO has finally decided to update its online tracking  
8 system to reflect LSC's progress. Eleven of the  
9 recommendations are now listed as closed.

10 This really matters because what we've seen in  
11 the House floor debates in particular, every time  
12 there's been an amendment to strip funding for LSC, is  
13 members cite the GAO website as indicating that there  
14 are these outstanding recommendations from the 2010  
15 report.

16 In various conversations with GAO, they would  
17 go to great pains to tell us that it's going to be  
18 updated soon and that we could just have the members  
19 call GAO and they would let them know the true status.

20 I must admit that I did threaten and ask  
21 whether or not they required a letter from our  
22 president or a board chair to make this happen, or

1 would they prefer that I have our appropriations  
2 chairman get in contact with them? And they finally  
3 updated the website. So it took many months, but we  
4 got there.

5 CHAIRMAN MINOW: Well done.

6 MS. BERGMAN: Thank you. So on the actual  
7 tracking system, we're moving along. Basically, at  
8 this point LSC has implemented 13 of the 17  
9 recommendations. LSC is still implementing four, all  
10 of which are subject to collective bargaining with  
11 LSC's union, and the collective bargaining on this and  
12 other matters is ongoing.

13 So recommendations 9, 10, and 12 all involve  
14 performance measures and annual assessments of  
15 employees. And to address GAO's concerns over LSC's  
16 human resources management, LSC is in the process of  
17 developing, in conjunction with the employee union, a  
18 comprehensive performance management system. A draft  
19 proposal is currently being evaluated by senior  
20 Management, and once finalized, will be subjected to  
21 the formal collective bargaining process.

22 As we talked about at the last board meeting,

1 as part of the development LSC issued a job analysis  
2 questionnaire to all staff. This sought to assess  
3 current position descriptions, identify the  
4 competencies required for each position, and develop  
5 appropriate performance measurements.

6 Management has analyzed the results and is in  
7 the process of redrafting many position descriptions,  
8 taking care to specifically tie them to LSC's strategic  
9 plan. This is the plan that was adopted by the Board  
10 in October of 2012.

11 LSC has also recently engaged Quatt  
12 Associates -- this is a management consulting  
13 firm -- to assess LSC's employee compensation  
14 structure, including performance pay, and LSC may make  
15 adjustments to the proposed performance management  
16 system to reflect Quatt's findings.

17 Recommendation 11 is also outstanding. This  
18 is regarding staffing assessment. And in response to  
19 this recommendation, LSC has committed to creating a  
20 human capital plan consistent with the new strategic  
21 plan. And in the summer of 2012, LSC -- referring back  
22 again to the job analysis questionnaire; obviously,

1 we're moving forward from that. And the expectation is  
2 that the development of a human capital plan that's  
3 tied to the strategic plan will move forward shortly.

4 So GAO has officially closed 11 of the 17, and  
5 this is one more since our last board meeting in New  
6 Orleans. Since then, GAO has closed recommendation 4,  
7 which was related to performing a risk-based assessment  
8 of our grantmaking operations.

9 GAO is still reviewing two recommendations,  
10 recommendation 5, which is risk-based assessment  
11 criteria for scheduling site visits, and 16, which is  
12 staff training on internal controls.

13 We have a teleconference with GAO scheduled on  
14 April 19th, and GAO is expected to close both of those  
15 recommendations in May. So we ought to be able to move  
16 forward, and then only have those remaining four.

17 CHAIRMAN MINOW: Am I misreading the chart?  
18 Sixteen says it was closed.

19 MS. BERGMAN: You know, I think that what  
20 happened is we probably didn't update consistently  
21 after talking with GAO again. There was some confusion  
22 about what they still wanted to discuss, so I think

1 that's still on the board to talk with them about on  
2 April 19th.

3 So this should not have said closed. We  
4 expect it to be finalized, though, within the next  
5 month.

6 CHAIRMAN MINOW: And since this chart, 4 is  
7 closed?

8 MS. BERGMAN: Correct.

9 CHAIRMAN MINOW: Okay. Very good. Five, I  
10 just wondered, since it doesn't say "Expect to close,"  
11 is there something else going on?

12 MS. BERGMAN: Let me go back. Yes, right.

13 CHAIRMAN MINOW: For everybody's attention,  
14 this is regarding developing and implementing  
15 procedures to ensure grantee site visit selection risk  
16 criteria are consistently used, and provide summarizing  
17 results by grantee. And a comment is that GAO was  
18 reviewing, and expects to issue a decision. But it  
19 doesn't say expects to close.

20 MS. BERGMAN: No. You're right. And that  
21 should have been updated beyond that. It should say  
22 that that's also part of the discussion for April 19th.

1 I think we must have set the teleconference subsequent  
2 to putting this into the board book. My apologies.

3 CHAIRMAN MINOW: No, no. I'm just wondering,  
4 is there any substantive concern?

5 MS. BERGMAN: No. What happened is the  
6 staffing within GAO that was handling it changed, and  
7 there was some confusion as to what materials they were  
8 supposed to be reviewing. So that's why this one  
9 didn't get closed, and they thought it was more  
10 outstanding than it was.

11 CHAIRMAN MINOW: Okay. Because I can't  
12 imagine there's a problem on this one.

13 MS. BERGMAN: No. There's no issue.

14 CHAIRMAN MINOW: Thank you.

15 Any questions from the Committee? Julie?

16 MS. REISKIN: First, I just want to comment  
17 that this has been really impressive to watch, how you  
18 guys have taken this big list and solved all these -- I  
19 mean, it's really been good work overall.

20 My question is, with these remaining ones, do  
21 we have any sense of the timeline? And kind of with  
22 that, you're looking at human capital and the job

1 descriptions with the new strategic plan that obviously  
2 wasn't in place when the original job descriptions were  
3 done. So there appropriately will be some changes.

4           How do you deal with that? I see some  
5 disconnect of, what if you have people that have this  
6 set of skills, but your new job description calls for  
7 that set of skills? Or is that something that you  
8 can't talk about, or how does that all play out? But  
9 I'm mostly interested in the timeline, too, of this.

10           MS. BERGMAN: Well, I'm going to different to  
11 Jim on the content-based, and then I can talk about why  
12 some of these aren't going to be closed for a while.

13           PRESIDENT SANDMAN: All of the issues you  
14 raise are part of our collective bargaining  
15 negotiations with our union, and they relate to other  
16 components of our negotiations.

17           We have made very good progress on the  
18 revision of job descriptions; they needed to be revised  
19 separate and apart from the strategic plan. So tying  
20 them to the strategic plan was a relatively small part  
21 of the revision that we've had to undergo. And that  
22 process is very close to completion.

1           In terms of the overall timeline, our goal  
2 remains to get a collective bargaining agreement this  
3 year. We understand the importance of it, and that  
4 that's holding up closing out these recommendations,  
5 and also just isn't good for the organization to have  
6 the issues pending for so long.

7           But we're making good progress, and have a  
8 very cooperative and collaborative relationship with  
9 our union. I think things are going well.

10           MR. LEVI: But, now, normally a review of  
11 employees or the format of employee review, performance  
12 review, would not be a part of a collective bargaining  
13 agreement. And that's kind of the work rule, but  
14 not -- that's work rules or the way you operate, but  
15 not normally something set forth in a collective  
16 bargaining agreement.

17           The fact that employees are reviewed on an  
18 annual basis or what have you, that might be. But this  
19 has been a long time since employees here -- I think  
20 there was a review process prior to our Board coming  
21 into office. It wasn't utilized, in my understanding,  
22 or it was sporadically utilized.

1           I'm not understanding well why the collective  
2 bargaining process is holding up our being able to do  
3 annual reviews.

4           PRESIDENT SANDMAN: One of the reasons, John,  
5 is that a starting point for a good review process is  
6 accurate position descriptions. And to the extent the  
7 position descriptions that we're coming up with deviate  
8 from what people have been doing in the past and might  
9 involve a change in terms and conditions of employment,  
10 that's something that needs to be negotiated.

11           MR. LEVI: That's true.

12           MS. BERGMAN: And then the other piece of just  
13 the timing of this, just to get back to Julie's other  
14 part of the question, is that in part of GAO's  
15 recommendations, what they were asking for is two years  
16 of LSC going through performance assessment once these  
17 criteria were in place.

18           So once this is all resolved, we're then  
19 looking at these recommendations being outstanding to  
20 go through two years of that performance assessment  
21 based on the criteria that had been agreed to.

22           CHAIRMAN MINOW: So in that regard, I wonder,

1 Carol, in your conversations if you can plant the seed  
2 that says that we have an entire new regime. We also,  
3 for the first time, have collective bargaining. We  
4 also are putting in place an entire serious system.

5           Could they revisit their requirement of a  
6 two-year period? Because otherwise, we're going to be  
7 into the next decade on this recommendation. We will  
8 not be able to close it, as far as I can tell, till  
9 three years after we actually have the collective  
10 bargaining agreement resolved. And that could be  
11 several years from now as well.

12           So we're going to be sitting here with this  
13 same outstanding recommendation from 2010, and it could  
14 be 2020. And I'm really concerned about that.

15           Charles?

16           MR. KECKLER: Yes. I have a question about 9  
17 and 10. And I wondered about this before, is what's  
18 GAO's view or understanding of the idea of performance  
19 measures? Is it about the performance of employees, or  
20 is it the measures and metrics that we attach to the  
21 offices or the subdivisions as entities, or to LSC as a  
22 whole?

1           If that's the case -- they are linked to the  
2    idea of individual employees, particularly from the  
3    standpoint of managers and so on -- what is their  
4    thinking? What are they expecting in terms of  
5    performance measures under 9 and 10? Is it about  
6    employees, or is it about the Corporation and its  
7    subdivisions?

8           MS. BERGMAN: My understanding is that what  
9    they are expecting is an annual performance assessment  
10   of each employee that is tied to the overarching goals  
11   of the organization, so that each employee is evaluated  
12   in a way that's clear and understood in relation to  
13   their job description.

14          CHAIRMAN MINOW: Thank you. And thank  
15   you -- I echo Julie's comment -- for moving it along  
16   expeditiously, building a good communication with this  
17   office, dealing with the turnover of staff in GAO.

18          And I wonder -- last time I asked you if you  
19   could explain a little bit more -- who are these  
20   people? And anything else you can offer us by way of  
21   background and context.

22          MS. BERGMAN: Sure. At the last meeting, I

1 gave you a little bit of background on the history of  
2 GAO in response to the questions about who actually  
3 works there.

4           So one of the questions that had also come up  
5 is when exactly they had changed their name. Folks  
6 remember that GAO was established in 1921 as the  
7 General Accounting Office. In 2004, it was  
8 redesignated the Government Accountability Office.

9           So it's led by the Comptroller General, who is  
10 appointed by the President based on the recommendation  
11 of a bipartisan, bicameral congressional subcommission.

12          And this commission recommends three individuals that  
13 the President selects among.

14           A nominee is confirmed, then, by the Senate,  
15 and it's for a single non-renewable 15-year term. The  
16 current Comptroller General, Gene Dodaro, was confirmed  
17 in December 2010.

18           The review and oversight functions within GAO  
19 are performed by 14 different teams that work in  
20 domestic and international areas. There are just under  
21 3,000 employees, and that's the lowest level since  
22 World War II, apparently. They draft approximately 200

1 reports annually.

2 Of the employees, 56 percent are analysts, 8  
3 percent are financial auditors, 4 percent are  
4 attorneys, and 2 percent are economists. Sixty percent  
5 of the staff has a master's degree or higher, 75  
6 percent work in Washington, and 25 percent work in  
7 eleven field offices in Atlanta, Boston, Chicago,  
8 Dallas, Dayton, Denver, Huntsville, Los Angeles,  
9 Norfolk, San Francisco, and Seattle.

10 CHAIRMAN MINOW: Thank you very much.

11 MS. BERGMAN: You're welcome.

12 CHAIRMAN MINOW: Anyone have any further  
13 questions for Carol?

14 (No response.)

15 CHAIRMAN MINOW: Thank you. That was really  
16 edifying.

17 We will now turn to two topics related to the  
18 Public Welfare Foundation, and so I will turn over to  
19 Jim.

20 PRESIDENT SANDMAN: Thank you. I'd like to  
21 discuss both together.

22 CHAIRMAN MINOW: Right.

1           PRESIDENT SANDMAN: There are materials in the  
2 board book at pages 73 to 84 on the Public Welfare  
3 Foundation grant. There are biographies of the two  
4 leading consultants that we're using as well as a work  
5 plan that they prepared.

6           The consulting firms are Innovations for  
7 Scaling Impact, iScale, and Keystone Accountability.  
8 I've been very impressed with their teams, and  
9 particularly with the two leaders. These are very  
10 experienced, very smart people.

11           What I am most impressed with is that they  
12 understand that the ultimate purpose of this exercise,  
13 of data collection and analysis, is about improving the  
14 quality of legal services that our grantees offer.

15           They also understand that that will not happen  
16 unless the grantees embrace the data collection  
17 processes that we institute. If they end up being  
18 nothing more than something imposed on them by LSC,  
19 mandatory reporting requirements of a funder, we won't  
20 have accomplished anything.

21           What we need to do is devise practices that  
22 will demonstrate to programs why it's in their interest

1 to make better use of data, and how they can improve  
2 their management and their service delivery through the  
3 practices that we end up with as a result of this  
4 process.

5           We have formed an advisory group, a working  
6 group, we call it, of seven members. It consists of  
7 people from other funders, executive directors of  
8 LSC-funded programs, and one very experienced person in  
9 the field, Alan Houseman, who is executive director of  
10 the Center for Law and Social Policy.

11           The other members of the group are Colleen  
12 Cotter, executive director of the Legal Aid Society of  
13 Cleveland; Ramon Arias, executive director of Bay Area  
14 Legal Aid in California; Robert Barge, executive  
15 director of Rhode Island Legal Services; Anthony Young,  
16 executive director of Southern Arizona Legal Aid;  
17 Bonnie Huff, who is with the Administrative Office of  
18 California Courts and has responsibility for  
19 administering an evaluation process under legislation  
20 in California; and Betty Balli Torres, executive  
21 director of the Texas Access to Justice Foundation.

22           We thought it was important to have the

1 perspective of other funders because, as you'll see  
2 when I present my President's report on Tuesday, we are  
3 minority funder, on average, for our grantees. There  
4 are other players out there, and coordinating with what  
5 they do, collaborating with them, is very important.  
6 Also, both of these people, Bonnie and Betty, have  
7 experience in their own jurisdictions with program  
8 evaluation and outcomes data.

9           We had a meeting, an all-day meeting, on March  
10 29th with the working group and our consultants here in  
11 Washington. It was a very productive meeting. I think  
12 some of the working group members may have arrived with  
13 some anxieties and trepidation about this exercise; as  
14 I've reported previously, there is concern in the field  
15 about LSC's potentially imposing the use of uniform  
16 national standards to evaluate programs, and people are  
17 concerned about that because of the variety of service  
18 delivery models in the field, and the variation of  
19 program priorities, all sorts of differences among the  
20 134 programs that LSC funds.

21           I believe that at the end of the day, the  
22 group left enthusiastic, energetic, positive, glad to

1 be a part of this exercise, and convinced that LSC and  
2 our consultants are committed to a process that's  
3 inclusive, that takes account of what's going on in the  
4 field, and that is not dictatorial.

5           The next steps in the process are for our  
6 consultants to do telephone interviews of 30 people in  
7 the field who are known to be current users of data  
8 from whom we might learn, and other leaders in the  
9 field; then to use what they gain from those telephone  
10 interviews to construct a survey that they'll employ in  
11 making contact with all 134 of our grantees.

12           Our consultants have already done an internal  
13 inventory of the data that LSC collects, and of our  
14 data collection practices, so that they understand what  
15 we're sitting on top of already. We have a lot of data  
16 here that I think we could make better use of in  
17 evaluating our programs and sharing information with  
18 our programs.

19           We're beginning to do that already, and I'll  
20 have some illustrations of that in my President's  
21 report. But the consultants did a comprehensive job of  
22 interviewing people and reviewing our data systems.

1 They worked with Becky Fertig and with John Meyers,  
2 among others, to get their arms around what it is that  
3 we have already.

4 I think we're making good progress. This is  
5 going to take us into next year. This is a significant  
6 undertaking. Our consultants are very eager to help.  
7 They are enthusiastic partners. They are excited about  
8 this project. They really wanted this engagement, and  
9 their performance since we brought them on has been  
10 consistent with the enthusiasm they expressed in the  
11 RFP process.

12 This, I think, is maybe the single most  
13 important thing we're doing right now to implement the  
14 first goal of the strategic plan to maximize the  
15 availability, quality, and effectiveness of the legal  
16 services that the programs we fund offer.

17 CHAIRMAN MINOW: Well, thank you, Jim. These  
18 are really outstanding people involved in it, and  
19 you've clearly turned around what could have been a  
20 very tense group. And so it's all going in the right  
21 direction. I have two questions myself, and then I'll  
22 ask committee members if they also have questions.

1           One is a small one. On the milestone chart,  
2 it suggests that through May is the review of LSC  
3 systems. Your comments suggest that that's done. I  
4 wonder where we are on that.

5           PRESIDENT SANDMAN: I believe that's  
6 concluded.

7           CHAIRMAN MINOW: Because I would imagine we  
8 could -- we're in control of that. That should happen  
9 pretty quickly.

10          PRESIDENT SANDMAN: Yes. We have made  
11 available a lot of information, and one of their team  
12 spent a full -- well, spent about a day and a half in  
13 Washington right before the working group meeting on  
14 March 29th interviewing people.

15          I'd need to follow up to be sure that they  
16 have everything they need. But I think that could be  
17 checked off.

18          CHAIRMAN MINOW: Great. The second question,  
19 I'll confess, is a two-part question. When they are  
20 done, how will we know that they have done what we  
21 hoped, and that we have made the progress that we want  
22 on that first element of our strategic plan? So that's

1 part one.

2 Part two is, will we still be playing catch-up  
3 in this all-important matter of understanding the  
4 practice, providing a baseline of real data? Will we  
5 be able in this process also to be building up to the  
6 contemporary world of use of data?

7 And here, I know that in the private sector,  
8 data analysis about effectiveness of legal services is  
9 at a level that is so many light years ahead of  
10 anything that we do, down to each attorney, how many  
11 minutes does each attorney spent on a client interview?  
12 How is that related to outcomes?

13 So that when a client wants to hire a firm,  
14 they can drill down to the level of the individual  
15 attorney and compare the time that they spend on a  
16 deposition versus the time that someone else spends on  
17 a deposition. That's what the private sector does  
18 right now.

19 I am not suggesting that we should do that.  
20 But I am concerned that if we are operating simply at  
21 the level of our preexisting data categories, looking  
22 at surveys of the field and what people think they want

1 to know, we will simultaneously be doing enough  
2 peripheral vision and investigation into what future  
3 data practices data analysis ought to be, with the  
4 special problem that unlike in the private sector,  
5 which has a relatively simple metric -- how much money  
6 are we making? -- here we have a very difficult  
7 metric -- how much good are we doing?

8           So there really do seem to me at least two  
9 dimensions along which simply going along with the past  
10 practices is not going to be enough. One is, big data  
11 analysis has jumped into hyperspace in a way that we  
12 don't even know; and two, we're in a different sector.

13       We're in a public sector, and the difficulty in this  
14 entire sector is identifying outcomes that people agree  
15 upon that are measurable.

16           PRESIDENT SANDMAN: Are you sure that was only  
17 two questions?

18           (Laughter.)

19           PRESIDENT SANDMAN: I'll try to answer. We've  
20 spent a lot of time talking with our consultants about  
21 what success looks like. And this is going to take  
22 time, not so much to come to the conclusion of their

1 work as to see what difference it makes over time.

2           We're talking about affecting the behaviors of  
3 134 legal aid programs, and there's no snapping of the  
4 fingers that's going to all of a sudden cause the world  
5 to change.

6           But what success looks like to me, over time,  
7 is the increasing use by programs of data in  
8 increasingly more sophisticated ways to improve the  
9 management of their programs, to make wise strategic  
10 decisions about the allocation of limited resources, to  
11 have information that tells them what works and what  
12 doesn't and how they might realign their priorities as  
13 a result of that.

14           So we're going to have to do a lot of  
15 monitoring along the way after we implement whatever we  
16 come up with. And it will always be an iterative  
17 process. Our consultants recognize that. I don't  
18 think they anticipate handing us some bound report and  
19 saying, done. In fact, I think they like to continue  
20 to work with us, if that were possible, to implement  
21 whatever it is that they end up recommending to us.

22           In terms of whether we can catch up with the

1 rest of the world, my own view is that the for-profit  
2 segment of the legal profession isn't quite where you  
3 think they are. I think that the most sophisticated  
4 clients out there in the corporate world are able to do  
5 some of what you say. But many are not, and even if  
6 the clients can do it, many of the law firms lag their  
7 clients in using data.

8 CHAIRMAN MINOW: That's true.

9 PRESIDENT SANDMAN: And I think there's a  
10 phenomenon where sometimes the client knows more about  
11 the law firm's operations than the law firm knows. Not  
12 at my old firm, of course.

13 (Laughter.)

14 PRESIDENT SANDMAN: We do have one very  
15 significant difference from the for-profit world: We  
16 don't have their resources. And a lot of the systems  
17 that you're talking about that permit clients or law  
18 firms to do the kind of analysis that you're talking  
19 about cost money. They cost significant amounts of  
20 money. And law firms end up investing a lot in  
21 consulting time as well, and corporate legal  
22 departments do, to implement those kinds of systems.

1           So the resource constraints that we operate  
2 under are always going to have to be a factor. But I  
3 do think, nevertheless, that there's a lot that can be  
4 done. One of the reasons I like these consultants is  
5 because they have extensive experience in other  
6 components of the nonprofit world that are similarly  
7 resource-constrained, and they've made progress there.

8           When we describe for them all of the concerns  
9 and anxieties that we had detected when we first  
10 initiated this project, and we shared with them the  
11 written materials that are out there expressing those  
12 concerns, their reaction was, everyone in the nonprofit  
13 world says these things, that the first response to  
14 objectors is always, we're different, no matter what  
15 the portion of the nonprofit world.

16           But I think, based on their experience, we can  
17 nevertheless make progress. I don't think it's  
18 realistic to think that we can equal the best of the  
19 for-profit world, but I think we can make sure  
20 progress.

21           CHAIRMAN MINOW: I think that's a terrific  
22 response. Not for further response, but let me just

1 say a little bit more.

2           You are right; most of the law firms don't  
3 have the capacity, but they contract out. And I wonder  
4 if there's a pro bono request to make to the  
5 consultants to whom they all contract out.

6           It would certainly seem appropriate to extend  
7 our pro bono inquiry to the field that is now not so  
8 ancillary to the practice of law. They have developed  
9 the capacity, by pooling the data from different  
10 clients, to do quite serious and sophisticated analysis  
11 of the sort that I've described.

12           Secondly, very much triggered by the prior  
13 committee's discussion of developments from VAWA and  
14 developments under the Indian criminal jurisdiction,  
15 the variation among our grantees about the kinds of  
16 matters that they handle, the kinds of clients that  
17 they handle, of course dictates that we must develop  
18 data collection that is itself flexible, variable, and  
19 has the input of the local.

20           Just as we think about that, can we think  
21 about having templates that nonetheless are available  
22 to everybody, so everybody sees what the range is?

1 Because there may be overlaps or connections that  
2 people did not imagine.

3 PRESIDENT SANDMAN: One of the goals of this  
4 project is to develop a toolkit for grantees to use and  
5 customize based on the substantive areas that they  
6 practice in and what their service delivery model is.  
7 How you measure the benefit of advice and counsel that  
8 might be a 20-minute telephone conversation or meeting  
9 is challenging.

10 But our goal is to be able to introduce to our  
11 grantees a range of alternatives that they might use,  
12 and then to provide technical assistance in  
13 demonstrating to them how they go about adapting the  
14 toolkit to their needs and why it would be a good thing  
15 for them to do.

16 On your first point, I know you weren't  
17 calling for a response, but I'll offer one. Not long  
18 after I started, I attended a regional meeting of  
19 executive directors and talked about what I regarded as  
20 the need for vastly improved data collection and  
21 analysis. And one executive director told me, "You  
22 can't measure what we do. We're lawyers."

1           I didn't think to say it at the time. But as  
2 I reflected on that, I thought, there's something I  
3 should have said from my background. Rich clients  
4 measure what their lawyers do all the time, and if they  
5 don't measure up, they fire them. They replace them.

6           Who's going to do that for poor people? They  
7 don't have the resources to do what the rich clients  
8 do. It falls to us to do it, and to do it honestly and  
9 objectively. It can be done, and I think that our  
10 obligation to the clients that our program serves  
11 requires that we bring the mindset that rich clients  
12 are bringing to evaluating their lawyers. I think it's  
13 our duty.

14           CHAIRMAN MINOW: Well said, and I think it's  
15 really worth exploring, making contacts sooner rather  
16 than later with some of these companies that are  
17 providing the services to the law firms just to let  
18 them know we're interested in the same kind of thing,  
19 and explore their interest in any pro bono services.  
20 It could help their reputations, but it could also help  
21 advise us.

22           Charles?

1           MR. KECKLER: Thank you, Martha. A couple of  
2 years ago now, I asked a question on the record about  
3 time. And I was asking the former director of the  
4 Office of Compliance and Enforcement, what has LSC done  
5 with the time records of grantees, time data? Because  
6 for now many years, all of our grantees have been  
7 required to record all time in 15-minute intervals.  
8 It's in the regulations.

9           The answer of what LSC has done with that was,  
10 "Nothing." And since then, I've sort of ruminated on  
11 that and considered that "Nothing" isn't the right  
12 answer for us.

13           (Laughter.)

14           MR. KECKLER: But there are these two levels.  
15 We are going to want to have both the denominator and  
16 the numerator in terms of how effective services are  
17 being delivered in terms of time. And we are at the  
18 same time -- the grantees, we want to make sure that  
19 the grantees are using the time data.

20           There's a utility for it for us, but then  
21 there's, yes, their own use of it, which is -- that  
22 would have been the next question. That's the next

1 question that I should have asked at that time, is what  
2 does LSC know about how the grantees are using their  
3 time data?

4           So I think both of those are important. And I  
5 was wondering if, during the process of this data  
6 collection method, has this issue of time data come  
7 up -- you mentioned it yourself, Martha -- in either or  
8 both of those contexts, the use that we can make of it  
9 and the oversight that we can apply or the best  
10 practices that we can help for grantees to make use of  
11 it?

12           PRESIDENT SANDMAN: It has come up, but it  
13 hasn't been a focus of discussion. I think the value  
14 of the timekeeping data depends on its detail. There's  
15 timekeeping and there's timekeeping. And my impression  
16 is -- Lora Rath, who's here, might be able to confirm  
17 or deny -- that there is a level of generality in the  
18 timekeeping records that we get from our grantees that  
19 limits its utility.

20           For lawyers in private practice, clients see  
21 this all the time, lawyers who aren't detailed enough  
22 in describing what they do, or who engage in what's

1 called "block billing," that they'll have like a  
2 paragraph-long description of what they've done over  
3 the course of eight hours without any breakdown of how  
4 much time they spent on each task in that eight hours.

5           Time records are only as valuable as the  
6 detail in them. And there is a balance there; the more  
7 we require grantees to report, the more time they're  
8 going to spend on timekeeping and writing it down than  
9 they are doing it. Every lawyer who's ever had to keep  
10 time is familiar with that phenomenon.

11           But I think that is a tool, to be sure. And  
12 it's kind of hard for me to imagine that you wouldn't  
13 take account of timekeeping in some way in measuring  
14 efficiency and productivity.

15           CHAIRMAN MINOW: Are there other questions?  
16 Julie?

17           MS. REISKIN: At some point -- it doesn't have  
18 to be now -- I'm very interested in what kind of  
19 questions they're going to be asking the clients and  
20 that thought process because unlike corporate clients,  
21 legal aid clients, I think, might not have -- I'm just  
22 interested because I think -- in the connection.

1           CHAIRMAN MINOW:  It's important, and maybe  
2 there could be some step of the process that involves  
3 client input or input from client board members or  
4 other kinds of roles like that.

5           MS. REISKIN:  Yes.  And I was very impressed.  
6    Those CVs were just amazing.

7           CHAIRMAN MINOW:  John?

8           MR. LEVI:  Well, further to Jim's point, in  
9 the world that he and I lived in, that I live in, that  
10 Robert lives in currently, our clients have a sense  
11 because they've seen things over time of what a  
12 matter -- how long a matter should take.  They have a  
13 sense of what's good time management by a law firm.  
14 And if things look out of whack, they let you know.

15           The clients of our grantees don't have that  
16 sense, and so we have to provide it, I think, or we  
17 have an opportunity to provide it.

18           CHAIRMAN MINOW:  Right.  Julie?

19           MS. REISKIN:  And it's a totally different  
20 mindset because we would look at things as not taking  
21 enough time, not that they're spending too much time.  
22 So what I hear a lot from clients is, well, my lawyer

1 doesn't care because they moved quickly.

2           So again, that's why it's so important that  
3 this is framed because it's just a different worldview  
4 and cultural perspective and everything.

5           CHAIRMAN MINOW: I have Gloria and then  
6 Charles.

7           PROFESSOR VALENCIA-WEBER: I'm concerned also  
8 about the existing data as well as maybe the data that  
9 we need to collect. I notice that for the surveys,  
10 they're going to survey LSC grantees.

11           I hope that it includes not only a diverse set  
12 of grantees, but even questions that allow some of the  
13 drilling down because it's people providing services  
14 for rurally isolated people, communities, special  
15 needs, our veterans, projects, certainly the Native  
16 American projects and the migrant money.

17           In the past two weeks, I've been in meetings  
18 where I've met with two of our grantees directors in  
19 rural -- and who provide some of these identifiable  
20 populations. And what I'm hearing from them is some of  
21 them were very pleased to see the article in the New  
22 York Times about in South Dakota, you're five counties

1 away from a lawyer, and the last one is about to  
2 retire.

3           They face that all the time. And in there, I  
4 think we -- we've discussed how much it might be useful  
5 to them in their own system, of not only the time,  
6 which fits whatever we see in private practice, but in  
7 private practice we also have accounting for the travel  
8 costs that are involved in servicing the client.

9           We're now in a situation where because of the  
10 cuts and office closings, we have LSC attorneys having  
11 to drive three and a half hours. And if the proceeding  
12 they're driving to occurs at a certain time, then they  
13 have to find overnight, at least, a Motel 6 to stay at  
14 and then drive back the next day.

15           So we've discussed the idea, well, could you  
16 keep track of the miles that you use to service each  
17 case? That alone would give, for our rurally isolated  
18 grantees with limited access to pro bono lawyers,  
19 whether PAI or whatever, an idea of how it is -- the  
20 diversity of the service, but also the resource-intense  
21 kind of service some of our grantees have to give as  
22 compared to others.

1           CHAIRMAN MINOW: Thank you.

2           Charles?

3           MR. KECKLER: Just a before followup on the  
4 point that you're making about monitoring. It's not  
5 that unusual a situation. If you take the middle level  
6 of a small business, they don't have necessarily that  
7 knowledge of how long things take, either.

8           But they don't usually have to. Why? Because  
9 they're insured, and the insurance company steps in as  
10 a third party payor, and they're the ones who are  
11 monitoring productivity and efficiency for clients that  
12 don't necessarily have that capacity.

13           And here we are -- it's not a perfect legal  
14 analogy, of course -- but here we are. We are the  
15 third party payor for all of these clients all over the  
16 country, and we have that kind of responsibility. So I  
17 agree with that.

18           CHAIRMAN MINOW: Very good. Well, I think,  
19 Jim, what you're hearing is considerable interest and  
20 excitement in the undertaking, and respect for the  
21 seriousness and the degree of sophistication that's  
22 being brought to bear on the subject.

1           I don't imagine that we'll get an update on it  
2 at our next meeting, but maybe the one after that, if  
3 that makes sense.

4           PRESIDENT SANDMAN: Yes. I do --

5           MS. BROWNE: This is Sharon. Can I just make  
6 a comment as well?

7           CHAIRMAN MINOW: Oh, please, Sharon.

8           MS. BROWNE: As far as attorney time needs are  
9 concerned, I think our grantees also have an additional  
10 incentive to start keeping better track of their time,  
11 if they're not already doing so, and in some detail  
12 because we now allow the grantees to collect attorney's  
13 fees under certain circumstances.

14           Without the very detailed time records,  
15 they're not going to be able to recover any attorney's  
16 fees. So that would be an incentive for them to  
17 ratchet up what they're doing.

18           CHAIRMAN MINOW: That is such an excellent  
19 point. It makes me wonder, Jim, whether we have  
20 technical assistance that we can offer our grantees who  
21 may not already know how to do that.

22           PRESIDENT SANDMAN: We do. We also have

1 information on available technology. My understanding  
2 is that a number of the case management systems that  
3 LSC-funded programs use incorporate a timekeeping  
4 feature. So right there, within the case file, they  
5 can maintain the information about the time expended on  
6 the case.

7           And we have information about which case  
8 management systems our grantees are using; to the  
9 extent that we have programs that aren't using systems  
10 with that integrated capability, we could talk to them  
11 about that.

12           CHAIRMAN MINOW: Harry? Is Harry on the  
13 phone, and do you want to say anything?

14           (No response.)

15           CHAIRMAN MINOW: Not sure. Okay.

16           You had something else you were going to say  
17 about maybe reporting back?

18           PRESIDENT SANDMAN: Oh, I do think it might be  
19 beneficial at some point to have our consultants come  
20 in and brief the --

21           CHAIRMAN MINOW: Oh, I think that would be  
22 terrific.

1           PRESIDENT SANDMAN:  -- brief the Committee and  
2 the Board.

3           CHAIRMAN MINOW:  Well, we'll like to you when  
4 that's an appropriate time.  Thank you very much.

5           Okay.  Moving on to the next subject, the word  
6 "comptroller" was referred to earlier.  We now have the  
7 topic of the evaluation of our own comptroller, which  
8 does come to this Committee, but more as a report,  
9 because other than reviewing our President and our  
10 Inspector General, all other performance reviews are  
11 done in-house by the staff.  But we are the oversight,  
12 ultimately, under our bylaws, of that process.

13           So Jim, do you have comments on that?

14           PRESIDENT SANDMAN:  I do.  Last year, the  
15 Board decided to delegate responsibility for evaluating  
16 other officers of the Corporation to me.  Last year the  
17 Committee did do that.

18           The discussion was that I would do the  
19 evaluation and report to the Committee and to the Board  
20 that I had done that, and with a brief summary, I have  
21 done an evaluation of our comptroller, Dave Richardson.

22           He started the process by doing a

1 self-evaluation using his position description as a  
2 guide, and gave me written comments on his performance.

3 I reviewed them and then met with him, gave him my  
4 feedback on his self-evaluation.

5 My conclusion was that our comptroller's  
6 performance is satisfactory. I had a couple of  
7 suggestions for improvement, and am confident that we  
8 will continue to work well together.

9 CHAIRMAN MINOW: Very good. Thank you.

10 We now turn to other business. I'm not sure  
11 if anyone has other business.

12 (No response.)

13 CHAIRMAN MINOW: Then I turn to public  
14 comment. Is there public comment?

15 (No response.)

16 CHAIRMAN MINOW: No public comment. Thank  
17 you.

18 So I will now entertain a motion to adjourn.

19 M O T I O N

20 MR. KECKLER: So moved.

21 MR. LEVI: So moved.

22 CHAIRMAN MINOW: Second. I heard two there.

1 And so let us now vote to adjourn. Yes?

2 (A chorus of ayes.)

3 CHAIRMAN MINOW: Okay. We now adjourn. Thank  
4 you all very, very much.

5 (Whereupon, at 4:55 p.m., the Committee was  
6 adjourned.)

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