LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

FINANCE COMMITTEE OPEN SESSION

Friday, September 30, 2005 9:00 a.m.

Legal Services Corporation 3333 K Street, N.W., 3rd Floor Washington, D.C. 20007

COMMITTEE MEMBERS PRESENT:

Herbert S. Garten, Acting Chairman Florentino A. Subia Lillian R. BeVier, Vice Chairman Thomas Fuentes (by telephone) Frank B. Strickland, ex officio

STAFF AND PUBLIC PRESENT:

Helaine M. Barnett, LSC President
Victor M. Fortuno, Vice President for Legal Affairs,
General Counsel & Corporate Secretary
Charles Jeffress, Chief Administrative Officer
David Richardson, Treasurer and Comptroller
Michael Genz, Director
Patricia D. Batie, Manager of Board Operations
Karen M. Dozier, Executive Assistant to the President

David Maddox, Assistant Inspector General for Resource Management

Ronald Merryman, Assistant Inspector General

Laurie Tarantowicz, Assistant Inspector General & Legal Counsel

Thomas Coogan, Assistant Inspector General

Karena Dees, Office of Inspector General

Richard (Kirt) West, Inspector General

Thomas Polgar, Director, Governmental Relations & Public Affairs

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

Linda Perle, CLASP

William Whitehurst, American Bar Association (ABA)Standing Committee on Legal Aid and Indigent Defendants

JoAnn Wallace, CEO & President, NLADA

Julie Clarke, NLADA

Julie Strandlie, ABA

Karen Sarjeant, Vice President

Treefa Aziz, LSC

Jonathan Asher, Colorado Legal Services (by telephone)

Bob Echols (by telephone)

Melville D. Miller (by telephone)

Terri Brooks (by telephone)

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MOTIONS: 6, 8, 9, 43, 132 (2), 138, 143, 144, 148

- 1 PROCEEDINGS
- 2 MR. GARTEN: I'm Herb Garten. I'm going to
- 3 act as chair of the Finance Committee by appointment by
- 4 the chair for this meeting. I'd like to call the
- 5 meeting to order.
- 6 The first order of business I think would be
- 7 for those members of the board who are present here to
- 8 identify themselves. Tom, will you start us on that?
- 9 MR. FUENTES: Sure. Good morning. This is
- 10 Tom Fuentes calling from California.
- 11 CHAIRMAN STRICKLAND: Frank Strickland from
- 12 Atlanta.
- 13 MR. SUBIA: Florentino Subia from El Paso.
- MS. BEVIER: Lillian BeVier from
- 15 Charlottesville, Virginia.
- MR. GARTEN: And we have a number of guests.
- 17 If they would like to identify themselves they could do
- 18 so at this time. We'll start in the front row.
- 19 MR. JEFFRESS: Charles Jeffress with Legal
- 20 Services Corporation.
- 21 MR. GENZ: Michael Genz with Legal Services
- 22 Corporation.

- 1 MS. BATIE: Patricia Batie, Legal Services
- 2 Corporation.
- 3 MR. MADDOX: David Maddox, Legal Services
- 4 Corporation.
- 5 MR. MERRYMAN: Ron Merryman, Office of
- 6 Inspector General.
- 7 MS. TARANTOWICZ: Laurie Tarantowicz.
- 8 MR. WEST: Kirt West, Inspector General.
- 9 MR. POLGAR: Tom Polgar, LSC.
- 10 MS. PERLE: Linda Perle, Center for Law &
- 11 Social Policy.
- MR. SAUNDERS: Don Saunders, NLADA.
- MS. CLARKE: Julie Clarke, NLADA.
- MR. COOGAN: Tom Coogan, OIG.
- MS. SARJEANT: Karen Sarjeant, LSC.
- MS. DOZIER: Karen Dozier, LSC.
- 17 MS. STRANDLEY: Julie Strandley.
- MS. DEES: Linda Dees, OIG.
- 19 MR. GARTEN: Okay, thank you very much.
- 20 MS. BARNETT: And Helaine Barnett, LSC.
- 21 MR. GARTEN: Thank you very much. I'm very
- 22 impressed with the attendance here. I'm sure that

- 1 fellow members of the board and the committee feel
- 2 likewise and thank you for being with us.
- 3 The first order of business is the approval of
- 4 the agenda, which appears in our loose-leaf book. May
- 5 I have a motion to approve all of it.
- 6 MOTION
- 7 MS. BEVIER: So moved.
- 8 MR. SUBIA: Second.
- 9 MR. GARTEN: All in favor?
- 10 (A chorus of ayes.)
- MR. GARTEN: So done. Our next item is the
- 12 approval of the minutes of the committee's meeting of
- 13 July 28, 2005.
- 14 MR. FUENTES: Mr. Chairman, I have a point to
- 15 make there, if I may.
- 16 MR. GARTEN: Certainly.
- 17 MR. FUENTES: I notice that those minutes on
- 18 the first page constitutes the committee that day were
- 19 Garten, Subia, BeVier and Strickland. And yet through
- 20 the minutes there were several motions made and those
- 21 motions were made by a nonmember of the committee,
- 22 Professor Hall.

- 1 I'm wondering if, because that would be, of
- 2 course, from a parliamentary standpoint inappropriate,
- 3 because of the circumstance of the constitution of the
- 4 committee at that time. I understand what was
- 5 happening.
- I'm wondering if a motion at this time would
- 7 not be appropriate beyond the approval of the minutes,
- 8 because this is a recordation of what actually
- 9 transpired, to correct that in some fashion.
- 10 Or maybe we should turn to Vic so that the
- 11 conduct of the business of the meeting was actually the
- 12 action of duly appointed members of the committee at
- 13 that time and not quests in the room.
- 14 MR. GARTEN: I think it's a good comment.
- 15 Vic, would a ratification on the part of the committee
- 16 or some other method -- Vic Fortuno has just joined us
- 17 and we have a question for you.
- MR. FORTUNO: Yes. Also, Bill Whitehurst
- 19 called. There was a slight mix-up. He's on his way
- 20 here now.
- MR. GARTEN: No, he's here.
- MR. FORTUNO: Welcome, Bill.

- 1 MR. GARTEN: Vic, the issue was raised by Tom
- 2 Fuentes and that is that in reading the minutes -- and
- 3 that's the agenda item we're on -- of the meeting of
- 4 July 28th, in a number of instances Tom points out that
- 5 nonmembers of the committee either made the motion or
- 6 seconded it and is it appropriate to cure that, if it
- 7 is a problem, at this time.
- 8 And I said could we do that by the financial
- 9 committee ratifying it or some other method at this
- 10 point.
- 11 MR. FORTUNO: Though awkward, it sounds like
- 12 it's probably the most convenient way of proceeding.
- 13 If the committee members ratify the actions taken at
- 14 that meeting it is awkward but it seems to me that
- 15 that's what you'd want to do.
- 16 MR. GARTEN: I would think that's appropriate.
- 17 So with that advice may I have a motion to that
- 18 effect, ratifying each of the resolutions made at the
- 19 meeting of July 28, 2005 that might not have been moved
- 20 or seconded by members of the finance committee.
- 21 MOTION
- 22 CHAIRMAN STRICKLAND: So moved.

- 1 MR. SUBIA: Second.
- 2 MR. GARTEN: All right.
- 3 MR. FORTUNO: It seems in effect it was
- 4 ratified by the board in acting on the motions the
- 5 following day, but --
- 6 MR. GARTEN: I would agree, but this can't
- 7 hurt. All right, any other discussion? All in favor.
- 8 (A chorus of ayes.)
- 9 MR. GARTEN: All right. Any opposed? So
- 10 moved. All right, are there any other comments on the
- 11 minutes?
- 12 CHAIRMAN STRICKLAND: Does that particular
- 13 motion -- I don't know whether it was entered or not
- 14 but was that intended to approve those minutes?
- MR. GARTEN: My next motion will do that.
- 16 CHAIRMAN STRICKLAND: All right, fine.
- 17 MR. GARTEN: Any other comments on the
- 18 minutes? Tom.
- 19 MR. FUENTES: No, that's all that I have.
- 20 MR. GARTEN: All right. Ready for the
- 21 question. All in favor of approving the minutes of the
- 22 finance committee of Thursday, July 28, 2005. May I

- 1 have a motion to that effect.
- 2 MOTION
- 3 MR. SUBIA: Moved.
- 4 CHAIRMAN STRICKLAND: Second.
- 5 MR. GARTEN: All in favor.
- 6 (A chorus of ayes.)
- 7 MR. GARTEN: So moved and so passed. The next
- 8 item on the agenda is the presentation of a financial
- 9 report through August 31, 2005. Would those who are
- 10 making the report identify yourselves, please.
- 11 MR. JEFFRESS: Thank you, Mr. Chairman.
- 12 Charles Jeffress, Chief Administrative Officer for LSC,
- 13 and assisting me, David Richardson, the comptroller for
- 14 LSC, making their financial report.
- The financial report is found in your notebook
- on pages 8 through 12 or actually 8 through 13. This
- 17 is the report through the end of August, which is 11
- 18 months of our fiscal year.
- 19 I would just mention first some of the totals
- 20 on pages 9 and 10. If you look at the columns 1 and 2
- 21 on page 9 for the totals for our annual budget and
- 22 actual spending on these items.

- 1 Basic field programs, of course, \$315 million.
- 2 That has been distributed to the field programs. The
- 3 court of veterans appeals funds, \$1.1 million. That
- 4 has also for the most part been distributed to the
- 5 grantees.
- 6 Grants from other funds, the budget was
- 7 \$415,000. Spent through the end of August was
- 8 \$159,000. Since the end of August we have spent
- 9 another \$100,000; \$50,000 for Louisiana and \$50,000 for
- 10 Mississippi to assist them with some of the immediate
- 11 costs of responding to hurricane Katrina. But as of
- 12 the end of August there was \$159,000 having been spent.

13

- 14 Technology initiatives, there was a \$3.4
- 15 million budget. \$2.2 million had been spent. You see
- 16 a \$1.2 million remaining. Those grants, we have now
- 17 identified the recipient to those grants and the
- 18 balance of that money will be spent within the next
- 19 couple of weeks.
- On the next page, on page 10, again let me
- 21 mention some totals to you. You see the annual budget
- 22 for the management administration account is \$14.4

- 1 million. Actual expenditure through August, column 2,
- 2 is \$11.5 million. So the column 4 is a variance. That
- 3 is, how much money we had budgeted that we have not yet
- 4 spent is \$1.7 million.
- 5 The expenditure rate, if you look at column 2
- 6 and column 6, it's very similar this year to last year.
- 7 About \$11.5 million spent both years through the month
- 8 of August. The \$1.7 million at this point that we have
- 9 not spent we anticipate being able to carry forward in
- 10 the next fiscal year for the budget for next fiscal
- 11 year.
- 12 Overall in terms of a summary I'll go back to
- 13 page 8 at this point. The management administration
- 14 spending, as I mentioned, is under budget by about 13
- 15 percent, leaving the balance of \$1.7 million that at
- 16 this point is a variance and anticipated to be able to
- 17 be carried forward in the next fiscal year.
- 18 The technology initiative grants and the loan
- 19 repayment assistance program, both of those programs
- 20 have identified -- in the case of TIG they've
- 21 identified the actual grant recipients and in the case
- 22 of the loan repayment assistance they've identified

- 1 which grantees will be participating in the program and
- 2 in the next month will be identifying which attorneys
- 3 will actually get assistance with the loan repayment
- 4 assistance program. So those monies will be committed
- 5 very shortly.
- And then finally, as I mentioned, we have
- 7 distributed an additional \$100,000 out of the emergency
- 8 account to assist with recovery from the hurricane in
- 9 Louisiana and Mississippi.
- 10 At this point there are no accounts that are
- 11 significantly overdrawn, no accounts in jeopardy. We
- 12 will be coming back to you at the October meeting with
- 13 an end of fiscal year report. At that time we
- 14 anticipate there will be need for some minor
- 15 adjustments to the budget to account for some different
- 16 line items.
- 17 I'd be happy to respond to any questions.
- 18 MR. GARTEN: Your final month of September,
- 19 have you encountered anything unusual during this
- 20 month?
- 21 MR. JEFFRESS: Only that August being a slow
- 22 month because of vacations there were some bills we

- 1 thought might come in in August did not come in.
- 2 For instance, we sub that space on the first
- 3 floor, as you all know, and there was some cost for
- 4 renovating that space, real estate commissions. Those
- 5 bills did not come in in August. They will come in in
- 6 September.
- 7 There's a few more litigation bills that will
- 8 come in in September, but nothing major. Not enough, I
- 9 think, to affect the potential to carry over \$1.7
- 10 million.
- 11 MR. GARTEN: Any questions? Thank you. Can
- 12 we go to the next agenda item, the report on the status
- 13 of fiscal '06 appropriation. Mr. Polgar, will you
- 14 identify yourself.
- MR. POLGAR: My name is Tom Polgar. I'm
- 16 director of government relations and public affairs for
- 17 LSC.
- The status of the '06 appropriations. As you
- 19 know, in June the House passed the '06 appropriation
- 20 and they passed the level of \$330.8 million, which was
- 21 the same as the '05 appropriation, although there were
- 22 minor changes in the allocation of funds between the

- 1 line items.
- 2 The Senate took up the '06 appropriation on
- 3 September 9th. The Senate appropriations committee had
- 4 reported a bill with a \$324.5 million appropriation.
- 5 An amendment was offered by Senator Harkin which added
- 6 \$34 million to that amount. That passed and the result
- 7 was a \$358.5 million appropriation, which was close to
- 8 the \$363 million that the board originally recommended.
- 9 The actual breakdown of the appropriation can
- 10 be found on page 10 of the board book, which shows how
- 11 the money was allocated. It is a little confusing
- 12 because when the Senate committee had originally acted
- 13 on the appropriation they made a \$10.5 million mistake.
- 14 If you add up the line items that were
- 15 specified by statute that came to \$10.5 million more
- 16 than the total appropriation. To further compound the
- 17 confusion, the committee report allocates the money
- 18 differently and even there they still made a \$400,000
- 19 mistake.
- The adoption of the Harkin amendment did
- 21 nothing to clear the confusion up. I expect that
- 22 that's not going to last. By the time they get through

- 1 conference they'll figure it out and the totals will
- 2 equal whatever the final number is. I mean the
- 3 subtotals will equal whatever the final number is.
- But that's sort of where we stand right now.
- 5 We expect a conference to start in about two weeks,
- 6 possibly a little sooner. We expect it will drag on
- 7 through at least the end of the month, if not until
- 8 Veterans Day.
- 9 But it does look, and this is different from
- 10 the report that I gave to the board in Monterey in the
- 11 end of the July. It does look now like there will be a
- 12 regular FY '06 Congress justice appropriations bill
- 13 enacted into law and that we will have a number to work
- 14 with that is well in advance of the end of the year,
- 15 which is when we really need it by.
- That's my report and I'm happy to take any
- 17 questions.
- OPERATOR: Hi, this is Maria. I'm going to
- 19 connect Dee. Hold on, please.
- 20 (Pause.)
- OPERATOR: Okay, go ahead.
- MR. MILLER: Thank you.

- 1 MR. POLGAR: Any questions here?
- 2 MR. GARTEN: Referring to page 26 of the
- 3 report, it's a chart on the --
- 4 OPERATOR: Mr. Asher has joined.
- 5 MR. GARTEN: As I understand it, the House
- 6 basically has approved the same appropriation as we had
- 7 in 2005?
- 8 MR. POLGAR: That's correct.
- 9 MR. GARTEN: And based upon what you've told
- 10 us earlier you think a possibility will be a compromise
- 11 between the House appropriation and the final Senate
- 12 appropriation?
- 13 MR. POLGAR: Some version of splitting the
- 14 difference is, I think, quite possible, yes. When
- 15 dealing with Congress splitting the difference, there
- 16 are lots of ways to split the difference.
- 17 OPERATOR: Excuse me. Mr. Echols has joined.
- 18 MR. GARTEN: Do you want to just comment
- 19 briefly on how the Katrina hurricane appropriation fits
- 20 in.
- 21 MR. POLGAR: Yes. The Harkin amendment which
- 22 ultimately passed the Senate earmarks \$8 million of the

- 1 \$358.5 million total for aiding victims of hurricane
- 2 Katrina. What happens to that part of the
- 3 Harkin amendment may be impacted by the supplemental
- 4 appropriations request, which we expect the President
- 5 to send up to the Congress next week.
- There have been some discussions about
- 7 including money in that supplemental for the
- 8 corporation because of the obvious work we are now
- 9 doing assisting the evacuees and other people affected
- 10 by the hurricane.
- 11 They're not going to give us money in both
- 12 places. If there's money in the supplemental for LSC
- 13 to help victims of hurricane Katrina then my guess is
- 14 the \$8 million that's earmarked in the Harkin amendment
- 15 falls by the wayside.
- 16 So if there's no money in the supplemental for
- 17 LSC then the \$8 million is very much in play and may
- 18 end up surviving.
- 19 MR. GARTEN: Do we have any questions for Mr.
- 20 Polgar? If not, thank you very much for your report.
- 21 The next item of business is item 6 of the
- 22 agenda, to consider and act upon LSC's fiscal 2007 --

- 1 MS. BARNETT: Excuse me. There's item 5.
- 2 MR. GARTEN: I'm sorry. I missed a very
- 3 important item. Item 5 is to precede item 6, of
- 4 course. The presentation of the Justice Gap Report.
- 5 And who will be making that presentation?
- 6 MS. BARNETT: I will be making that.
- 7 MR. GARTEN: All right. Helaine Barnett will
- 8 be making that presentation.
- 9 MS. BARNETT: With the assist from my
- 10 committee. May I first introduce who is on the
- 11 telephone who I've asked to join for this presentation.
- 12 Well, let me back up for one moment and say at
- 13 the September meeting of 2004 the LSC board asked LSC
- 14 management to attempt to document what the current
- 15 unmet legal needs of low income persons were in order
- 16 to help inform the board when we came back this
- 17 September to set the budget mark.
- 18 And I convened a Justice Gap committee soon
- 19 after that. I'm very pleased to report that all
- 20 members of the committee are participating this morning
- 21 either in person or by telephone.
- In person are Don Saunders from the NLADA;

- 1 Bill Whitehurst from the ABA; the major person from LSC
- 2 staff was Mike Genz, director of the office of program
- 3 and performance. And on the phone joining us is
- 4 Bob Echols, who is the Access Justice Support project
- 5 director and a consultant to SCLAID; Dee Miller, who is
- 6 the executive director of Legal Services of New Jersey;
- 7 Jon Asher, who during this time was my special counsel
- 8 and very much involved as part of LSC staff in that.
- 9 And the only person who was also on the
- 10 committee that is not participating in one way or the
- 11 other today is Terri Brooks, who was legal counsel to
- 12 SCLAID. But we're delighted that Bill Whitehurst is
- 13 here.
- 14 So we took this charge very seriously and met
- on an ongoing basis for this past year, which has
- 16 culminated in the report which members of the finance
- 17 committee and the rest of the board have entitled,
- 18 "Documenting the Justice Gap in America, the Current
- 19 Unmet Legal Needs of Low Income Americans."
- 20 And one of the first questions we had to deal
- 21 with was whether or not we thought there should be a
- 22 new national study similar to the one that was

- 1 undertaken in 1994 by the American Bar Association.
- 2 And we determined that that was not the way to
- 3 proceed. Besides being very time consuming and costly,
- 4 we would not get the information in time to help inform
- 5 the board for this September board meeting.
- But we did discuss different methodologies
- 7 that would bring different perspectives to this issue,
- 8 and resolved to in fact pursue three.
- 9 The first one involved LSC-funded programs.
- 10 And for the first time we asked our programs for a
- 11 two-month period, every one of them, to keep track of
- 12 the actual people that came to the offices with real
- 13 problems that they perceived they needed civil legal
- 14 assistance for and were turned away simply because our
- 15 programs did not have the resources to help those
- 16 people.
- 17 These were people that fell within our
- 18 eligibility, that fell within our program priorities,
- 19 that but for the fact that we didn't have enough staff
- 20 we would have been able to help.
- 21 The programs all cooperated. We got the
- 22 results. And then the Justice Gap committee said,

- 1 well, let's test if the two months was a representative
- 2 sample for the year, that there were no unusual factors
- 3 in the two months we selected. And we checked
- 4 with more than 10 percent of our programs and they all
- 5 indicated that that was a representative sample. And
- 6 so we multiplied by 6 the results and we actually
- 7 compared them to the total number of cases that the
- 8 programs have handled in 2004.
- 9 Not surprising to our programs but quite
- 10 alarmingly, for every one client that was helped one
- 11 applicant for service was turned away.
- 12 Or another way of putting it, 50 percent of
- 13 those who come to LSC-funded programs do not get the
- 14 assistance from our programs, and 1 million cases were
- 15 turned away over this year.
- The second methodology we used, because it was
- 17 very clear to us in September of '04 that the board did
- 18 not want to rely upon a study that was done more than a
- 19 decade ago when there had been changes in the legal
- 20 landscape clearly since 1996, and so we analyzed the
- 21 state legal need studies that have looked at the legal
- 22 need problems of low income people in their states that

- 1 were conducted since 2000.
- There were nine such studies. Although the
- 3 methodologies were different, they were similar, and
- 4 the results once again showed that in fact the ABA
- 5 study in 1994 probably undercounts the needs today and
- 6 that at least 80 percent of those with civil legal aid
- 7 problems were not able to get the assistance they
- 8 needed.
- 9 Now, let me go back for a moment and just
- 10 indicate, these are undercounts because we know very
- 11 well that many people do not come to a LSC-funded
- 12 office because either the word on the street is they
- 13 can't help you because they don't have enough staff, or
- 14 they don't think they have a legal problem that can be
- 15 solved with a legal remedy, or there are other
- 16 geographic barriers that prevent them from coming. So
- 17 we feel quite confident that in these areas there is,
- 18 in fact, an undercount.
- The third methodology we used, with the
- 20 considerable help of the ABA, was to compare the number
- 21 of attorneys serving the general population with the
- 22 number of attorneys available to serve the poor person

- 1 population.
- In this area we were overly inclusive. We did
- 3 not rely solely on LSC-funded attorneys. But with the
- 4 ABA's help we were able to determine in other states
- 5 other funded attorneys from other sources that were
- 6 helping poor people.
- 7 We combined that number and compared it to
- 8 what we determined to be 125 percent of the poverty
- 9 level as the poor person population. It came out to
- 10 one per 6,861 poor people, the ratio of attorneys.
- 11 With regard to the general attorneys, we
- 12 excluded attorneys that were judges -- state, local,
- 13 federal. We excluded attorneys that were doing public
- 14 defense work. We excluded attorneys who were in the
- 15 teaching profession. We excluded attorneys that were
- 16 retired.
- We took 70 percent of the remaining attorneys,
- 18 because the ABA studies had indicated that 70 percent
- 19 of the attorneys in America are small or solo
- 20 practitioners, and we divided that against the general
- 21 population. It turned to one for every 525
- 22 individuals.

- 1 So that it was clear that there's a 13 times
- 2 difference in the availability of attorneys to the
- 3 general population as to the availability of people
- 4 able to help persons of low income.
- 5 What we concluded as the basis and as the
- 6 result of these three methodologies was that clearly
- 7 the Legal Service Corporation cannot on its own close
- 8 the justice gap.
- 9 But clearly there is a huge justice gap in
- 10 this country and that it is incumbent upon the Legal
- 11 Service Corporation to lead the way by drawing
- 12 attention to the justice gap, identifying the goal of
- 13 eliminating it and beginning to move toward it in firm
- 14 and measured steps.
- 15 And so the conclusion of the report indicates
- 16 that assuming the other partners, and of course there
- 17 are other partners in this effort, but also the
- 18 government unquestionably must bear the laboring oar to
- 19 be consistent with its role in maintaining a justice
- 20 system and providing an orderly forum for the
- 21 resolution of disputes.
- 22 That there was a need for a five-fold increase

- 1 in the amount of funding to support civil legal
- 2 assistance to low income people. But as a minimum in
- 3 order to close the justice gap that at least we should
- 4 be able to serve those that we know are currently
- 5 coming to our offices seeking assistance, which would
- 6 require a doubling of the basic field grant.
- 7 I think our report is a really good report.
- 8 It's not a perfect study. I believe even if we were to
- 9 spend millions of dollars trying to meet the board's
- 10 request I'm not sure we would have come up with
- 11 anything more effective and more compelling.
- 12 We do think we tried to do our assignment
- 13 thoughtfully and objectively. We tried to do what the
- 14 board wanted. We believe it clearly understates the
- 15 need. It was an important year's work.
- 16 And it still shows at a very minimum that
- 17 we're turning away one applicant for our services for
- 18 every one that we're able to assist.
- 19 Since I have asked the members of the Justice
- 20 Gap committee to participate in this presentation, with
- 21 the chairman of the finance committee's indulgence I'd
- 22 like to ask if they would like to add anything to the

- 1 presentation.
- 2 MR. GARTEN: Please go ahead.
- 3 MS. BARNETT: Shall we start on the phone. If
- 4 either Dee or John or Bob would like to add anything.
- 5 MR. MILLER: Good morning. This is Dee
- 6 Miller. I thought Helaine covered it very well. I
- 7 really don't have anything substantively to add.
- 8 MR. ASHER: And neither do I.
- 9 MR. GARTEN: Who is speaking then?
- 10 MS. BARNETT: Jon Asher.
- 11 MR. ASHER: Jon Asher.
- 12 MR. ECHOLS: And this is Bob Echols. I don't
- 13 have anything to add to Helaine's presentation other
- 14 than that I would certainly agree that all of us worked
- 15 very hard on this report and I think we all strongly
- 16 endorse its findings.
- 17 MS. BARNETT: Thank you, Bob. Bill or Don,
- 18 who are present here.
- 19 MR. WHITEHURST: I'll make something later.
- MS. BARNETT: Thank you, Bill. Mike, was
- 21 there anything that you would like to add?
- MR. GENZ: I have nothing further. Thank you.

- 1 MS. BARNETT: What this has done is inform the
- 2 budget request that management is presenting to the
- 3 finance committee this morning. Having spent this year
- 4 on this year-long study, we think the results should be
- 5 used by the board.
- 6 We are going to make that part of our request
- 7 where we are asking that the basic field grant be
- 8 doubled. But we are recognizing that this cannot be
- 9 done in one year, and so management is suggesting that
- 10 this be done over a five-year period.
- MR. GARTEN: Well, Helaine, I want to thank
- 12 you and the members of the committee on behalf of the
- 13 finance committee and the board. You certainly have
- 14 followed through with comments made last year that it
- 15 would be helpful to have a report of this nature.
- 16 When we were working on the '07 budget mark it
- 17 certainly has reinforced the need for additional
- 18 funding. We're very anxious to hear further from
- 19 representatives of the ABA and NLADA. I'll call at
- 20 this point Bill Whitehurst, chair of SCLAID, to come
- 21 forward.
- 22 CHAIRMAN STRICKLAND: While Bill is coming up,

- 1 Helaine, I'd also like to join Herb in commending the
- 2 committee on an outstanding job on this report. Could
- 3 you tell us the circulation that you intend for the
- 4 report itself?
- 5 MS. BARNETT: Yes. We intend a very wide
- 6 circulation. It will certainly go to members of
- 7 Congress. It is going to all our executive directors.
- 8 It is going to the chairman of the board of all our
- 9 LSC-funded programs. It is going to every chief
- 10 justice in the state. It is going to state bar
- 11 presidents.
- 12 NLADA has a distribution list. The ABA will
- 13 have a distribution list. It is going to selected law
- 14 deans. If there are other suggestions that board
- 15 members have for particular individuals they think
- 16 should receive it, we welcome those suggestions.
- 17 MR. GARTEN: Thank you. Are there any other
- 18 comments from any other --
- MR. FUENTES: Mr. Chairman, I'd like to
- 20 comment, if I may. This is Tom Fuentes. I certainly
- 21 am grateful for the input of all those who made effort
- 22 in seeking the production of this document and bringing

- 1 it to us.
- I do have a little concern, though, as a board
- 3 member, procedurally in what has been done by
- 4 management here. As I view this, this report or the
- 5 information that it seeks to address was requested by
- 6 the board. This now comes to us in the context of a
- 7 committee, one committee of the board.
- 8 The greater interest of that is that I noticed
- 9 in the cover document that came with it that it was
- 10 going to be released on September 26th, before it has
- 11 had an airing by the full board, review by the full
- 12 board, and a determination if this is the consensus of
- 13 policy opinion by the board. We have had no discussion
- 14 on it.
- 15 I think that it would have been more
- 16 appropriate for this document to be shared and aired
- 17 and discussed by the board before it goes out as an
- 18 opinion or a publication of the Legal Services
- 19 Corporation.
- 20 Further, I think that it comes to this body,
- 21 the finance committee, when we are contemplating
- 22 judgments on a discussion of the budget, that this

- 1 might affect the direction of growth or policy or how
- 2 we look at numbers.
- 3 So it's not that I am taking specific issue
- 4 with any point in the document, but I think that
- 5 procedurally we've got cart before horse here. And
- 6 certainly I have a problem with this being issued
- 7 before it's been reviewed by the entire board.
- 8 MR. GARTEN: If I may just make this comment,
- 9 Tom. Recognizing and appreciating your concerns, there
- 10 are many instances, for example in the ABA, where
- 11 reports are issued and then circulated and then adopted
- 12 formally by the house of delegates or the board of
- 13 governors at the ABA.
- 14 So the other side of the issue may be this is
- 15 a report, it can be circulated and it can be taken up
- 16 by the board at the October meeting. That's just some
- 17 general comments that I made. I'm anxious to hear
- 18 other discussions from members of the committee.
- 19 CHAIRMAN STRICKLAND: I was just asking
- 20 Helaine to confirm. Correct me if I'm wrong, Helaine,
- 21 but when this report was in its draft form -- I know
- 22 I've seen this in advance of this printed booklet. But

- 1 was it circulated to the board in its draft form?
- 2 MS. BARNETT: It was circulated to all members
- 3 of the board about two weeks ago or two and a half
- 4 weeks ago.
- 5 CHAIRMAN STRICKLAND: Okay, and I know I made
- 6 a couple of suggestions that were not substantive.
- 7 Well, I read it and you and I talked about it. I
- 8 recognize and Tom Fuentes's point is the board has not
- 9 convened a meeting at which this is being formally
- 10 presented.
- 11 But it seems to me that the board -- in the
- 12 first place, as we all know, it's a part-time board, so
- 13 we are not in a position as a board to conduct our own
- 14 study. In fact, we say or the report itself says at
- 15 the beginning that the board asked the staff to conduct
- 16 this study. So the staff then convened a committee and
- 17 this is the report of that committee.
- 18 That is true that we are publishing it on its
- 19 face as a report of the Legal Services Corporation but
- 20 I don't know what the board could do with it other than
- 21 either accept it the way it's prepared or reject it or
- 22 suggest that it be modified.

- But I don't know that I'd be in a position as
- 2 a board member to make any modification to the report.
- 3 In other words, I didn't participate in the study. So
- 4 I don't know what we would do if we convened and
- 5 reviewed it.
- 6 MR. FUENTES: Well, to that, if I might
- 7 respond. The cover document calls this a report of the
- 8 Legal Services Corporation. And yes, Frank, the
- 9 memorandum that I have is a couple of weeks old;
- 10 September 16. So I suspect that's the copy you were
- 11 describing you got two weeks ago.
- 12 But it looks to me it's in a final, printed,
- 13 bound, multi-color form and so it's ready for issuance
- 14 as a document of the Legal Services Corporation. And
- 15 the governing authority of the Legal Services
- 16 Corporation has had no opportunity to have any input to
- 17 it before it goes out to the street.
- 18 And if somebody was to ask is that a document
- 19 of LSC, we would have to claim it as such. So I think
- 20 the issuance of it is premature and I think that it's
- 21 been clumsily handled.
- MR. GARTEN: Lillian.

- 1 MS. BEVIER: I'll tell you what my sort of
- 2 hesitancy here is, and that is that this report
- 3 was -- I understand and completely appreciate the work
- 4 that's gone into it and think it's really a very fine
- 5 report.
- What it is is an advocacy document,
- 7 essentially, because I take it it's being -- we're
- 8 thinking of deploying it as evidence for our budget
- 9 request.
- 10 What bothers me there is that what has not
- 11 happened, from what I can gather here, is that it has
- 12 not been run by somebody who is going to ask hard
- 13 questions about the methodology and the assumptions
- 14 that are made and so forth.
- What is scary about that is that, you know,
- 16 when lawyers are preparing to -- I mean, as a judge I
- 17 would want to hear what's the other side and I would
- 18 want to know more information about the other side.
- 19 And given the political context in which it's
- 20 likely that this issue is going to be discussed, I
- 21 would want our case to be as strong as possible. And I
- 22 realize this is kind of hard because we're LSC, but to

- 1 have some look from a skeptic's point of view saying,
- 2 you know.
- I will just give you one example of where I
- 4 was thinking to myself, well, I don't know why the
- 5 number of lawyers per population as compared to the
- 6 number of lawyers for poor people, whether that
- 7 statistic -- I understand it's probably right in terms
- 8 of the basic there are more for one. But maybe
- 9 what that means is there are too many lawyers for the
- 10 other side. I mean, too many lawyers for rich people.
- 11 So you could sort of argue that, you know, I don't
- 12 know what that tells me.
- 13 That is a minor point. I think that's a
- 14 trivial part of the report, actually. I don't think
- 15 it's persuasive and I don't think particularly.
- 16 But the notion to me that this is presented by
- 17 the advocates and that's the information we have is
- 18 just, it bothers me in terms of being able to defend it
- 19 and to be able to say we're really sure that this is
- 20 true.
- Now, I realize that one thing we can't do in
- 22 this report is take account of all the other needs that

- 1 the country has for funding by the government. But I
- 2 want to make sure that we're really clear about these
- 3 needs and what will have to be sacrificed about real
- 4 needs.
- 5 I'm not saying that I doubt either the good
- 6 faith or the, you know, I don't know enough about
- 7 social science methodology. But I'm just nervous about
- 8 it not having been vetted by a skeptic's eye.
- 9 MR. GARTEN: Thank you, Lillian. We are
- 10 giving due consideration, Tom, to your comments and
- 11 Lillian's comments. Just bear with us. You see the
- 12 influence of Orange County, California, Tom?
- 13 (Pause.)
- 14 MR. GARTEN: I've had situations like this on
- 15 the state bar level where we accept the report and
- 16 provide for further consideration of it. You do the
- 17 same thing in Texas.
- MR. WHITEHURST: We may disagree with it
- 19 vehemently, but we'll accept the report.
- 20 MS. BEVIER: You accept the report as the bar
- 21 association's report or a report to --
- MR. WHITEHURST: We accept the report as

- 1 whoever is presenting it.
- MS. BEVIER: Right, to the bar association.
- 3 But this is the report of Legal Services.
- 4 MR. WHITEHURST: No, no, I know.
- 5 MR. GARTEN: We understand.
- 6 MR. WHITEHURST: I understand your point. I'm
- 7 just --
- 8 MR. FUENTES: And once it goes out, printed as
- 9 it is, it's on the record that this is a report of the
- 10 LSC.
- 11 MR. GARTEN: Can't argue with that, Tom.
- 12 We're just saying that in Texas and Maryland we're
- 13 diplomatic in how we handle it and we accept it subject
- 14 to further consideration by the board or the governing
- 15 body.
- MR. FUENTES: But would you be printing it and
- 17 issuing it and sending it out to the world?
- 18 MR. GARTEN: Not with the label on it, no.
- 19 You might print it and put either a comment subject to
- 20 or add that it's a report of the committee.
- 21 CHAIRMAN STRICKLAND: Well, obviously, Tom,
- 22 this is not something we were expecting to debate this

- 1 morning and we appreciate your bringing up the point.
- 2 Frankly, we're struggling with how best to proceed.
- 3 Obviously the report has been printed and it's
- 4 ready to be released, but it has not been released. If
- 5 it's your recommendation or suggestion that we hold the
- 6 release of the report until the full board can consider
- 7 it, we can either do that with a telephonic meeting or
- 8 at our meeting in October.
- 9 MR. FUENTES: Well, I guess my greatest
- 10 concern, Frank, is that we don't set a precedent where
- 11 staff is issuing published reports in the name of the
- 12 corporation without the board of directors of the
- 13 corporation approving them.
- 14 CHAIRMAN STRICKLAND: Well, yes, I understand
- 15 and agree with that principle and I'm just trying to
- 16 figure out a practical solution to the issue at hand.

17

- 18 Clearly the report has been prepared and
- 19 printed and is ready to be released, so perhaps we
- 20 should convene a telephonic meeting of the board
- 21 pursuant to proper notice in the Federal Register and
- 22 let the board consider it so that the issuance of the

- 1 report will be timely.
- 2 And if that's not viewed as adequate then as a
- 3 fallback position, we could consider it at the board
- 4 meeting about a month from now.
- 5 MR. GARTEN: Any further discussion on this?
- 6 CHAIRMAN STRICKLAND: Let me make one other
- 7 comment. With regard to your comment, Tom, that the
- 8 matter was clumsily handled, I would take exception to
- 9 that because I think we did circulate the draft of the
- 10 report to the entire board.
- 11 So if there's any clumsiness, I'll take the
- 12 responsibility for it in that I was dealing directly
- 13 with Helaine and by extension with the committee in
- 14 reviewing and making some suggested changes to the text
- 15 of the draft.
- I was not in a position to argue with the
- 17 substance of it because I didn't participate actively
- 18 as a member of the committee. So I do think we have to
- 19 rely on staff and committees to do work for us.
- The most I can do as a board member is review
- 21 what is presented as opposed to getting down and making
- 22 challenges to the substance of the report.

- 1 MR. FUENTES: Frank, I was responding
- 2 specifically to your mention of two weeks ago. And the
- 3 memorandum that I have is dated September 16 and today
- 4 I believe is the 30th.
- 5 So that would have been, I think, the same
- 6 document that you got two weeks ago. And it doesn't
- 7 accompany a draft document. But rather what I received
- 8 with that September 16 memorandum is a final, printed,
- 9 bound copy. So that's why I characterize the
- 10 awkwardness of that procedure.
- 11 CHAIRMAN STRICKLAND: I may have seen a draft
- 12 before the one that I mentioned that was sent out a
- 13 couple weeks ago. I probably saw it before that. A
- 14 prior draft, let's say.
- 15 MR. FUENTES: Okay.
- 16 MS. BEVIER: Would it be possible for -- I
- 17 mean, I realize that we can't hire -- I don't want to
- 18 redo the study or anything like that.
- 19 But would it be possible to invite someone on
- 20 the staff to play devil's advocate with this report and
- 21 to identify the places in it where someone who was
- 22 skeptical might ask questions and what the responses

- 1 would be, or does that not work?
- I mean, I'm really interested in someone
- 3 having come at this from a less committed position
- 4 because I think that would be helpful in the
- 5 presentation of it and our standing behind it.
- Is that a possibility, Helaine, that somebody
- 7 on the staff might try to do that to anticipate
- 8 questions about it, or not? I mean, if I'm just asking
- 9 something impossible then --
- 10 MS. BARNETT: I suppose we could attempt to do
- 11 that. I'm not --
- 12 MS. BEVIER: It doesn't have to be in the
- 13 text. I mean, if it's too much trouble then I guess
- 14 we'll just vote on putting it out or not putting it
- 15 out. I just was hoping that it could be done.
- 16 MS. BARNETT: If we had some questions from
- 17 board members who have concerns I think maybe that's
- 18 the way we could then attempt to receive the questions
- 19 and then attempt to provide an answer. That would
- 20 address some issues that you think should be addressed.

21

MR. ASHER: Helaine.

- 1 MS. BARNETT: Yes.
- 2 MR. ASHER: This is Jon. I just
- 3 want -- Lillian, I want to just clarify one point. I
- 4 think it is possible to be a more astute intellectual
- 5 critic of the report than I was. I don't think it's
- 6 fair to say that anybody could be more skeptical during
- 7 the past year than were several of us on the committee.
- 8 We never wanted to present this as more than
- 9 it is or that there are not in any methodology issues
- 10 and problems. We both reminded ourselves and pushed
- 11 pretty hard on that.
- 12 But I do think it would be helpful for either
- 13 the committee or the staff of LSC to go through the
- 14 document and for the board to tease out those issues
- 15 that will most likely arise and not only a response but
- 16 on some an acknowledgement of the weaknesses of the
- 17 methodology, and to have that for all of you as well.
- MS. BEVIER: I think that's what I was hoping
- 19 that staff could provide, or the committee.
- MR. WEST: May I please address the board?
- 21 MR. GARTEN: I think wait for the comments
- 22 after we hear the presentation, Mr. West.

- 1 MR. WEST: I think I have something relevant
- 2 to this.
- 3 MR. GARTEN: Well, as chair I'm suggesting
- 4 that you wait your turn.
- 5 CHAIRMAN STRICKLAND: Well, is it relevant to
- 6 the -- I didn't understand the point. Is it relevant
- 7 to the discussion on the --
- 8 MR. GARTEN: Issuance or nonissuance of the
- 9 report.
- 10 CHAIRMAN STRICKLAND: Yes. I don't know, is
- 11 it? Was it relevant to that, Kirt? Was it relevant to
- 12 the issuance or nonissuance of the report?
- MR. GARTEN: I would prefer going ahead with
- 14 my agenda.
- 15 CHAIRMAN STRICKLAND: Go right ahead.
- MR. GARTEN: As published.
- 17 CHAIRMAN STRICKLAND: Okay.
- 18 MR. GARTEN: All right. I think the issue
- 19 before us is a question of calling a special meeting of
- 20 the entire board for the purpose of considering this
- 21 report and voting up or down for its release. Is that
- 22 a fair statement?

- 1 CHAIRMAN STRICKLAND: I think so, although let
- 2 me ask Helaine. After we circulated the draft whenever
- 3 it was sent, let's say it was sent two weeks ago, did
- 4 you get any comments from any board members?
- 5 MS. BARNETT: No, I did not hear from any
- 6 board members. I'd like to just clarify. The draft
- 7 that I discussed with Frank and shared with him was
- 8 prior to printing. I felt it incumbent upon staff to
- 9 advise the chairman as to where we were.
- 10 He had an earlier draft and, as he stated, he
- 11 had made some suggested changes not to the substance
- 12 but to the report itself.
- 13 Tom Fuentes, the draft that was sent actually
- 14 is not the final, which we just got back from the
- 15 printer today. The scheduled release is October 3rd,
- 16 which is Monday. It has not been publicly released,
- 17 nor was it intended to be released until after this
- 18 board meeting, just as a matter of clarification.
- 19 MR. FUENTES: Your last paragraph, Helaine,
- 20 says: "Please do not distribute the report at this
- 21 time. We plan to have a coordinated public release the
- 22 week of September 26th."

- 1 MS. BARNETT: Yes. And Tom, what I
- 2 distributed to the board members who are here today is
- 3 please destroy that copy, we're giving you a final
- 4 copy, and the public release is not this week. The
- 5 public release is scheduled for October 3rd.
- 6 So, yes, you're absolutely right that is what
- 7 I wrote on September 16th, but it is no longer valid
- 8 with respect to our planned schedule.
- 9 MR. FUENTES: Thank you. Mr. Chairman.
- 10 CHAIRMAN STRICKLAND: Go ahead, Tom.
- 11 MR. FUENTES: I would like to hear from the
- 12 inspector general. He had a point and he was cut off.
- 13 MR. GARTEN: Let me make my comment first, if
- 14 I can, Tom. I participated in the SCLAID meeting that
- 15 considered this report, and so as a board member I am
- one of the people who was thoroughly familiar with the
- 17 report itself.
- 18 Tom, there's a motion. You finish with the
- 19 motion and we'll have the discussion after that. Is
- 20 that motion appropriate at this time?
- 21 CHAIRMAN STRICKLAND: You mean the motion to
- 22 consider this at a -- let me ask Tom Fuentes. Suppose

- 1 we call a telephonic meeting of the board to review and
- 2 consider this report. Is that something you would find
- 3 satisfactory, Tom?
- 4 MR. FUENTES: Mr. Chairman, I'd defer to you
- 5 to any way you would like to handle it. I just think
- 6 that the full board ought to have the opportunity to
- 7 review and bless the document before it goes out under
- 8 the LSC banner. Whatever is most convenient to you and
- 9 most appropriate in your judgment I would certainly be
- 10 supportive of.
- 11 CHAIRMAN STRICKLAND: Yes, sir, I understand
- 12 your point and agree with it. So we'll try to figure
- 13 out the best way to do that.
- 14 MOTION
- 15 CHAIRMAN STRICKLAND: I'm going to suggest by
- 16 way of a motion here, Mr. Chairman, that we ask the
- 17 staff to publish the proper notice for a telephonic
- 18 meeting of the board for the purpose of consideration
- 19 of the report entitled, "Documenting the Justice Gap in
- 20 America."
- 21 MR. GARTEN: Do we have a second to that?
- MR. FUENTES: Second.

- 1 MR. GARTEN: Okay, any further discussion?
- MS. BEVIER: Mr. Chairman, would it be
- 3 possible for or are you suggesting that the board if we
- 4 have questions have to raise them ourselves or would it
- 5 be possible to ask the staff for these issues that Jon
- 6 Asher suggested might be helpful for us to know that
- 7 the committee struggled with?
- 8 I'm not trying to be obstructionist here. I
- 9 just really would appreciate that that would be done.
- 10 If not --
- 11 MS. BARNETT: I think we can do that for you.
- 12 CHAIRMAN STRICKLAND: Maybe Jon Asher can do
- 13 it. Jon, when you raise points like that you end up
- 14 volunteering to play that part sometimes.
- 15 MS. BEVIER: Jon?
- 16 MR. ASHER: Yes.
- 17 MR. GARTEN: Well, we certainly can have that
- 18 as part of the comments, if Jon or anybody else on the
- 19 board or staff would like to report to us.
- 20 MS. BEVIER: I think it will strengthen the
- 21 report if we actually have that and can consider --
- 22 CHAIRMAN STRICKLAND: I think that's a good

- 1 suggestion.
- 2 MS. BEVIER: -- it in connection with or in
- 3 light of that.
- 4 CHAIRMAN STRICKLAND: Cast Jon Asher in the
- 5 role of adversary.
- 6 MR. GARTEN: I might say that with the two
- 7 reports that we're going to hear from the ABA and
- 8 NLADA, we will have an opportunity to hear their
- 9 comments and question them also. CHAIRMAN
- 10 STRICKLAND: So that will probably be of help.
- 11 MR. GARTEN: So are we ready for the question?
- 12 If so, all in favor, aye.
- 13 (A chorus of ayes.)
- MR. GARTEN: Any opposed? All right, so the
- 15 staff will attempt to convene that board meeting as
- 16 soon as possible.
- MS. BARNETT: And we -- excuse me, Mr.
- 18 Chairman. And we will not -- we will let everybody
- 19 know that we thought we were going to let know it was
- 20 going to be able to be used publicly on the 30th to
- 21 await further notice from us.
- MR. GARTEN: All right. Bill Whitehurst has

- 1 been sitting here for a good 20 minutes to a half hour.
- 2 Bill, would you please present your report.
- 3 MR. WHITEHURST: Well, as usual, my timing is
- 4 impeccable. I just sort of walked into that. Let me,
- 5 if I could, maybe change the focus of the discussion,
- 6 because I'm here for a particular purpose and I think
- 7 in the long run whatever the LSC board does with this
- 8 report there are certain things we cannot change.
- 9 One of those things is that we have to come up
- 10 with a mark for Congress, and it's time to do that. In
- 11 fact, we're sort of behind the ball in doing that.
- 12 We're in the process. That process has started and we
- 13 need to be a part of that.
- More than anything, this board needs to be a
- 15 part of that. I would love for it to be unified in
- 16 that effort but regardless, it has to be a part of
- 17 that. Really, that was one of the strongest things I
- 18 came here to say today is that we find ourselves, I
- 19 think, in a very unique position this time around.
- I remember last year when we -- when I say
- 21 "we," the board struggled with coming up with the mark
- 22 because it was a new board. We didn't really have any

- 1 current studies to look at. We were looking at the ABA
- 2 study that was 10 years old, and even the ABA was
- 3 becoming skeptical as to whether that was still
- 4 relevant or not.
- 5 And in many ways what the board did was took a
- 6 leap of faith and went out, perhaps, even on a limb
- 7 without some of the underlying support that I know many
- 8 would like to have had last year, and I commend you for
- 9 that. I think in hindsight everyone believes we did
- 10 the right thing, the board did the right thing.
- But I think it's important to know that we're
- 12 in a different position this year. Whether the board
- 13 accepts this report or not, we can't change the fact
- 14 that there are underlying studies not put on by this
- 15 board.
- We used, and I say "we" because I was on this
- 17 commission, and I don't think anybody is questioning
- 18 the intentions of those who served on that committee.
- 19 It goes without saying that this was well done.
- 20 If anybody had sat in on any of the long
- 21 meetings that we had, the numerous meetings we had, I
- 22 think they would be proud of the effort that went into

- 1 this, the approach that went into it.
- 2 We were faced with a real dilemma. The board
- 3 was faced, this board was faced with a real dilemma and
- 4 I would say the ABA was faced with a real dilemma.
- We had a study that was 10 years old. We
- 6 needed new information. Congress was asking about new
- 7 information. Members of this board were asking about
- 8 more current information on which to base their
- 9 decision.
- 10 One of the ways we could have gone, and we
- 11 discussed this -- we discussed it certainly within the
- 12 SLAID committee -- was to do a new national study. We
- 13 recognized that it would have taken a long time. It
- 14 would have cost millions of dollars.
- But I will tell you that decision not to do
- 16 that study was not made. It was simply put on the
- 17 side. Because what we thought we would do is look at
- 18 other ways to evaluate this need, how great the need
- 19 was.
- We felt like that maybe it would even be
- 21 better if we took different approaches, because every
- 22 approach we looked at could be criticized. There's not

- 1 a statistician, a social scientist or whatever, who
- 2 couldn't come in and criticize all the studies that
- 3 have been done in the many states in this union, the
- 4 national study done by the ABA, even though it was done
- 5 on a very high level.
- 6 So we thought, well, maybe we ought to look at
- 7 a lot of different ways of coming up and seeing if
- 8 anything jives. Are we getting the same information?
- 9 Can we test the different methods that are being used
- 10 against each other?
- 11 And that's the approach we decided to take.
- 12 Now, whatever the advocacy part of this is I suppose
- 13 will come from how you want to argue the studies. But
- 14 what we can't do away with or overlook is that there
- 15 are a number of different ways that have considered
- 16 this problem.
- 17 Although they don't come out with exact
- 18 numbers, they certainly weren't done together, it is
- 19 remarkable how over the years the results have been so
- 20 similar.
- 21 Different states have used different methods.
- 22 The ABA used a different method. Texas, which has an

- 1 older study, used a different method than Washington.
- We can argue all day as to whether it's 80
- 3 percent unmet needs or 50 percent or 60 percent or 70
- 4 percent. But what we can't argue is that every study
- 5 that has ever been done using any method by those who
- 6 really want to know the answers come up with we have a
- 7 major justice gap in this country.
- 8 Whether you agree with the particular
- 9 percentages or the numbers, all the different ways we
- 10 approach this in this report demonstrate that fact.
- 11 Really that's what we're here to talk about and that's
- 12 what we have to talk about when we go to Congress.
- I encourage us not to lose sight of the big
- 14 picture here. The one thing that was added to this
- 15 study that we've never had before -- and interestingly
- 16 enough, I don't know why because everybody has wondered
- 17 about it and I think this really came from one of the
- 18 board members -- was how many are we actually turning
- 19 away? Let's at least do that study.
- We understand that that is not going to tell
- 21 us the entire justice gap but, boy, it gives us a real
- 22 down to earth view of what's happening in the field.

- 1 So to the credit of the LSC staff and those who served
- 2 on this committee, that study was devised and carried
- 3 out.
- 4 Not, I suppose, too surprisingly we found that
- 5 it's alarming, that we're literally turning away one
- 6 for every one we're helping. Those are the ones who go
- 7 through the system, who qualify, who get through all
- 8 the hoops and finally end up on the doorsteps of the
- 9 legal services programs in the particular states, many
- 10 of which you all have had a chance to visit.
- 11 And we can argue with that. I know we can
- 12 poke holes in the methodology that was used. Whether
- 13 it's 50 percent we're turning away or 52 or 45, the
- 14 bottom line is we're having to turn away tremendous
- 15 numbers of individuals who need legal help.
- 16 So I don't know. I personally am not
- 17 concerned whether this board accepts or sends out this
- 18 report in LSC's name. What I am concerned about is
- 19 that each of the board members look at the underlying
- 20 studies.
- I think it is important that we criticize
- 22 them, but I don't think anyone would ever conclude that

- 1 you should not look and consider what has been done in
- 2 these different nine states that we used, what's been
- 3 done in the declination study.
- 4 And then what they did for us, just so you
- 5 know, at the ABA, because we were ready to put the ABA
- 6 study on a shelf. We were hoping we could because that
- 7 showed 20 percent; we were only meeting 20 percent of
- 8 the needs.
- 9 The sad thing, of course, is that all of this
- 10 shows us that maybe that study is still relevant and
- 11 maybe even it's gotten a little worse.
- 12 So from our standpoint we won't take that
- 13 study off the shelf. We will look at these other
- 14 elements and we will make the argument that let's don't
- get caught up in whether it's 80 or 70, but let's look
- 16 at the overall thing that we can all agree on.
- 17 Anybody who has ever worked in this arena,
- 18 whether it's on the local level, state level, or
- 19 national level, may not agree on the exact numbers but
- 20 we can all conclude without question, and there's no
- 21 study that shows otherwise, that we have a justice gap
- 22 in this country and somebody needs to recognize it.

- 1 I'm hoping the LSC does that. It would be
- 2 nice because I think it's important that it's your
- 3 study. I agree with Tom, I think you want to be
- 4 satisfied with it. But when you are satisfied with it,
- 5 I hope you make it your study because that's your role,
- 6 that's your job.
- 7 It needs to come from you. It doesn't need to
- 8 come from the ABA. It doesn't need to come from the
- 9 NLADA. It needs to come from the LSC. I hope you will
- 10 be happy with it. If you're not happy with it, I hope
- 11 you'll make it better. But in the long run, I hope you
- 12 will come out with your report.
- But in the meantime, don't wait until you do
- 14 that to determine what the mark is going to be this
- 15 year, because we don't have that luxury. So that's
- 16 really the reason I'm here is to talk about the mark
- 17 and make some suggestions.
- I must tell you that part of our basis for
- 19 that is not on LSC's part of the report but the
- 20 underlying studies. We looked at the underlying
- 21 studies and so we have based our report or our
- 22 suggestion on that.

- 1 It's the ABA's position that somebody has to
- 2 say what the real number is, and we have done that in
- 3 our report to you. We think it's important that
- 4 regardless of how large the number is and how shocking
- 5 it may be, if the studies especially over a period of
- 6 10 years are concluding that we're only meeting in 2005
- 7 20 percent of the need, someone needs to say that.
- 8 If the LSC doesn't want to say that, that's
- 9 fine. I wish you would. But I will tell you, the ABA
- 10 says that and it's important that we say it.
- 11 And so we start off with the figure being \$1.6
- 12 billion, and that's what the studies show. I'm a
- 13 plaintiff's lawyer. I go to trial. Sometimes we don't
- 14 like what the evidence shows but we have rules and we
- 15 go by the evidence.
- 16 If the evidence shows that something should be
- 17 valued at \$1.6 billion, we ought to say that and we
- 18 ought to say it in this debate. Regardless of what
- 19 we're asking from Congress, regardless of what Congress
- 20 does, regardless what any state does, that's the
- 21 number.
- It's a number that we think is well supported

- 1 and it's been supported over many, many years through
- 2 many different methodologies.
- 3 But obviously we're realistic and we have come
- 4 to this board or this committee and hopefully it will
- 5 be passed on to the board our recommendation that we
- 6 take a different approach.
- Now, the staff approach really is not greatly
- 8 different, your staff approach is not greatly different
- 9 from what we have come up with, but ours is a little
- 10 bit more aggressive.
- 11 I'm here today strongly urging you to be more
- 12 aggressive this year, and I'm here to tell you why I
- 13 think we ought to do that. First of all, the figure
- 14 that the ABA through the SCLAID committee has come up
- 15 with is not an outrageous figure.
- 16 Simply what we do is we take the realization
- 17 that your staff has that under your declination study
- 18 and your program's declination study, we need to at
- 19 least double the amount. It's a worthy goal. It's a
- 20 reachable goal.
- 21 But where we differ is how quickly we ought to
- 22 get there. The staff approach is we get there over

- 1 five years. Our approach is that we get there over two
- 2 years. I think you should adopt the two years.
- We are in a position so different from last
- 4 year, and I would ask the board to recognize this. We
- 5 do have new data that we didn't have last year that we
- 6 can point to. If you don't want to point to a report
- 7 again, you can point to underlying studies.
- 8 We have an experienced LSC board. You've been
- 9 around a while. You have credibility, you have
- 10 respectability from Congress. You have it from the
- 11 field programs. You have it from the ABA. You have it
- 12 from the states.
- 13 This board, I think, is on a level that has
- 14 not been experienced in a long time. I think it's
- 15 important for the board to recognize that. And I know
- 16 you don't want to squander that credibility you've
- 17 gained.
- But at the same time, there comes a time when
- 19 you need to spend some of that credibility. This is
- 20 the year to do that. You have great support. We've
- 21 had the most successful ABA Day, and I want to
- 22 thank -- Julie Strandley is here with us from the ABA

- 1 who is greatly responsible for that effort.
- We had the largest number of bar leaders
- 3 across the nation come to Congress and lobby for legal
- 4 services for the poor. We have the strongest
- 5 bipartisan support for legal services that we've had in
- 6 many, many years, if not ever.
- We have a supportive president of the United
- 8 States. We have a supportive counsel to the president.
- 9 We have a supportive attorney general for legal
- 10 services for the poor.
- We have the strongest infrastructure we've
- 12 ever had within the states now thanks to our access to
- 13 justice commission efforts. We're more organized.
- 14 We're raising more money within the states.
- I think it's important to point out that
- 16 nobody is asking the federal government to do this
- 17 alone. We're asking to do this as a partnership, but
- 18 the federal government needs to do its part. The
- 19 states are doing their part and they're continuing.
- 20 We're growing it every year.
- 21 So there is probably more of a partnership
- 22 today than we've ever had in the delivery of legal

- 1 services for the poor. You have an ABA president who
- 2 is making this the hallmark of his year.
- A lot is going to be going on this year,
- 4 already is: different commissions, special
- 5 presidential commissions and initiatives that involve
- 6 legal services for the poor. So there's going to be a
- 7 true emphasis on that this year.
- 8 And then we have the thing that we didn't
- 9 expect. We have a natural disaster. But that's one of
- 10 the reasons why I encourage you to pick this year to
- 11 step out and do something a little bit more than maybe
- 12 you would do otherwise.
- 13 What the national disaster has done is it's
- 14 focused on poverty. It's focused the president and
- 15 it's focused the Congress and it's focused our public
- 16 on the problems of poverty.
- 17 It doesn't take a rocket scientist or a lawyer
- 18 to realize that these people who live in these
- 19 conditions and now we have even more poverty created by
- 20 them and we have even more poverty that's documented by
- 21 the recent government numbers.
- 22 All of that means that people are going to

- 1 need access to our legal system. We shouldn't have to
- 2 debate that a whole lot, and we don't have to argue
- 3 again over percentages. It just is.
- 4 So every once in a while the stars line up and
- 5 there's a time to take a step forward. I know that the
- 6 ABA's lobbyist, I know Tom Polgar -- who you're so
- 7 lucky to have -- and others may argue that well, you
- 8 know, it's going to be a lean year and we have to move
- 9 cautiously and we have to move realistically, and I
- 10 understand all that.
- But we came up with \$20 billion overnight in
- 12 this country for these disasters. We're not asking for
- 13 anywhere near that kind of money.
- But I do know that it's a question of
- 15 priorities. All I'm saying is that now is the time for
- 16 this board to recognize that we in this country need to
- 17 make legal services for the poor one of the priorities.
- 18 And we're not asking in great numbers but
- 19 we're asking in a more aggressive approach than your
- 20 staff has chosen.
- 21 The other thing is I think I'm asking that
- 22 this board, individually and as a board, use some of

- 1 its political capital. It's important that Congress
- 2 knows what you think. This is a distinguished
- 3 board. It is highly respected. It's important that
- 4 you talk to the folks you know, because I think you can
- 5 make it happen. I think you can help make it happen.
- 6 I'm not here to talk about restrictions, but I
- 7 do want to mention a couple of things. When you talk
- 8 about money, and we don't have enough, I think it is
- 9 important to recognize that there are two restrictions
- 10 that hurt us from a money standpoint.
- One is the private money restriction and one
- 12 is the attorney fee restriction. I know no one is in
- 13 the mood to make that a priority for you, but I think
- 14 it's important that you know about it, you remind
- 15 yourselves about it.
- 16 In conversations -- and I've asked the ABA
- 17 lobby group to do this as well -- that there will be
- 18 opportunities to discuss other ways to get money into
- 19 the system. I think you can safely get money into the
- 20 system by doing away with those two restrictions and I
- 21 just ask that you keep that in mind.
- Finally, just let me say that the analogy I

- 1 would use and I ask you consider is that the legal
- 2 services levees are not high enough. The legal
- 3 services levees for this country are not high enough.
- 4 Many came to our Congress and to the state of
- 5 Louisiana and made that argument before. No one acted
- 6 on it and we paid a terrible price.
- 7 I'm here to make that argument to you today
- 8 that you are in charge and you can have an effect on
- 9 how high we put those levees for legal services for the
- 10 poor. The time is now. It's this year. It's for 2007
- 11 that we need to do that and I encourage you to do so.
- 12 Thank you very much.
- 13 MR. GARTEN: Thank you, Bill. Any comments or
- 14 questions from the board and the committee?
- 15 CHAIRMAN STRICKLAND: If we were a jury we'd
- 16 probably be rendering a verdict for Mr. Whitehurst's
- 17 client at this point.
- 18 (Laughter.)
- 19 MR. GARTEN: There's no question about that.
- 20 Tom, any questions or comments?
- 21 MR. FUENTES: No. I'm just listening.
- MR. GARTEN: Well, you will be around here for

- 1 the rest of the meeting?
- 2 MR. WHITEHURST: Sure.
- MR. GARTEN: Thank you very much, Bill.
- 4 MR. WHITEHURST: Thank you very much.
- 5 MR. GARTEN: The next is the presentation of
- 6 NLADA. Don, are you making the presentation?
- 7 Introduce yourself, please.
- 8 MR. SAUNDERS: Thank you, Mr. Chairman. My
- 9 name is Don Saunders. I'm the director of civil legal
- 10 services for the National Legal Aid & Defender
- 11 Association. I'm happy to be joined today by my
- 12 colleagues Linda Perle, Julie Clarke, and our
- 13 president, JoAnn Wallace.
- I had hoped to be joined by the chair of NLADA
- 15 civil policy group, Lillian Moy, who is the director of
- 16 your grantee in Albany, New York. Her schedule did not
- 17 allow her to join us today, but I can assure you that
- 18 we have discussed your request for input with her, with
- 19 our board, with our members across the nation, and we
- 20 are all united in the message we bring to you today.
- It is always a daunting pleasure to follow
- 22 Bill Whitehurst on any dais. I know of no one more

- 1 passionate or convicted in the private or public bar
- 2 for the work that we do than Bill, and I'm not going to
- 3 repeat many of the very important points he made to
- 4 you. I will incorporate them by reference into my
- 5 remarks.
- I will just add, though, as a participant in
- 7 the task force that President Barnett put together and
- 8 really as someone who you scrutinized fairly heavily in
- 9 your last consideration last September, that we really
- 10 did have a significant skepticism about some of what we
- 11 were doing but we also were very committed to returning
- 12 to you this year the best information that we can get.
- 13 And certainly those human beings that
- 14 approached your programs with problems of housing,
- 15 consumer, family matters, the statistics you see are
- 16 disquieting and staggering.
- 17 I've had the opportunity to join you as you
- 18 visited the programs in Ohio and Kentucky and Montana
- 19 and the fields of Salinas. I think you saw there very
- 20 dramatically the huge unmet need for legal services
- 21 that exists in this country.
- 22 And whether the figures here are exactly what

- 1 they should be or not, we're nowhere near. The harsh
- 2 fact at this point in time is we are nowhere near where
- 3 the federal government should be with regard to its
- 4 commitment for access to justice in the United States.
- We urge you today at NLADA as among the most
- 6 important stewards for justice in this country to join
- 7 us as bold advocates. Yes, this may be an advocacy
- 8 piece. It is critical that the board of Legal Services
- 9 Corporation stand firm and loud as advocates for
- 10 justice.
- 11 To me it's heartening that you would take time
- 12 out of your busy schedules to come to Washington for
- 13 today's meeting. But this, Mr. Chairman and members of
- 14 the committee, this is the most important thing that
- 15 you do, in my view, for the legal services community.
- 16 You are a beacon for justice and that message
- 17 must ring very loud in the halls of Congress. That's
- 18 particularly true given the events of early September
- 19 on the Gulf Coast and followed by Rita and the
- 20 devastation that it rendered in Texas and Louisiana.
- 21 As Bill pointed out, there's been seldom a
- 22 time at least in the last decade where people in this

- 1 country were looking at poverty as they have been
- 2 looking for the last month when they have seen the
- 3 juxtaposition of race and poverty and the depraved
- 4 conditions that result from that situation.
- 5 There has never been a more important moment
- 6 for you to recognize the enormous need. I have had the
- 7 real opportunity to work with Helaine, Mike, Karen,
- 8 your entire staff, as we have been dealing on a daily
- 9 basis with the programs that are trying to serve the
- 10 enormous need that results from Katrina and now from
- 11 Rita.
- 12 We're just beginning to see the tip of the
- 13 iceberg, but it's clear to me and to my colleagues that
- 14 legal assistance is among the most important services
- 15 that can be provided.
- 16 If you look at the form that FEMA hands out at
- 17 the emergency centers it gives all these particular
- 18 rights, but then right at the bottom it says if this
- 19 doesn't work, call Legal Aid. Call your local Legal
- 20 Aid program.
- 21 We know that there will be just scores,
- 22 hundreds, thousands of cases that result directly from

- 1 those events.
- 2 But I think the broader message, the message
- 3 that we're seeing throughout the country is that this
- 4 was just a snapshot of what poverty is in the United
- 5 States.
- The same conditions exist in inner city
- 7 Detroit. They exist in the Navaho and Crow Nation, as
- 8 Ms. Barnett saw when she visited Rapid City and the
- 9 conditions on our Indian reservations. They exist in
- 10 rural America in many parts of the United States.
- 11 Poverty is a reality in this country. There
- 12 are currently 37 million people living in poverty in
- 13 the United States. Mr. Chairman, that's the equivalent
- 14 of the country of Canada. That's the size of Canada,
- 15 the scope of poverty in this country.
- 16 Forty-nine million Americans are eliqible for
- 17 your services. Whatever numbers we're looking at, the
- 18 enormity of poverty in this country, and it's growing,
- 19 makes without doubt the point that the federal
- 20 government needs to step up and particularly in this
- 21 time of tremendous need and focus on the problems of
- 22 poor people.

- 1 We have brought to you today in response to
- 2 that a request that's very similar in theory. While we
- 3 have a few different figures, it's very similar to that
- 4 brought to you by the American Bar.
- 5 We recognize and very much have adhered over
- 6 the past few years to the fact that one in five people
- 7 in this country who have needed legal assistance have
- 8 had access to that. That is a staggering justice gap
- 9 and one that we must as a society begin to address.
- 10 LSC funding is the foundation upon which the
- 11 public-private partnerships that Bill was referring to
- 12 earlier are built. They're the foundation upon which
- 13 many of the private attorney involvement programs which
- 14 bring the private bar to the assistance of low income
- 15 Americans, they're built upon the foundation of legal
- 16 services funding. Unfortunately, in the states
- 17 most directly affected by the recent disaster, your
- 18 funding is almost all that exists there. It hit in the
- 19 place where the LSC funding is the absolute backbone of
- 20 any system of justice.
- 21 So I cannot overemphasize to you how important
- 22 it is that LSC send a loud message to Congress. I

- 1 applaud you for your initiative last time in seeking
- 2 significantly higher funding than recommended by OMB.

3

- 4 I think the wisdom of that choice has been
- 5 certainly proven by both the huge margin in which the
- 6 Stearns amendment was defeated on the House side and
- 7 obviously the support that the Senate had for the
- 8 Harkin amendment. Hopefully we will see some success
- 9 from that.
- 10 But I think your leadership last year was so
- 11 critical to that. And it sent a message to your
- 12 grantees, believe me, of hope in a time of stagnant and
- 13 dwindling funding.
- So I would urge you, as Bill did, to be much
- 15 bolder this year, to take advantage of the fact that
- 16 people are talking about poverty and race and the need
- 17 for us as a society to return to those important
- 18 measures.
- I will briefly give a little more detail
- 20 because there are certain points that the field would
- 21 like to bring to you with regard to your request.

- 1 Again, we have taken the approach with a
- 2 slight variation based upon the figures in the report
- 3 that you should seek a figure of \$512,740,000 for
- 4 fiscal year 2007.
- 5 Again, that essentially is the same concept.
- 6 The original approach that we would urge upon you is
- 7 let's first deal with those folks that get through all
- 8 the hurdles, that even know they have a legal
- 9 resolution for their need and get to one of your
- 10 grantees' office.
- 11 Let's address that very alarming gap and let's
- 12 address it quickly. We would again suggest that you do
- 13 it over a two-year period.
- While we recognize a need of \$1.6 billion, we
- 15 do recognize that there are certainly political
- 16 realities that you have to address. But we feel, as
- 17 Bill said, that you can absolutely approach the FY 2007
- 18 cycle at the levels that we urge upon you.
- 19 There are parts of the document that we
- 20 submitted that I want to very briefly touch upon. It
- 21 has always been the position of the field that the vast
- 22 majority of LSC funding should be given through the

- 1 basic field line to basic field programs, to Native
- 2 American programs, to migrant providers.
- 3 That has been a long-standing principle and
- 4 one which the Legal Services Corporation has generally
- 5 honored throughout the years. There are, however,
- 6 certain priorities that we would urge upon you once the
- 7 appropriation achieves a certain level that would
- 8 result in a cost of living and a significant increase
- 9 to the basic field.
- 10 They are set out in the document but I will
- 11 just touch upon them very briefly. We do feel that the
- 12 issue of student debt is critical. We would urge you
- 13 to continue to seek funding for an expansion of the
- 14 pilot program that you've done a great job of getting
- 15 off the ground.
- 16 But we continue to hear that if we're going to
- 17 build a new generation of leaders in this community
- 18 that we have to come to grips with the issue of student
- 19 debt, and you are in a position to discuss that with
- 20 the Congress and you've had a friendly reception in the
- 21 Congress. We would continue to urge you to prioritize
- 22 that and to have a special earmark set aside for that

- 1 function.
- The TIG program, again, we're strongly in
- 3 support of that. We think the innovation that has been
- 4 generated by the process has really led to exponential
- 5 growth within the field.
- 6 We, I think, have seen the last couple years
- 7 the amount become so minimal that increases as you
- 8 sought last year are appropriate at current levels of
- 9 funding.
- 10 We're certainly very supportive of this
- 11 program and think that it has been cut to such an
- 12 extent that new innovation is impossible. At the
- 13 current levels it's hard to even maintain what you've
- 14 already put out there.
- We encourage you again to seek special funding
- 16 for Native American programs. There are huge
- 17 disparities in funding. You did that last year. We
- 18 supported you in doing so. We urge you to do that
- 19 again.
- 20 We have been working with the Native American
- 21 community and your staff in trying to figure out
- 22 exactly how best to address those problems. We would

- 1 ask that we continue to be partners in those
- 2 consultations if indeed that appropriation were to come
- 3 forward.
- 4 We urge you to seek an additional
- 5 appropriation on top of the basic field grant for FY
- 6 2007 to address the needs resulting from Katrina. We
- 7 have put in a figure of \$30 million. It's very hard to
- 8 get the scope of that at this point, what the need will
- 9 be.
- 10 I've talked to certain programs down there. A
- 11 program in Texas, for example, is looking at
- 12 potentially needs in the range of \$2 to \$5 million over
- 13 a six-month period to begin to address the 18,000 new
- 14 clients they expect in that six-month period.
- 15 At the same time, they are addressing needs
- 16 from their colleague states in Louisiana. I should
- 17 point out that it is a very proud moment for your
- 18 grantees, by the way, in that area and across the
- 19 country the way they've come to the assistance of those
- 20 programs and worked together.
- 21 But it's very clear that the legal needs that
- 22 will result from this disaster will linger well into FY

- 1 2007, and we urge you to seek -- whether it's through
- 2 supplemental funding or in the regular appropriation
- 3 process -- sufficient money to begin to address those
- 4 problems.
- 5 I'm sure you will hear from your staff a lot
- 6 more detail about what we're hearing from there, but
- 7 the need is absolutely enormous in so many different
- 8 areas that I'm not going to even begin to get into
- 9 them.
- 10 We also have put in our recommendation to the
- 11 board a final piece, again assuming that we get
- 12 increases to the basic field. We think it's a good
- 13 idea for you to allocate and seek \$1 million for
- 14 emergency relief planning.
- 15 At this point we've never seen anything near
- 16 the scale of what's happened on the Gulf Coast, but we
- 17 have these needs every year. Unfortunately, we often
- 18 reinvent the wheel. You often have to scramble around
- 19 to make do with buildings that have been lost or
- 20 computers that need to be replaced or whatever.
- We also think one of the things that's clearly
- 22 coming out of all the national discussions around

- 1 Katrina is we need a lasting emergency relief capacity.
- 2 I don't think it should all rest at LSC by any means.
- 3 I think the ABA, NLADA and others need to work on that
- 4 capacity.
- 5 But certainly this is something in which you
- 6 can provide great leadership and we would urge you to
- 7 discuss that particular issue as well with the
- 8 Congress, because what you have now are programs who
- 9 have gone through earthquakes or wildfires or other
- 10 similar situations sending their staff into these
- 11 regions to sort of provide backup and assistance on a
- 12 real ad hoc basis.
- 13 We think some coordination, some enduring
- 14 capacity here is indeed in order. We are working, as I
- 15 hope you've seen, on the Katrina website with the
- 16 corporation, the ABA and Pro Bono Net. We are very
- 17 much working toward making that into a site that will
- 18 endure beyond the time.
- 19 But we do think it needs some attention.
- 20 Everybody is doing this work in addition to the other
- 21 work they do. And we think that it really is
- 22 something, at least for the next several years, that

- 1 needs to have focus at the national, regional and state
- 2 level.
- 3 So that is our recommendation, Mr. Chairman.
- 4 I'm happy to take any questions that you might have.
- 5 MR. GARTEN: Thank you, Don. Any questions or
- 6 comments?
- 7 MR. SAUNDERS: If I might add one final note.
- 8 We will very soon be sending invitations to all of you
- 9 to join us at our annual conference in Orlando,
- 10 Florida. The conference will take place November 16 to
- 11 19.
- 12 We will be focusing on civil programming on
- 13 two areas of great concern to LSC. One is the future
- 14 of access to justice initiatives, where are we going
- 15 with access to justice commissions and whole idea of
- 16 state justice communities.
- 17 And obviously we are building in a significant
- 18 focus on Katrina, the relief efforts, the more lasting
- 19 issues that will come out of the disaster. So we urge
- 20 any of you and welcome any of you that can join us in
- 21 Orlando to do so. Thank you very much.
- MR. GARTEN: Thank you. LSC management

- 1 presentation.
- 2 Charles, will you identify who will make the
- 3 presentation?
- 4 MR. JEFFRESS: Thank you, Mr. Chairman.
- 5 Charles Jeffress, chief administrative officer for LSC
- 6 making the presentation on the management
- 7 recommendation for the FY '07 budget mark, and
- 8 assisting me is David Richardson.
- 9 The management recommendation is contained in
- 10 a memorandum to the board from President Barnett.
- 11 Beginning on page 24 of your book is that memorandum
- 12 and lays out both the basis for it, the background for
- 13 it, the rationale for how we arrived at this
- 14 recommendation, as well as the numbers. Let me start
- 15 briefly -- and to the extent this is repetitive I
- 16 apologize -- but with the background and rationale for
- 17 the basic field request, which is the biggest request.

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- 19 It is based on the presentation that President
- 20 Barnett made to you earlier this morning on the unable
- 21 to serve study conducted by our grantees across the
- 22 country where they found that they had to turn away one

- 1 of every two people who appeared on the doorstep. They
- 2 did not have the resources to serve 50 percent of the
- 3 people who came.
- 4 I would offer for your consideration the
- 5 impact on those people who are not able to be served.
- 6 They go back home and their family and friends ask them
- 7 what happened when they went to the LSC office. The
- 8 story they have to tell is that they couldn't help.
- 9 That story spreads and others then who might
- 10 consider looking to Legal Services for help remember
- 11 that their friend, their family member couldn't get
- 12 help, and they don't come.
- 13 So we are confident that the 50 percent that
- 14 are turned away is only a small part of the unmet need
- 15 out there. There are many more who never arrive at our
- 16 doorstep because they've been discouraged from hearing
- 17 stories from others that weren't served or don't know
- 18 about the availability in the first place.
- 19 So we believe the 50 percent who are not
- 20 served is only a small part and only a first step in
- 21 terms of trying to reach the people who need services
- 22 from Legal Services programs.

- 1 Based on that as a first step, President
- 2 Barnett and management is recommending that the board
- 3 seek to double the funding for the basic field program
- 4 for Legal Services Corporation.
- 5 As the memo indicates, since that is such a
- 6 big amount of money in one year to ask Congress for,
- 7 we've recommended that that be spread over five years.
- 8 The first year's percentage then would be a 20 percent
- 9 increase plus a 3.1 percent inflation factor, so it's a
- 10 23.1 percent increase in what the basic field
- 11 appropriation was for FY 2005.
- 12 And that number is in the chart on page 26.
- 13 You see the number for basic field of \$386.8 million.
- 14 That represents a 23.1 percent increase over the fiscal
- 15 year 2005 appropriation.
- 16 Again, the goal here being presented to you at
- 17 this time by management is that over a five-year period
- 18 we double what that \$312 million was, the \$628 million
- 19 plus whatever inflation occurs during that period of
- 20 time. The first step of that for 2007 would be \$386.8
- 21 million for the basic field program.
- In addition to basic field, we're recommending

- 1 that you once again request \$5 million for technology
- 2 initiative grants. That's what you requested last year
- 3 for 2006. We recommend that you do that again.
- 4 We recommend that you request \$1 million for
- 5 the loan repayment assistance program. Again, that's
- 6 the same amount you requested last year. We believe
- 7 it's important to expand the number of people that
- 8 we're offering this assistance to.
- 9 We want as large a pool as possible in order
- 10 to evaluate the effectiveness of that program, so we
- 11 encourage you to do what you did last year by
- 12 requesting \$1 million for the loan repayment assistance
- 13 program.
- 14 The management and administration account,
- 15 we're recommending a \$14.5 million request. Last year
- 16 you approved a \$14.3 million request. So this is only
- 17 a \$200,000 increase in that request, less than a two
- 18 percent increase in the request for the management and
- 19 administration account.
- Just as a background on that so you
- 21 know -- even though it's a small increase -- a little
- 22 bit about what the components of that increase are.

- 1 That would include setting aside 4 percent of payroll
- 2 for cost of living and performance pay increases.
- 3 It would include an addition of three staff
- 4 people between the office of program performance and
- 5 the office of compliance and enforcement to expand our
- 6 ability to make program visits and some additional
- 7 money for consultants for those program visits, and an
- 8 increase from three to four issues a year of the Equal
- 9 Justice magazine.
- 10 Relatively limited increases on the management
- 11 and administration account. I would say, too, as the
- 12 management team has discussed, if in fact a significant
- 13 increase in the basic field program is awarded by
- 14 Congress in future years, I think the demand upon the
- 15 management and administration accounts will grow.
- I think you will see a need, the grantees
- 17 calling on the corporation for more training, more
- 18 services. And I expect in future years you may have to
- 19 look to a higher percentage increase in your M&A
- 20 accounts than what's been recommended for '07.
- 21 But at this point the recommendation for '07
- 22 is for a limited increase in the M&A accounts focusing

- 1 on the increase in basic field as the biggest part of
- 2 that.
- 3 The final component of the request that's
- 4 before you, and again the management recommendation is
- 5 what I've just mentioned to you. In addition to the
- 6 management recommendation the inspector general has
- 7 forwarded to you a request for \$3.5 million and that's
- 8 included in this memorandum at the request of the
- 9 inspector general. I'd be happy to respond to
- 10 questions.
- 11 MR. GARTEN: You've heard the presentation of
- 12 the two speakers beforehand.
- MR. JEFFRESS: Yes.
- 14 MR. GARTEN: And I'm certain that management
- 15 took into consideration the period of the spread. Why
- 16 did you arrive at a five-year period as opposed to,
- 17 say, a three-year period?
- 18 MR. JEFFRESS: Actually, I think the two
- 19 speakers before us had it right. Management is being
- 20 more cautious than ABA and NLADA have been in terms of
- 21 seeking increases from Congress.
- The need is there. It's a demonstrable need.

- 1 It's a demonstrable need in one year. There's a
- 2 demonstrable need right now. The question is what is
- 3 the board comfortable with in terms of requesting in
- 4 terms of a percentage increase from Congress.
- 5 You requested \$363 million last year. The
- 6 bottom line on this request, if you add up all those
- 7 numbers that you saw on the chart, is \$410 million.
- 8 That's about a \$50 million increase.
- 9 It was management's recommendation that that
- 10 is a level that can be lobbied for effectively by LSC.
- 11 It is not intended, in fact, to fulfill the need
- 12 that's out there.
- MR. GARTEN: Yes.
- MS. BEVIER: I think I have one sort of
- 15 general comment, and that is I don't think there's any
- 16 question in anybody's mind that there is more need than
- 17 resources and that the need is enormous and great and
- 18 that we all passionately would like to fill it.
- 19 One specific question right now has to do with
- 20 OMB's number. Are we sort of in line with that or
- 21 what's that deal?
- MR. JEFFRESS: The OMB official handling our

- 1 account has asked us to let them know what this finance
- 2 committee does, because they're not going to share with
- 3 us their number until they know what you all do.
- 4 In discussions with OMB officials they were
- 5 encouraged that it appears Congress is going to do more
- 6 for us than it had appeared earlier. The possibility
- 7 that there will be more they said would help them in
- 8 terms of advocating for more for us in the future.
- 9 But we don't expect to know what will be in
- 10 the president's budget until the end of the year, and
- 11 it won't be public until the first of February. But
- 12 they have asked and are very interested in what this
- 13 board and what your committee thinks is appropriate to
- 14 ask for.
- MS. BEVIER: Then I have just one more
- 16 question right now, and that has to do with the impact
- 17 of Katrina and the disaster relief. It seems to me
- 18 that the need that is going to create for legal
- 19 services for the poor is demonstrable and quite
- 20 apparent to everyone.
- I noticed in this 2007 budget request that we
- 22 don't have anything for disaster relief and I'm just

- 1 wondering whether it -- I would be interested in
- 2 knowing whether we ought to not have a sort of way of
- 3 indicating in whatever request we make that this call
- 4 upon extra funding from Congress is in large measure
- 5 occasioned by this disaster and that's a plate that
- 6 we're wanting to step up to, and obviously the
- 7 government thinks we should.
- 8 MR. JEFFRESS: And certainly LSC could do
- 9 that. At the moment the disaster relief is being
- 10 handled not through regular budget appropriations but
- 11 through supplemental bills, so there's a parallel
- 12 process for seeking money for disaster relief.
- 13 We are in discussions with the Office of
- 14 Management and Budget about the White House including
- 15 money for Legal Services Corporation in the next
- 16 supplemental bill which they submit.
- 17 The difficulty for the budget before you is
- 18 this is for fiscal year '07, which is more than 12
- 19 months away.
- MS. BEVIER: Right.
- 21 MR. JEFFRESS: So anticipating what that need
- 22 is going to be in fiscal year '07 because of the

- 1 hurricane is somewhat difficult at the moment. The
- 2 fact that the process has been treated thus far as a
- 3 parallel process through a separate supplemental bill,
- 4 we thought it was best to continue that process and
- 5 work with the OMB on a supplemental at the moment.
- 6 That supplemental then could carry forward
- 7 into future years to continue to assist victims if the
- 8 money was available or there could be additional
- 9 supplementals.
- 10 MS. BEVIER: So what you're saying then is
- 11 that this increase has not anything to do with the
- 12 extra call upon resources occasioned by Katrina?
- 13 MR. JEFFRESS: That's right.
- MS. BEVIER: In other words, it's separate and
- 15 apart from that?
- 16 MR. JEFFRESS: That's right. This increase
- 17 has only been predicated upon the demonstrated people
- 18 we're unable to serve at present. That analysis, that
- 19 study was done in March, April and May, before the
- 20 hurricanes of this year.
- 21 The level of unmet need because of the
- 22 hurricanes, the disasters on the Gulf Coast, we've

- 1 estimated to be \$30 million over and above this
- 2 appropriation for fiscal year '06 and presume that
- 3 there will be some extension of that into '07, but it's
- 4 a little soon to make that calculation.
- 5 MS. BEVIER: Thank you.
- 6 MR. GARTEN: We have heard testimony to the
- 7 effect that it certainly will carry over to '07.
- 8 MR. JEFFRESS: Yes. I don't think there's any
- 9 doubt.
- 10 MR. GARTEN: But I gather handling it in this
- 11 way and doing supplemental appropriation is something
- 12 that Congress can accept more easily than trying to
- 13 increase the budget.
- MR. JEFFRESS: Well, it's certainly been the
- 15 pattern that when disasters occur that there are
- 16 supplemental bills to deal specifically with that and
- 17 they are separate from people's normal appropriations.
- 18 I would suspect that that will continue to be the
- 19 case.
- 20 MR. GARTEN: What about this emergency relief
- 21 planning that Mr. Saunders had suggested that we set
- 22 aside \$1 million for, would that be as part of the

- 1 emergency appropriation or should it be part of this
- 2 request?
- 3 MR. JEFFRESS: If we are talking about \$1
- 4 million for planning for an emergency that should not
- 5 be part of a basic field request. That should be added
- 6 to the management and administration accounts because
- 7 that would be money that would be spent by the
- 8 corporation to develop such a plan and involve the
- 9 grantees.
- 10 It is not incorporated in the management
- 11 recommendation not because it was considered and
- 12 rejected. Let me say this. This was not something
- 13 that we discussed and decided not to put in. It is a
- 14 need that we're becoming more aware of every day of the
- 15 need to do some advance planning.
- 16 As a matter of fact, in the last session on
- 17 developing our strategic directions document, which you
- 18 all will get at the October meeting, we have inserted
- 19 in that strategic directions document, in that draft at
- 20 this point, that we do develop some kind of preparation
- 21 for responding to disasters whenever and wherever they
- 22 occur.

- 1 MR. GARTEN: Are you recommending that the
- 2 committee include that in our proposal to the board?
- 3 MR. JEFFRESS: Well, you have a management
- 4 recommendation that was done up clearly in advance of
- 5 that being offered, but I will certainly suggest to
- 6 you -- and I don't want to speak for President
- 7 Barnett -- that we certainly don't oppose what NLADA
- 8 has suggested.
- 9 In fact, we see that need as well but our
- 10 recommendation was before that got on the table.
- 11 CHAIRMAN STRICKLAND: Are we okay on timing on
- 12 this? As you know, the board meeting is October 28 and
- 13 29 relative to the budget process.
- In other words, if the board takes a
- 15 recommendation from the finance committee and then
- 16 adopts an overall budget recommendation and plugs that
- 17 into the process are we doing it on a timely basis if
- 18 we do that at the October meeting?
- 19 MR. JEFFRESS: Certainly the LSC is not
- 20 required to propose an FY '07 budget until Congress
- 21 meets after the first of the year.
- 22 But because we want to work with the White

- 1 House, the White House process for developing the
- 2 president's budget, they are working on it at the
- 3 moment and they will roughly mid-November say back to
- 4 the agencies and the entities that they're working with
- 5 what the president is proposing to include.
- The agencies and entities like us will have a
- 7 chance to talk with them, talk about whether that's
- 8 appropriate or not.
- 9 But the White House planning started in
- 10 mid-September, so the earlier we get information to
- 11 them, the better. That's why they would like to know
- 12 what this committee is recommending to the full board,
- 13 because they're working on it even now.
- 14 By the time the board acts the end of October
- 15 we still will have a chance, should that be different
- 16 from what this committee does, to inform the White
- 17 House and OMB and have that considered. But they are
- 18 putting together numbers now, so the sooner we can give
- 19 them some indication the better off we'll be.
- 20 CHAIRMAN STRICKLAND: So is your suggestion
- 21 then that this committee rather than taking all these
- 22 recommendations under advisement should go ahead and

- 1 take some action today so that LSC is in a position to
- 2 respond to the request from OMB?
- 3 MR. JEFFRESS: Certainly OMB would like to
- 4 know what this committee's recommendation will be to
- 5 the full board. Obviously you as a committee have to
- 6 decide are you going to make a recommendation to the
- 7 board or are you just going to take this under
- 8 advisement.
- 9 CHAIRMAN STRICKLAND: Right.
- 10 MR. JEFFRESS: But the more indication you can
- 11 give, the better success we will have with the
- 12 president's budget for '07.
- 13 CHAIRMAN STRICKLAND: Thank you. One more
- 14 question. Sorry, Charles.
- MS. BEVIER: Go ahead.
- 16 CHAIRMAN STRICKLAND: You may have already
- 17 said this and I may have had a so-called senior moment
- 18 while you were saying it. So at the risk of repeating
- 19 it, I understood you to say that management had
- 20 considered the recommendations of the ABA and NLADA in
- 21 coming forth with your recommendation. Is that
- 22 correct?

- 1 MR. JEFFRESS: Perhaps I misspoke. I was
- 2 indicating though the ABA and NLADA recommendations
- 3 only came in this week and, as you all know, we sent
- 4 you this information --
- 5 CHAIRMAN STRICKLAND: Right.
- 6 MR. JEFFRESS: -- two weeks ago, so we did not
- 7 have the benefit of their documentation at the time.
- 8 CHAIRMAN STRICKLAND: Now that you've had
- 9 that -- I don't know how long you've had it or whether
- 10 you've actually considered it, but would you have a
- 11 different recommendation? MR. JEFFRESS: The
- 12 management team hadn't had a chance to sit down and
- 13 review this and give you a management team
- 14 recommendation.
- 15 CHAIRMAN STRICKLAND: All right. And I
- 16 apologize if I'm covering ground that you already
- 17 covered in --
- 18 MR. JEFFRESS: No, no, that's fine.
- 19 MR. GARTEN: Just a matter of clarification.
- 20 In giving us your comparisons and the statement of 23.1
- 21 percent increase, you're comparing '05 to the '07.
- But if you compared what we anticipate at a

- 1 minimum for '06 your increase is closer to 20 percent
- 2 the way I calculate it, assuming that the House and the
- 3 Senate average out. Why did you present it on the 23
- 4 percent when you could have compared it to the '06?
- 5 MR. JEFFRESS: Perhaps we were too cautious,
- 6 Mr. Chairman. But the survey, the research that we did
- 7 in terms of the people we were unable to serve was done
- 8 during '05 based on the '05 budget, so the doubling is
- 9 based on the information we had at the time, which was
- 10 our '05 budget and the people that we were unable to
- 11 serve in '05.
- 12 An equally cogent argument could probably be
- 13 made to double whatever budget is provided in '06, but
- 14 certainly the research was done on the resources that
- 15 were available in '05.
- 16 MR. GARTEN: So the increase is closer to 20
- 17 percent than to 23 percent?
- 18 MR. JEFFRESS: If we could see exactly what
- 19 Congress is going to appropriate.
- 20 MR. GARTEN: I'm basing it on the assumption
- 21 that there's a --
- MR. JEFFRESS: You're correct.

- 1 MR. GARTEN: Split down a difference between
- 2 the House and the Senate.
- 3 MR. JEFFRESS: Yes. If you had the '06
- 4 figures we might have given you a different
- 5 recommendation, but we don't have the '06 figures to
- 6 work with and '05 is all we have.
- 7 MS. BEVIER: I realize that you don't know the
- 8 answer to the question I'm going to ask, but
- 9 nevertheless I'd like to have you sort of guess, or
- 10 maybe Tom would be the person.
- 11 How realistic is this? I ask this question
- 12 because it seems to me that we're in a time where it's
- 13 not just our needs and it's not just Katrina, it's not
- 14 just the war in Iraq.
- Sort of if you kind of read the tea leaves
- 16 there's been developing, I think, kind of a resistance
- 17 to all kinds of domestic spending, given Katrina and
- 18 the defense spending needs or defense spending
- 19 requirements, however you want to characterize that.
- 20 But so I'm worried about making a call on the
- 21 national resources that is so unlikely to be met that
- 22 it's almost inappropriate considering all the other

- 1 needs or that it's just simply unrealistic.
- 2 And I don't know the politics of asking for
- 3 too much. I mean, maybe that's the way you should go
- 4 is to say, well, this is less than what we need and
- 5 more than what we expect but this is the number.
- 6 MR. JEFFRESS: Well, let me just say I think
- 7 that was the single biggest consideration as the
- 8 management team discussed this is what do we think we
- 9 can achieve, what can we ask for and we think
- 10 reasonably support and have people listen to us without
- 11 dismissing it as being overreaching.
- 12 But let me ask Tom to respond, because he's
- 13 the one that has to be on the Hill talking about this.
- 14 MS. BEVIER: Yes. Thanks. I appreciate that.
- MR. POLGAR: One of the things, of course,
- 16 that always makes this tricky is we're sitting here
- 17 talking about an '07 budget and we don't even know what
- 18 we're getting for FY '06 yet, so that complicates
- 19 things.
- The fiscal climate next year is uncertain.
- 21 There has been more talk recently of cutting back on
- 22 federal spending. On the other hand, it is so far

- 1 talk. The flip side of it is that the hurricane itself
- 2 has really dramatized the situation facing lower income
- 3 people throughout the country.
- I think \$410 million is an aggressive goal,
- 5 but I don't think it's completely unrealistic. I think
- 6 in January if somebody would have said that the Senate
- 7 was going to adopt a \$358 million figure for legal
- 8 services this year people would have said you're being
- 9 unrealistic.
- 10 So I think \$410 million is aggressive but it's
- 11 not so aggressive that it gets laughed at.
- 12 MR. FUENTES: Mr. Chairman --
- 13 MR. GARTEN: I have a question for you. Based
- 14 upon what you've heard from ABA, NLADA, and their
- 15 position and the reasons for it and what's happened
- 16 since staff has worked on this particular budget, do
- 17 you think that asking for this increase over a shorter
- 18 period of time with the justification that we would
- 19 bring forward in the times that exist and the fact that
- 20 poverty is more recognized today than it was last
- 21 month, would we be pushing it too much?
- MR. POLGAR: I mean, Charles said it a few

- 1 minutes ago. How many years we should strive towards
- 2 the doubling that we talked about was the single
- 3 biggest discussing among management as we were
- 4 developing this budget back in early September.
- 5 My view on the NLADA and the ABA
- 6 recommendations is I think the target is right and we
- 7 agree with the target. The logic for doing it in two
- 8 years is there. But then if we go to the Hill -- but
- 9 that's logic and that's intellectual logic.
- I think if we go to the Hill with the \$500
- 11 million plus request, I mean, then they'll just ignore
- 12 us. And that's why we ended up settling on trying to
- 13 achieve this over five years, because we thought that
- 14 at least was a bite-sized chunk as opposed to something
- 15 that was so big that they couldn't get their arms
- 16 around it and wouldn't consider it.
- 17 MR. GARTEN: Well, if you spread this over say
- 18 four years what would be the increase?
- 19 MR. JEFFRESS: Well, we'd have a 25 percent
- 20 increase instead of 20, so we'd be looking at an
- 21 additional \$17 or \$18 million.
- MR. POLGAR: Yes, I was going to guess \$20

- 1 million. MR. GARTEN: Well, in the scheme of
- 2 things considering everything you've heard and what's
- 3 developed in the last 30 days is it outrageous? Are we
- 4 pushing it too much by making such a request?
- 5 MR. POLGAR: I think I'm going to stand with
- 6 the judgment that we've agreed on earlier this month,
- 7 which was five years was good. I will say the full
- 8 board does meet in October and it meets again end of
- 9 January.
- 10 Our actual budget request doesn't go to the
- 11 Hill until the first week of February, so there is
- 12 opportunity to reconsider it if we see the fiscal
- 13 lights changing.
- MR. GARTEN: But by the same token you have to
- 15 submit a figure.
- 16 MR. POLGAR: That's correct.
- 17 MR. GARTEN: Yes, and based upon my experience
- in other matters sometimes you have to stretch it a
- 19 little bit, expecting to be turned down.
- 20 MR. POLGAR: OMB is in the stage of developing
- 21 the '07 budget where \$18 million is a rounding error,
- 22 so from that standpoint I don't think it matters right

- 1 now whether we were to tell them \$410 million or \$428
- 2 million, if that's the question.
- 3 MR. JEFFRESS: If I could add something, Mr.
- 4 Chairman. Because we want to work within the OMB
- 5 process and give the White House a figure and then in
- 6 February or end of January we'll be asked to give
- 7 Congress a figure, they don't have to be the same.
- 8 But certainly if you ask Congress for more
- 9 than you asked the White House for, it would be
- 10 awkward. If you ended up asking the Congress for less
- 11 then the White House is probably not going to award
- 12 everything that LSC requests.
- MR. GARTEN: You want to be consistent.
- MR. JEFFRESS: I think you'd want to be
- 15 consistent or ask for more early. That would be my
- 16 advice.
- 17 MR. GARTEN: Any other questions?
- 18 MR. FUENTES: Mr. Chairman, I'd like to make a
- 19 comment, if I might.
- MR. GARTEN: Yes, certainly.
- 21 MR. FUENTES: Thank you. I'm wondering if
- 22 anybody has there at hand the approved appropriations

- 1 prior to fiscal year 2005, perhaps the last three or
- 2 four going back, those round figures. I don't have
- 3 them in front of me here, I don't believe, anyway.
- 4 And I just thought that might give us a bit of
- 5 a pattern. After all, it is the same Congress and it
- 6 is the same administration. This is such a large jump,
- 7 I lean toward an empathy with the sentiments expressed
- 8 by Lillian as to how we project ourselves in light of
- 9 some realities that we are aware of.
- 10 Would anybody have those? Could they tell us
- 11 '02, '03, '04?
- MR. POLGAR: I can give them to you within \$1
- 13 million by memory.
- 14 MR. FUENTES: That's close enough for
- 15 government work.
- 16 MR. POLGAR: Okay. Going back, in '01 it was
- 17 \$329 million. In '02 it was \$338 million. In '03 it
- 18 was \$338 million again, I believe. In '04 it was \$335
- 19 million. And in the current year it's \$331 million.
- 20 MR. FUENTES: Okay. Well, I think that \$329,
- 21 \$338, \$338, \$335, \$331 million ought to be a very
- 22 telling reality that we ought to take into our

- 1 considerations as to what we project ourselves as
- 2 advocating or seeking something that we want to always
- 3 look reasonable about.
- I guess I'm troubled by the comment that this
- 5 number, the big \$410 million, does not include
- 6 hurricane response. If it did, that might be somewhat
- 7 more realistic. But I would have to think that there's
- 8 going to be belt-tightening wherever possible in order
- 9 to do the supplemental appropriation and meet the human
- 10 need caused by those disasters.
- And if that is in addition to, it might not
- 12 look like we're taking that into consideration. So I'm
- 13 a bit troubled by the magnitude of this number.
- 14 However, have no argument whatsoever with the genuine
- 15 reasons for it expressed by all those advocates here
- 16 present with us today.
- 17 MR. POLGAR: I will say one thing. I do think
- 18 there has been a change in the climate in favor of
- 19 legal services in the last year. The '06 number is
- 20 still a matter of speculation, but I think we'll see a
- 21 substantial increase over the '05 appropriation this
- 22 year.

- 1 CHAIRMAN STRICKLAND: Mr. Chairman, as a
- 2 follow-up to the numbers you gave, Tom, for the years
- 3 '01 through '05 beginning with \$329 million and so on,
- 4 those were the actual appropriation numbers, were they
- 5 not? Is that right?
- 6 MR. POLGAR: Well, now I have them in front of
- 7 me actually. They were pretty close to the actual
- 8 appropriation numbers.
- 9 CHAIRMAN STRICKLAND: As opposed to the budget
- 10 request.
- 11 MR. POLGAR: That's correct.
- 12 CHAIRMAN STRICKLAND: So I think we want to be
- 13 clear that those were the actual appropriations versus
- 14 what was requested in those years. So it's fair to
- 15 say, is it not, that in each of those years our request
- 16 was for a higher dollar amount?
- 17 MR. POLGAR: That's correct. In fact, the
- 18 request in '02 and '03 was \$330 million. The request
- 19 for '04 was \$352 million. The request for '05 was
- 20 \$363.8 million.
- 21 CHAIRMAN STRICKLAND: Okay, thank you.
- MR. GARTEN: Any other questions? If not,

- 1 thank you very much. Part of the budget request was a
- 2 request made by the inspector general for \$3.5 million.
- 3 We'll ask the inspector general to come up at this
- 4 point and go over the request for us.
- I might add that this morning I was handed,
- 6 and I presume other board members, a budget category
- 7 summary that was prepared by the office of inspector
- 8 general.
- 9 As I understand it, management has just
- 10 presented that request in this schedule on page 26 as
- 11 the inspector general's request and has not commented
- 12 on it in any manner. Would you identify yourself,
- 13 please.
- MR. WEST: Kirt West, the inspector general.
- 15 With me is David Maddox. First of all, I want to let
- 16 you know that what I'm asking is to have not
- 17 necessarily approval of my request but if I have my
- 18 request included in the overall LSC budget request.
- 19 That has been done in the past and has been
- 20 represented to the past in Congress in terms of how
- 21 this office submits its issues. I'm certainly happy to
- 22 discuss the reasons for my proposal and happy to

- 1 discuss sort of the underlying work.
- I would point out that consistent with the --
- 3 MR. GARTEN: May I just ask this question. My
- 4 understanding of the function of this committee and the
- 5 board is to review and approve your requested budget.
- 6 Do you agree with that?
- 7 MR. WEST: Well, I would like to refer to
- 8 something that was sent to Chairman Cannon of the
- 9 subcommittee by Mr. Strickland in January of 2004 that
- 10 had made some statement regarding the IG: "The LSC IG
- 11 has independent budget authority, helping to ensure the
- 12 IG's independence. Each year the IG prepares a budget
- 13 which is submitted as a separate line item in the LSC
- 14 budget. Neither the board nor LSC management has
- 15 attempted to change the amounts requested by the IG."
- So if my request were to be changed, it would
- 17 be a change of practice that's been represented to the
- 18 Congress.
- 19 MR. GARTEN: Well, my understanding of the
- 20 functions of this board, notwithstanding what you're
- 21 reading, is that you're here today to present your
- 22 request and that this committee will consider it and

- 1 make a recommendation to our board.
- 2 And that in the final analysis, pursuant to
- 3 the law as I understand it and was explained to me,
- 4 that your budget is subject to the approval of the
- 5 board of LSC. Do you disagree with that?
- 6 MR. WEST: I also will let you know that the
- 7 practice in other IGs when they end up with a
- 8 disagreement with their agencies is they go to OMB
- 9 directly. And if that's what happens, I will --
- 10 MR. GARTEN: So you don't agree with my
- 11 statement that the board --
- 12 MR. WEST: I have a -- I think there's a
- 13 question in terms of certainly past practices of this
- 14 board, representations to Congress as to the process.
- 15 And so that's the question I'm raising.
- Now, perhaps if I could tell you I think my
- 17 budget request is completely --
- 18 MR. GARTEN: I'd like to address --
- 19 MR. WEST: -- consistent with --
- 20 MR. GARTEN: -- this preliminary issue as to
- 21 whether you acknowledge that this committee makes
- 22 recommendations to the board and that we have the

- 1 authority over your budget. Do you agree or you
- 2 disagree?
- 3 MR. WEST: I think the people who have
- 4 authority over my budget is the Congress and not this
- 5 committee. This committee can certainly make
- 6 recommendations.
- 7 CHAIRMAN STRICKLAND: I don't know, are we
- 8 arguing about the law here? Because I don't know that
- 9 we know. I understand the independence issue relative
- 10 to the office of inspector general, but I really don't
- 11 understand the budget process.
- 12 Is it the case that the budget process with
- 13 respect to the office of inspector general, is it that
- 14 you simply present a number and all we do is pass it
- 15 through?
- MR. WEST: That's what has happened in the
- 17 past.
- 18 CHAIRMAN STRICKLAND: Right.
- 19 MR. WEST: I can tell you what happens in
- 20 other agencies, which is it goes to the secretary. If
- 21 the secretary knocks the number down, the IG has
- 22 independent appeal authority to OMB.

- 1 CHAIRMAN STRICKLAND: Okay, so --
- MR. WEST: So that's where the process is.
- 3 You certainly would have the right to say we disagree
- 4 with the IG and the IG can then go to OMB and say I
- 5 disagree with the actions of my agency.
- 6 CHAIRMAN STRICKLAND: All right, so the way it
- 7 might flow is the way you outlined it then, that it's
- 8 before this committee and then ultimately before the
- 9 board as the head of the agency either to send it as
- 10 you submit it or to send it in some other form, and
- 11 which if it were the latter then you could
- 12 independently make your case to OMB for your budget.
- MR. WEST: That's correct.
- MS. BEVIER: Mr. Chairman, as I recall, last
- 15 year the IG came before the board and asked for a
- 16 supplemental appropriation and we had considerable
- 17 discussion on it.
- 18 There was no issue raised then about whether
- 19 it was a board decision. I had understood that it was
- 20 a request to the board and we ended up approving it. I
- 21 don't recall whether we gave you all of what you asked
- 22 for.

- 1 But it seems that that practice, what we were
- 2 all assuming was that that was included and the number
- 3 you were asking for was going to be included or not in
- 4 the budget request that we made last year. So is that
- 5 wrong? Do you not remember that?
- 6 MR. WEST: Well, I tell you, I think the
- 7 history of it is when this committee met a year ago at
- 8 this time I had been on the job for nine days or 10
- 9 days.
- MS. BEVIER: Right.
- MR. WEST: And the budget mark that was talked
- 12 about at this point had been done by my predecessor. I
- 13 had not had a chance to evaluate what was done.
- MS. BEVIER: Right.
- MR. WEST: So I was actually asking that a
- 16 presentation that had been made before, that there be a
- 17 change.
- 18 Secondly, I was not aware at that time last
- 19 February when we had this discussion of past
- 20 representations and past histories of what had happened
- 21 with the LSC IG and the budget request and that there
- 22 had been no budget request by the LSC IG that had been

- 1 changed by the board. I was not aware of this
- 2 representation. I became aware of that after the fact.
- 3 MS. BEVIER: After what fact?
- 4 MR. WEST: After that meeting in February
- 5 where I brought that to the board. But I think also I
- 6 made the point in that discussion back in February that
- 7 regardless of what the board action was going to be
- 8 that I would make a -- at that time we were discussing
- 9 the budget going to Congress, not to OMB.
- 10 That if the board should disagree with me that
- 11 I was going to contact Congress directly, because I had
- 12 been asked questions about Congress, about what kind of
- 13 budget did I need. And the presentation of the board
- 14 was at that time my estimate of what kind of budget the
- 15 LSC IG needed to do its job.
- 16 MS. BEVIER: I did not remember that aspect of
- 17 the conversation.
- 18 MR. WEST: I think that happened in the
- 19 finance committee.
- MR. GARTEN: Mr. Chair, my understanding from
- 21 the day that I came on this board and during the course
- 22 of interviewing and hiring the inspector general, that

- 1 the law imposed a duty on us to hire or fire and also
- 2 to set the budget for the IG's office.
- If I'm incorrect in that assumption I'd like
- 4 an opinion from our legal counsel. I think this is
- 5 something we should clarify right now as to what is
- 6 correct or not.
- 7 CHAIRMAN STRICKLAND: That's fine. Are you in
- 8 a position to give us any advice on that, Vic?
- 9 MR. FORTUNO: My understanding is the board
- 10 settles on a budget request to make to Congress and
- 11 that's one figure for the entire entity. You can break
- 12 it down by lines. But my understanding is that it's
- 13 the board that settles on the various lines and the
- 14 overall figure.
- 15 And I do believe that in the past the IG's
- 16 budget request has gone in largely as requested, but I
- 17 don't think in the past there's been a request for a 30
- 18 percent increase. Had there been, it might not have
- 19 gone through as requested. But the bottom line
- 20 is my understanding is that's one of the principal
- 21 functions of this body has to perform, and that is
- 22 settling on the budget request that's submitted to

- 1 Congress for the overall budget request and the
- 2 allocation that's requested.
- Once it's provided in this instance to the
- 4 inspector general then it's a separate line and that's
- 5 entirely within the inspector general's control. But
- 6 the request, I think, is this body's.
- 7 CHAIRMAN STRICKLAND: The 30 percent you
- 8 mentioned, are you talking about between -- I'm just
- 9 looking at this chart again trying to figure out. Is
- 10 the 30 percent between the 2005 COB and the 2006
- 11 request? Because the difference between '06 and '07 is
- 12 2.9 percent.
- 13 MR. FORTUNO: I'm just turning to David to see
- 14 if he --
- MR. GARTEN: Well, can we proceed, Mr. Chair,
- on the basis we have a legal opinion as I see it from
- 17 counsel, notwithstanding the response that we've had
- 18 from the IG, is that this board has the authority to
- 19 set the budget for the office of the inspector general?
- 20 CHAIRMAN STRICKLAND: That's what it sounded
- 21 like. Is that a fair statement?
- MR. FORTUNO: Yes. Ultimately it will be set

- 1 by Congress. But what the corporation requests to fund
- 2 that function is, it seems to me, the function of this
- 3 board.
- 4 MR. WEST: And I certainly don't disagree with
- 5 Mr. Fortuno that you can do whatever you choose to do.
- 6 I'm not disagreeing with your right to do that. I'm
- 7 just noting that I think I have other channels that I
- 8 can pursue but that I think you can make that decision.
- 9 So I'm not disagreeing with him on that.
- 10 MR. GARTEN: So you're agreeing with us now?
- 11 MR. WEST: If there's a change in my budget
- 12 then I would only say that it will have been a change
- 13 in practice as represented to the Congress by Chairman
- 14 Strickland.
- MR. GARTEN: Do you want to --
- 16 CHAIRMAN STRICKLAND: Yes. It's fine with me
- 17 to press on.
- 18 MR. WEST: Well, let me give you my
- 19 presentation, which is simply I think my budget request
- 20 is absolutely in line with the management and
- 21 administration's budget request. We may be off a
- 22 percent but based on the 2006 request, which is how

- 1 Charles presented in the 2007 request, there is a
- 2 \$100,000 difference. That's all. Less than 1 percent.
- And again, I think like myself, like the rest,
- 4 we don't know what we're going to get in 2006. We're
- 5 working off of perhaps we will get our full allocation
- 6 in 2006 and therefore this is based on that.
- 7 I can also tell you that this represents a
- 8 figure of less than 1 percent for compliance, looking
- 9 at it from that perspective.
- We used, and I don't know how management used
- 11 its figure coming up with this \$14 million, but I used
- 12 the principles of zero-based budget and activity-based
- 13 costing methods to figure out what my staffing needs
- 14 were.
- I budgeted those in terms of needed FTE
- 16 positions, which is sort of a budgeting concept with
- 17 considerations of staff availability time. And once I
- 18 costed that out I came up with my budget.
- 19 I think this represents the work that my
- 20 office needs to do. I think it's going to be a
- 21 heightened amount of work, particularly in the area of
- 22 looking at reviewing the work of the independent public

- 1 accountants who review the work of the grantees, the
- 2 three different audits that they do.
- 3 We have made the determination that we have
- 4 got to do a full cycle of reviews, that we've gone and
- 5 we've looked at the questions we've asked the IPAs to
- 6 do, the information we've asked them to gather.
- We've gone and met with them rather than
- 8 having contractors do it, as in the past, and have
- 9 identified some issues that need clarification that
- 10 will do a couple things.
- One, it will result in, I think, a better
- 12 assurance to the Congress that there is compliance.
- 13 And the second is it will help eliminate some
- 14 unnecessary things that the IPAs are being asked to do
- 15 right now which sort of interfere with the grantees.
- In other words, we have a real old audit guide
- 17 and supplement that says these are all the steps you're
- 18 going to do. It's really out of date. It needs to be
- 19 changed. It needs to be more effective. That's going
- 20 to take a significant amount of staff time.
- I should also tell you that my budget request,
- 22 there's lots of additional work identified. Probably

- 1 like Helaine, if I ask for everything that I want to do
- 2 it would be like double that. It reflects certain work
- 3 not being addressed.
- 4 It also reflects that starting in 2007 that
- 5 probably 80 to 90 percent of our work will be directed
- 6 at the field. Right now we've been doing a sort of
- 7 bottoms up review of the headquarters function. We
- 8 expect that to be closed and finished by 2006.
- 9 That's sort of the general things we're going
- 10 to do. I think my budget is completely in line with
- 11 the 2006 request that was submitted to the Congress.
- 12 It's completely in line with what the rest of the
- 13 corporation is doing.
- MS. BEVIER: I have a question about the
- 15 figures you presented to us, because it's true that we
- 16 don't know for sure what the 2006 numbers are but it's
- 17 also true that the Senate appropriation, which is the
- 18 biggest number, appropriated \$2,600,000 to you.
- MR. WEST: That's not --
- 20 MS. BEVIER: So I just wonder why --
- 21 MR. WEST: I'd like to point out the Senate
- 22 subcommittee, the subcommittee that did the initial

- 1 appropriations and they'll be the ones that will be
- 2 involved in conference for us, increased only one of
- 3 the line items.
- 4 This is the appropriations committee that
- 5 actually cut the budget initially. They increased one
- 6 line item, and that was my office. The others were
- 7 cut. I think that's somewhere else in the briefing
- 8 book.
- 9 I think Tom Polgar could tell you that these
- 10 numbers are confusing all over the place in terms of --
- MS. BEVIER: So basically what you're saying
- 12 is that this \$2,600,000 number is not accurate, the
- 13 number that's in the Senate FY 2006 appropriation?
- MR. WEST: I couldn't -- and Tom, maybe you
- 15 could explain. I couldn't find that number anywhere.
- 16 MR. POLGAR: What the Senate did is a little
- 17 confusing and I alluded to it when we were talking at
- 18 breakfast, because the numbers in the committee report
- 19 and the numbers in the statute are different.
- The number in the bill as passed by the Senate
- 21 for the inspector general is \$2.6 million. The number
- in the report is \$2.7 million and change.

- 1 MR. WEST: \$2.764 million, I think.
- MS. BEVIER: Oh, \$2.7 million but not \$3.7
- 3 million or not \$3.4 million.
- 4 MR. POLGAR: The number in the Senate
- 5 committee report, Kirt is right, is \$2,764,000, and the
- 6 number in the bill is \$2,600,000.
- 7 MR. WEST: And I think the same thing would be
- 8 the M&A lines are different in those two bills as well.
- 9 MR. POLGAR: Management and administration
- 10 line is different. The technology grants lines are
- 11 different and the census adjustment line is different.
- 12 And then, of course, the basic field number was
- 13 changed on the floor, so that's clearly controlling in
- 14 that case.
- MS. BEVIER: No, I understand. It's just that
- 16 I find it hard to sort of -- I mean, I understand that
- 17 the request in 2006 was \$3,400,000. But what the
- 18 Senate, who was the most generous to us, actually has
- 19 appropriated, even the most generous read of that is
- 20 \$2.76 million.
- 21 And you've indicated here that the comparison
- 22 is \$3.4 and \$3.5 million and I just find that --

- 1 MR. WEST: Well, I would point out you have
- 2 the same issue going on with the management and
- 3 administration line, that they represented only a
- 4 \$200,000 increase but that was their increase from
- 5 their approved budget request in 2006, not necessarily
- 6 what's in both of those lines, the different lines from
- 7 the Senate.
- 8 MS. BEVIER: Well, sorry, I just find this
- 9 hard to read.
- 10 MR. WEST: I think the Senate has made things
- 11 extremely confusing for anybody to figure out what's
- 12 going on.
- 13 CHAIRMAN STRICKLAND: What do the letters COB
- 14 stand for again?
- MR. MADDOX: Consolidated operating budget.
- 16 CHAIRMAN STRICKLAND: And is that the same
- 17 thing as that what you got for 2005?
- MR. MADDOX: That is appropriation plus any
- 19 carryover from prior year.
- 20 CHAIRMAN STRICKLAND: Okay. So the big
- 21 increase that somebody mentioned a number of 30 percent
- 22 was between 2005 consolidated and 2006 request. That

- 1 was the big percentage jump, is that right?
- MR. WEST: That's correct, and that was the
- 3 one that was the subject of the finance committee
- 4 meeting back in January.
- 5 CHAIRMAN STRICKLAND: Right. Is that the
- 6 meeting where I got backed into having to --
- 7 MR. WEST: Yes, it is.
- 8 CHAIRMAN STRICKLAND: -- vote all of --
- 9 MS. BEVIER: You actually had to do something,
- 10 yes.
- 11 CHAIRMAN STRICKLAND: We even had to take a
- 12 recess, didn't we, on that?
- Okay, it's all coming back to me.
- MR. GARTEN: We had a tie vote until you got
- 15 into it.
- 16 CHAIRMAN STRICKLAND: Okay.
- 17 MR. GARTEN: I have a few questions. In prior
- 18 reports the number of positions that your office has
- 19 had from year to year has been given to us. Can you
- 20 tell us what those figures are?
- 21 MR. WEST: In prior years?
- MR. GARTEN: In prior years and what you're

- 1 proposing here for '07.
- 2 MR. WEST: Right. What I'm proposing for '07
- 3 I think is -- maybe you could explain it better, Dave.
- 4 MR. MADDOX: In terms of what we've shown in
- 5 the budget requests, we've consistently asked for 17
- 6 budget positions. Currently we also have an acting
- 7 inspector general for audit, AIGA, who is acting as a
- 8 temporary person in terms of budgeting.
- 9 So currently in terms of the '05 COB we have
- 10 18 positions. In '06 what we're projecting is an
- 11 increase to a total of 23 positions. Four of those
- 12 would be contract-based employees or temporary
- 13 employees.
- The current vision or strategy we've talked
- 15 about employing in 2007 is making a lot of those
- 16 permanent, making all of those permanent and hiring an
- 17 additional three persons.
- 18 So what you're looking at in terms of the FY
- 19 '07 request is a total of 26 people. Currently the
- 20 current strategy that we're showing here, and again
- 21 this is very early, is to make all of those full-time
- 22 staff.

- 1 MR. GARTEN: And the 23 full-time plus your
- 2 extras that you have?
- MR. MADDOX: Correct.
- 4 MR. GARTEN: Total 23?
- 5 MR. MADDOX: Correct. It would be 19
- 6 full-time and four temporary employees.
- 7 MR. GARTEN: Now, if I heard you correctly you
- 8 said -- I think you said 80 or 90 percent of a certain
- 9 group of employees would be going into the field. Did
- 10 you say that?
- MR. WEST: I said 80 to 90 percent of our work
- 12 was going to be focused on the field, not necessarily
- 13 80 to 90 percent of people. But most of our audit
- 14 staff would be.
- MR. GARTEN: Do you recall a prior board
- 16 meeting, and I don't know which one it was, where we
- 17 expressed concern about the overlapping of your office
- 18 and our compliance office?
- MR. WEST: Yes, I am.
- 20 MR. GARTEN: And you promised, you stated you
- 21 were going to make every effort to make certain that
- 22 your office did not impinge upon what our office of

- 1 compliance was doing, if I heard you correctly.
- MR. WEST: I also told you that we're in the
- 3 process of doing an audit to look for those areas of
- 4 overlap, duplication. We should be shortly issuing a
- 5 draft report, although we're not going into the overall
- 6 duplication between the various components within the
- 7 headquarters here.
- 8 But much of this work we're doing has nothing
- 9 to do with going in with what the grantees are doing.
- 10 It's having to do with what has been given direct
- 11 authority to this office, which is to oversee the work
- 12 of the independent public accountants who have to do
- 13 three kinds of audits.
- 14 They're required to do it and submit them to
- 15 us under our guidance. That's where a lot of that work
- 16 will be involved in that.
- MR. GARTEN: Are those people that you're
- 18 hiring going to be coming to us for the following year
- 19 and tell us those people are still with you? I also
- 20 believe you said at one time or another that you needed
- 21 temporary help.
- MR. WEST: I talked about back in February

- 1 that that was the initial idea, that I would look at
- 2 contract employees. I have since had a lot more
- 3 experience with the kinds of work we need to do.
- I also have a concern, which is my work force.
- 5 In succession planning, since five of my seven current
- 6 audit staff are staff who are retirees from the federal
- 7 government who could walk away any day, I don't have
- 8 kind of the junior level kinds of employees I would
- 9 need to get them trained so when those people leave I
- 10 don't have a complete gap. And so that's part of my
- 11 thinking.
- 12 Ultimately once the IG gets the budget it's up
- 13 to the IG to make decisions whether to hire people as
- 14 employees or whether to hire contractors, consultants.
- 15 That is part of the independence.
- 16 But I'm just saying that's my thinking. And
- if you notice the switch from my 2006 to 2007 numbers,
- 18 although the numbers are almost the same it's going
- 19 from the temporary employees in the consulting line
- 20 into employee compensation and benefits.
- 21 That is a change and that's where I'm headed
- 22 and I think that's for the best for long-term benefits

- 1 of the organization so that if we have two or three
- 2 retirements we're not going to have a knowledge gap and
- 3 we'll have people who have been trained who will be at
- 4 the junior level.
- 5 Plus, being able to hire people at the junior
- 6 level enables me to bring them in at a lower salary and
- 7 lower benefits.
- 8 MR. GARTEN: Based upon the figures that we
- 9 just got from you, you've increased your staff by 50
- 10 percent since the consolidated operating budget for
- 11 2005.
- 12 MR. WEST: That's correct, but we're
- 13 revisiting what happened back in February where I
- 14 talked about the need to increase my staff
- 15 significantly. The total number of people between
- 16 contractors and full-time employees is no different in
- 17 2006 and 2007. It all comes out.
- 18 The total number of bodies that would be off
- 19 doing things is some would be employees and some would
- 20 be contractors who would be --
- 21 CHAIRMAN STRICKLAND: Just to follow up on the
- 22 chairman's question about the increase in the head

- 1 count. If I understood what Dave was saying, you were
- 2 sort of on a projected basis. You want to go from 17
- 3 to 26.
- Whereas LSC funds, as I understand, 140
- 5 programs, grantee programs. Is that the current
- 6 number?
- 7 MS. BARNETT: Yes, it is.
- 8 CHAIRMAN STRICKLAND: One hundred and forty
- 9 programs. So that number is flat. So what is the
- 10 basis for going from 17 to 26 employees to do what in
- 11 theory appears to be the same amount of work?
- 12 That 140 grantee programs, each one gets an
- 13 independent audit, you have to review all of those or I
- 14 don't know how many you're able to review in a year,
- 15 whether it's 100 percent of them or some lesser
- 16 percentage.
- 17 But at least in theory one could conclude that
- 18 the work load is the same. You've got 140 grantees and
- 19 that's where the bulk -- on the theory, again, of
- 20 following the money. Most of the money expended by LSC
- 21 goes right out the door to field programs. A very
- 22 small percentage of the overall budget is expended in

- 1 the operation of the headquarters function.
- 2 So it would seem to be that the bulk of the
- 3 work of the inspector general would be again following
- 4 the money. The bulk of the money is in the field.
- 5 Therefore, you're reviewing the field and the size of
- 6 the field hasn't changed. It's 140 programs.
- 7 So what is the basis for having on a projected
- 8 basis that many more employees in your overall head
- 9 count? Setting aside retirements and succession
- 10 planning. I'm just talking about in raw numbers.
- 11 MR. WEST: In raw numbers I did use this
- 12 concept of activity-based costing. I figured out what
- 13 activities my office had to engage in. What I had
- 14 reported to this board on a number of occasions is my
- 15 predecessor, who turned back money, in my view was not
- 16 doing the kind of job that needed to be done.
- 17 The ASRs, these audit service reviews, which
- 18 are the linchpin of the Congress's wanting assurance of
- 19 compliance, were given very short shrift. He had an
- 20 independent public accounting firm come in and just
- 21 basically look at checkmarks and that was it.
- I'm proposing to do a vigorous review of that

- 1 process, which means my staff going out, sitting down
- 2 with the independent public accountants, going over the
- 3 guide that we provide them, going over their work
- 4 papers, and ensuring that one, the questions that need
- 5 to be asked are being asked and they're being answered
- 6 properly.
- 7 This work is done and it doesn't impact the
- 8 grantees at all in terms of taking up their time. We
- 9 deal directly with the independent public accountants.
- 10 We have done 14 of these so far this year and we have
- 11 found some significant differences in approaches, in
- 12 understanding, in terms of doing the work as we expect
- 13 it to be done, finding out that the guide that was put
- 14 out four or five years ago is out of date, doesn't ask
- 15 the right questions.
- 16 So that's the bulk of our work. That is
- 17 following the money because it involves going through
- 18 the financial statement audits done by the IPAs of the
- 19 grantees. It involves going through the internal
- 20 control audits as well as the compliance audits.
- 21 So that is the bulk of our work. What we hope
- 22 to be doing from this is gathering information that we

- 1 can share with all of the IPAs throughout, sort of
- 2 looking at what are trends, what are things we are
- 3 finding.
- 4 From my perspective, doing this should put us
- 5 in a better position of being able to assure to the
- 6 Congress that the compliance that I think we're all
- 7 concerned that we want to tell Congress LSC grantees
- 8 are in compliance, that it gives us a much higher level
- 9 of confidence and be able to tell the Congress that's
- 10 the case.
- 11 CHAIRMAN STRICKLAND: I would agree with --
- 12 MR. WEST: So that's what I'm trying to do.
- 13 CHAIRMAN STRICKLAND: I would agree that --
- 14 MR. WEST: And like the OCE and their visits,
- 15 this is tremendously time intensive. I'm proposing
- 16 that I want to do a cycle of visiting all of the IPAs
- 17 over a three-year period. That's 48 trips a year.
- 18 CHAIRMAN STRICKLAND: Maybe we've
- 19 underestimated the work load in the office of inspector
- 20 general. But just standing back and looking at it from
- 21 a distance, let's say that the work force of LSC, the
- 22 management, is about 100 people.

- 1 What you're saying is we now need a group of
- 2 25, roughly, to oversee the grantees from the point of
- 3 view of the inspector general.
- In other words, the equivalent of one-fourth
- 5 of the total management of LSC we need to have off in a
- 6 separate group known as the OIG to review what our
- 7 grantees are doing. That's a pretty large group, it
- 8 seems to me, to be traveling down many of the same
- 9 tracks.
- 10 Perhaps, maybe, I don't know, maybe your
- 11 function is completely different from what -- we don't
- 12 have a full understanding of it. But the Congress has
- 13 established an IG for our agency but it's come as a
- 14 surprise that it suddenly needs to increase its head
- 15 count from 17 to 25 or 26 people. Are you saying
- 16 by way of summary that all of the prior inspectors
- 17 general had badly underestimated the personnel
- 18 requirements and weren't doing their job?
- 19 MR. WEST: I can't speak for Mr. Quatrevaux,
- 20 who was before me. I can just tell you I've reviewed
- 21 what Mr. Koczur did or didn't do. The fact that, for
- 22 instance, he had no investigators on full-time and

- 1 there weren't any investigators on staff.
- 2 My two investigators I have now have between
- 3 six and eight different embezzlement cases going on.
- 4 I'm sorry that's the case, but that is the case. We
- 5 worked with one of the grantees and got a conviction.
- 6 We're trying to put out information to the
- 7 grantees so that they can find ways to prevent that
- 8 from happening to them. But there are, unfortunately,
- 9 these issues.
- 10 There were no investigators under him. I
- 11 looked and it's my opinion that meaningful work was not
- 12 going on. And part of it, and I don't want to put it
- 13 all on him because he was in that position of not being
- 14 able to start anything because he was an acting and he
- 15 didn't want to get started.
- And as I explained last year that part of the
- 17 unaddressed work is related to the \$1 million that was
- 18 turned back.
- 19 CHAIRMAN STRICKLAND: Let me pose a question.
- 20 I'm not minimizing the importance in the slightest of
- 21 pursuing investigators that need to be conducted.
- But let me make up a hypothetical, and it's

- 1 purely hypothetical. Suppose there's a \$500
- 2 embezzlement in a grantee. It doesn't make any sense
- 3 to expend a huge amount of time and energy and
- 4 resources of the office of inspector general to track
- 5 down a \$500 embezzlement.
- 6 There has to be some other way to do it than
- 7 massive commitment of an investigator and turning over
- 8 every rock when it's a \$500 issue. I mean, there has
- 9 to be some sort of de minimis test applied, it seems to
- 10 me, on that.
- 11 And I'm not suggesting that your
- 12 investigations are just runs down rabbit trails that
- 13 aren't fully justified. But you say there are five or
- 14 six embezzlements. What's the magnitude of them?
- MR. WEST: One of them, which may be difficult
- 16 to pursue because of reasons out of our control, was in
- 17 the range of \$40,000 to \$60,000. The conviction we got
- 18 was -- I'm sorry, I misspoke. It was not a conviction.
- 19 The person has been indicted and is in the process of
- 20 going -- the person is not yet guilty.
- 21 CHAIRMAN STRICKLAND: Right.
- 22 MR. WEST: But the one that we worked with the

- 1 grantee was \$13,000. And if it's something small like
- 2 that our investigator would probably work with the
- 3 grantee probably over the phone in terms of here's some
- 4 control. Those things tend to usually be just minor
- 5 slip-ups, internal controls.
- 6 CHAIRMAN STRICKLAND: Right, so you are
- 7 applying some common sense test, I hope, in pursuing
- 8 those things.
- 9 MR. WEST: Absolutely.
- 10 CHAIRMAN STRICKLAND: And again, I'm not in
- 11 the slightest -- because I know when you go back and
- 12 read transcripts -- I want to make it absolutely clear
- 13 for the record that I am not minimizing the importance
- 14 of pursuing investigations with regard to embezzlements
- 15 and other matters, because I'm certainly not doing
- 16 that.
- I just wanted to clarify that there is some de
- 18 minimis test perhaps being applied before you commit a
- 19 whole range of resources on those things.
- 20 MR. WEST: I'd also like to pass on something
- 21 that's sort of been in limbo at the moment, which is
- 22 because of Dobbins and sort of the pendency of Dobbins

- 1 it's been somewhat difficult for us to go out and do
- 2 certain kinds of program integrity audits which we
- 3 would do because, frankly, there's some question about
- 4 where that's going to end up.
- 5 We didn't want to get started on some of these
- 6 if the court is going to say you can't go there. So I
- 7 anticipate that kind of work cropping up again. I can
- 8 tell you, we do have some specific allegations
- 9 regarding a couple programs that we're going out and
- 10 looking at or just starting to look at that are going
- 11 to be very time intensive.
- 12 And, unfortunately, there are the other things
- 13 that you never know that come down the road, which is
- 14 you get a request from Congress and that takes us down
- 15 a different road. I hope I don't get any more requests
- 16 from Congress for a while. I think we've had enough of
- 17 that.
- I'll just tell you, this is based on my basis
- 19 of what I think I need to do the job. Now, ultimately
- 20 the board can say no, we don't you need that much. You
- 21 can get by with less. Congress can say and has said
- 22 you don't need that much or we'll give you what you

- 1 need.
- 2 CHAIRMAN STRICKLAND: I'm just saying as a
- 3 general proposition it is somewhat, well, it is
- 4 stunning to say that you need 10 more people to do your
- 5 work.
- 6 MR. WEST: Well, again, keep in mind this is
- 7 predicated on what happened, the request from a year
- 8 ago.
- 9 MS. BEVIER: Which we did approve.
- 10 MR. WEST: And at the end of the day none of
- 11 us in this room are going to have control over what the
- 12 final number is, just like we aren't with our request
- 13 for the basic field grants. It's going to be up to
- 14 Congress.
- 15 I'm just giving to you my estimation of work
- 16 that I think needs to be done. If I get less, then
- 17 I'll have to decide what I scale back on and which of
- 18 the things I'd like to do that I can't do, and I
- 19 understand that. That's just everybody in government
- 20 has to deal with that.
- 21 That's the same thing, you get a recision.
- 22 It's like, well, I've got to give up something.

- 1 CHAIRMAN STRICKLAND: Right. I'm just talking
- 2 about sort of as an abstract proposition, let's say, to
- 3 take the number from 17 to 26 is a substantial
- 4 increase. And I think it comes as a surprise to me at
- 5 least, and maybe others, that the staff has been that
- 6 inadequate for a period of time.
- 7 MS. BEVIER: As I understand it, what you're
- 8 saying is we did basically approve this increase in
- 9 staff last year when we approved the increase request
- 10 to \$3,400,000. Is that basically your position?
- 11 MR. WEST: Right. The only difference is sort
- 12 of the character, sort of the balance between full-time
- 13 employees and contractors versus full-time employees
- 14 and no contractors.
- 15 MS. BEVIER: Right.
- 16 MR. WEST: That's the only difference.
- 17 MS. BEVIER: Well, I have another just sort of
- 18 comment just in the sense of what is de minimis and so
- 19 forth. I think it's important that the IG be perceived
- 20 by the field as doing its job.
- 21 And some of the investigations will be de
- 22 minimis, some not, but people are deterred from

- 1 engaging in behavior that they shouldn't engage in with
- 2 respect to embezzlement.
- I feel quite confident that our grantees are
- 4 abiding, for the most part, by the law, by the
- 5 restrictions. I think they've got enough on their
- 6 plates without the restrictions. As we've seen,
- 7 there's documented unmet need. So I think
- 8 it's important that you have the resources to do your
- 9 job.
- 10 MR. FUENTES: Mr. Chairman, if I might make a
- 11 comment.
- MR. GARTEN: Yes.
- 13 MR. FUENTES: Just for raw number
- 14 clarification, if we come to 26 positions then as
- 15 full-time or long-term regular employees what changes
- 16 that from the total number currently including both
- 17 regular employees and temporary or consulting
- 18 employees?
- 19 MR. GARTEN: My understanding of the figures,
- 20 and I'll state it for the record, is that the request
- 21 for 2006 involved 23 employees, permanent and
- 22 full-time, a number of those for the '07 request being

- 1 converted to full-time with the fringe benefits, as
- 2 opposed to the 18 that were covered in the 2005 budget.
- 3 MR. FUENTES: Well, but if I might ask the
- 4 inspector general. Kirt, is the difference between 23
- 5 and 26 then we've got -- I'm looking at it as we
- 6 approved 2006 numbers -- I don't care what they were,
- 7 whether they were temporary or consultants or regular
- 8 employees -- to real bodies in this figure. Is that
- 9 just the difference of 23 to 26?
- 10 MR. WEST: If you put it in terms of actual
- 11 bodies doing work for the organization there would be
- 12 no change in total bodies. The character would change.
- 13 Because I also have knocked down my consulting
- 14 line from \$290,000 to \$121,000, which the consultants
- 15 would have been doing some of the work that the
- 16 employees I'm planning to hire would be doing.
- 17 MR. FUENTES: I noticed that. I thought that
- 18 was significant that there was a savings there of
- 19 roughly \$169,000. So really in terms of real number
- 20 change from 2006 to 2007 it's de minimis.
- 21 MR. WEST: It's no change in total numbers.
- 22 Yes. I mean, when you've got a consultant maybe you

- 1 get 40 weeks out of them rather than 52. But sometimes
- 2 consultants also have a higher skill level and they are
- 3 more efficient.
- 4 But you also notice my temporary employee pay
- 5 went from \$312,000 to \$2,000, so that's consuming all
- 6 those positions. So it is de minimis.
- 7 MR. FUENTES: Mr. Chairman, order of the day,
- 8 if we are ready to move on.
- 9 MR. GARTEN: Any other questions, anybody?
- 10 All right. Are there any other questions of the IG?
- 11 CHAIRMAN STRICKLAND: I don't have any more.
- 12 MR. GARTEN: Thank you very much.
- MR. WEST: Thank you.
- MR. GARTEN: We'll take public comment at this
- 15 point. I don't see any volunteers coming forward.
- 16 MR. JEFFRESS: Mr. Chairman, I would just note
- 17 in your book you do have three written public comments
- 18 that came in prior to management's request.
- MR. GARTEN: All right, I've read them. Do
- 20 you want to summarize.
- 21 MR. JEFFRESS: They're all three from the
- 22 state of Washington, from different entities in the

- 1 state of Washington. They all recommend in the
- 2 neighborhood of a \$400 million request for FY '07 for
- 3 LSC.
- 4 MR. GARTEN: Thank you. Do we have any other?

5

- 6 MR. FUENTES: Mr. Chairman, I just wanted to
- 7 comment in that regard. I noticed they are from the
- 8 state of Washington. I, as many of us do, maintain
- 9 regular dialogue with our colleague board member, Mike
- 10 McKay, and his energy there is reflective in these
- 11 public inputs that have substantive and thoughtful
- 12 comment in them.
- I have no doubt that there may be some liaison
- 14 or reason related to director McKay and for that I'm
- 15 grateful, as one member.
- 16 MR. GARTEN: We'll note that and we'll make
- 17 certain he's aware of that. Are there any other
- 18 comments? All right, we've come to consider and act on
- 19 other business. Do we have other business?
- 20 CHAIRMAN STRICKLAND: Well, isn't the business
- 21 of the meeting to take up the budget request?
- 22 MR. GARTEN: And make a recommendation to our

- 1 board. Should we take a recess and then get back to
- 2 it, or do you want to continue?
- 3 CHAIRMAN STRICKLAND: Well, what's our lunch
- 4 arrangement today? Did you intend for the lunch to be
- 5 after we finish?
- 6 MS. BARNETT: I did, but it's your call.
- 7 CHAIRMAN STRICKLAND: How much more time do
- 8 you think?
- 9 MS. BARNETT: Do you want to finish?
- 10 MS. BEVIER: Let's finish.
- 11 MR. GARTEN: Okay. All right, to put things
- in perspective, we have the recommendation of
- 13 management, and that's Tab --
- 14 CHAIRMAN STRICKLAND: Page 26, I believe.
- MR. GARTEN: Tab 26. We have heard compelling
- 16 reasons for increasing that figure and discussion as to
- 17 whether the increase could be phased in over less than
- 18 the five-year period mentioned by management. It could
- 19 be reduced to a four-year period with approximately, if
- 20 I recall, a \$17 million or \$18 million increase over
- 21 that figure.
- We also have a suggestion that we take a \$1

- 1 million item and allocate it to emergency relief
- 2 planning.
- 3 Let's take up the line item budget requests
- 4 item by item if that's agreeable to you.
- 5 CHAIRMAN STRICKLAND: Mr. Chairman, however
- 6 you want to proceed is all right with me.
- 7 MS. BEVIER: Why don't we just do it however
- 8 you want.
- 9 MR. GARTEN: Do you want to amend the --
- 10 MOTION
- 11 MS. BEVIER: No, I would put a motion on the
- 12 table that we propose to the board that we adopt the
- 13 \$410,800,000 budget number.
- 14 CHAIRMAN STRICKLAND: Second.
- MR. GARTEN: Okay, discussion.
- MS. BEVIER: Just to get it going.
- 17 M O T I O N
- 18 MR. GARTEN: I would ask for an amendment,
- 19 several amendments. But the first one will be that we
- 20 allocate \$1 million to the emergency relief planning.
- 21 I think that the appropriate way would be to vote on
- 22 the amendments first, and so I will ask for a second on

- 1 what I have proposed, the \$1 million. Do I have a
- 2 second?
- 3 CHAIRMAN STRICKLAND: I'll second the motion
- 4 so we can discuss it.
- 5 MR. GARTEN: All right, discussion.
- 6 MR. FUENTES: Well, Mr. Chairman, I would
- 7 offer this by way of comment and discussion. I'm
- 8 uncomfortable with that \$410 million or \$411,800,00 --
- 9 MR. GARTEN: No, \$410,800,000, including the
- 10 inspector general.
- 11 MR. FUENTES: That number. Because of the
- 12 noninclusion of specific hurricane relief response in
- 13 it, I think that it projects itself more largely than I
- 14 would want to structure it without hurricane relief
- 15 being the reason for that.
- I believe we're going to find ourselves having
- 17 to go back seeking additional dollars and I think we
- 18 ought to go with something more realistic. I was
- 19 hearing some tentativeness or some caution in the
- 20 report that Tom Polgar offered in terms of where these
- 21 numbers may play out.
- 22 As I look at those past allocations from '01

- 1 through '05 -- and we are dealing with the same
- 2 Congress and we are dealing with the same
- 3 administration -- I think we ought to not only be
- 4 aggressive advocates as we can but we ought to be
- 5 sensible, reasonable and realistic.
- It's a matter of kind of a visceral response
- 7 to that number that is my concern.
- 8 MR. GARTEN: I heard this during the course of
- 9 the presentation by Tom, that Congress was setting
- 10 aside an emergency appropriation that we would be part
- 11 of. Tom, do you want to come up and explain it one
- 12 more time.
- 13 MR. POLGAR: Before I answer that question, in
- 14 response to what Mr. Fuentes was saying, in neither of
- 15 the last two fiscal years where we took reductions did
- 16 Congress actually set out to reduce the appropriation
- 17 for LSC.
- In both years they actually enacted the prior
- 19 year number and then an across the board cut came in
- 20 later and brought the number down. So in no year in
- 21 the last seven or eight has there been actually an
- 22 enacted specifically targeted at LSC reduction to the

- 1 appropriation.
- 2 MR. FUENTES: I didn't mean to suggest that,
- 3 Tom. I was just working with your net numbers that you
- 4 provided.
- 5 MR. POLGAR: And your question?
- 6 MR. GARTEN: The question is the emergency
- 7 appropriation being separate and apart from our budget
- 8 request.
- 9 MR. POLGAR: There's a supplemental that is
- 10 supposed to be recommended by the president next week.
- 11 We have been talking to the Office of Management and
- 12 Budget about being included in that and we're hopeful.
- 13 The reason we did not include Katrina and Rita
- 14 relief money in our '07 budget is because, frankly, we
- 15 had no idea what to include. If we get money as part
- 16 of the supplemental appropriation we may spend it all
- in '06 or we may not spend it out as quickly as we
- 18 think and we may have money left over in '07.
- In addition to that, when we prepared this
- 20 budget Rita hadn't happened. We still don't know what
- 21 the full ramifications of Katrina are. So we just
- 22 thought it would be better not to try to make

- 1 projections for '07 as to the lasting consequences of
- 2 the two hurricanes.
- 3 At this point I still couldn't begin to guess
- 4 what we should include for them, but I'm also not
- 5 presuming that we would need to include something for
- 6 them.
- 7 CHAIRMAN STRICKLAND: The issue now is --
- 8 MR. FUENTES: Let me ask you this, Tom. If
- 9 there was next week a number revealed that would be
- 10 supplemental for that purpose do you think that the
- 11 impact of that would be to reduce the number that we
- 12 will eventually get in our normal budget which we
- 13 reviewed today, or do you think that that will not have
- 14 any impact on it?
- MR. POLGAR: I don't think that will have any
- 16 impact on it.
- 17 MR. FUENTES: And why is that?
- 18 MR. POLGAR: Congress hasn't even focused on
- 19 '07. They're not going to start even thinking about
- 20 that seriously until next March or April. When they
- 21 start doing the '07 appropriations they will be
- 22 comparing '06 without taking into account the hurricane

- 1 supplemental to '07.
- 2 So what they will do is they will back out the
- 3 supplemental hurricane money and then do a straight
- 4 line '06 to '07 comparison without taking into account
- 5 the supplemental.
- 6 Also my expectation, frankly, is that they're
- 7 going to try to do the supplemental for the hurricanes
- 8 all at once and be done with it and not have to deal
- 9 with it in '07.
- 10 MR. GARTEN: This would determine, I think,
- 11 how I would view it. Will the inclusion of a \$1
- 12 million figure in our budget take care of what's been
- 13 called the emergency relief planning, which I see as
- 14 separate and apart or at least it was presented that
- 15 way. Would that have any effect on the supplemental
- 16 appropriation?
- 17 MR. POLGAR: No. Congress is not going to see
- 18 what we're talking about today until the first week of
- 19 February.
- 20 MR. GARTEN: Does that answer your question?
- MR. FUENTES: Well, it helps me gain some
- 22 insight. I don't know that it resolves my bottom line

- 1 concern that \$410 million is reaching quite high.
- MR. GARTEN: Well, right now we're just
- 3 debating and going to vote on the proposed amendment to
- 4 increase it by whatever figure we have to include \$1
- 5 million for emergency relief planning. That's the
- 6 issue before the committee.
- 7 CHAIRMAN STRICKLAND: Are you going to have
- 8 other amendments, Mr. Chairman?
- 9 MR. GARTEN: Yes.
- 10 CHAIRMAN STRICKLAND: Item by item?
- 11 MR. GARTEN: You have to do it that way.
- 12 CHAIRMAN STRICKLAND: Yes, I know that. But
- 13 you're going to have other?
- MR. GARTEN: Maybe two others.
- 15 CHAIRMAN STRICKLAND: Okay.
- 16 MR. GARTEN: Don't hold me to the numbers.
- 17 All right, this one will go up or down based
- 18 upon -- ready to vote on the amendment now, to the main
- 19 motion, for \$1 million allocated to emergency relief
- 20 planning. All in favor, aye.
- 21 (A chorus of ayes.)
- MR. GARTEN: Any opposed? All right, so that

- 1 is the first amendment.
- MS. BEVIER: Can I vote on that if I made the
- 3 motion?
- 4 MS. BARNETT: Yes, of course.
- 5 MR. GARTEN: Yes, of course. All right. Now,
- 6 before I come up with another amendment is there
- 7 anybody else that would like to make --
- 8 CHAIRMAN STRICKLAND: Well, I may have some
- 9 but I don't know what the number is.
- 10 I'm just kidding.
- MR. GARTEN: Go ahead.
- 12 CHAIRMAN STRICKLAND: I don't have any.
- MS. BEVIER: None.
- 14 CHAIRMAN STRICKLAND: We'll leave it all to
- 15 you.
- 16 MOTION
- 17 MR. GARTEN: I would like the appropriation
- 18 request to be phased in over a four-year period in lieu
- 19 of the five-year period, which I think it was an
- 20 estimated figure of \$17 or \$18 million in addition to
- 21 what our final request would be, so I submitted that
- 22 increase in the budget request. CHAIRMAN

- 1 STRICKLAND: Well, what would the number be? In other
- 2 words --
- 3 MR. GARTEN: If everything else is the same,
- 4 we're now up to \$411,800,000, but I have a minus figure
- 5 coming in. CHAIRMAN STRICKLAND: Okay, I'm
- 6 having trouble following you here. Is the \$410 --
- 7 MR. GARTEN: The \$410,800,000 plus \$1 million.
- 8 CHAIRMAN STRICKLAND: Right.
- 9 MR. GARTEN: Plus whatever the figure is, the
- 10 phase which we've been told is -- can you come up with
- 11 the exact figure while we're here?
- MR. JEFFRESS: I'm working on it.
- MR. GARTEN: Okay, thank you.
- 14 CHAIRMAN STRICKLAND: The \$410 million figure,
- 15 as I understood the discussion, contemplated a
- 16 five-year phase-in.
- 17 MR. GARTEN: That's correct.
- 18 CHAIRMAN STRICKLAND: And therefore the \$410
- 19 million would be adjusted upward slightly.
- 20 MR. GARTEN: That's correct.
- 21 CHAIRMAN STRICKLAND: Do you want to reveal
- 22 your other amendments while he's making that

- 1 calculation?
- 2 MR. GARTEN: My other amendment will be to act
- 3 on the request of the inspector general, which was not
- 4 passed upon by management. It was just the request
- 5 made. I would --
- 6 CHAIRMAN STRICKLAND: I don't think management
- 7 would ordinarily pass on the IG's budget request.
- 8 MR. GARTEN: All right. Looking at the
- 9 breakdown today and considering what we've seen and
- 10 what we've heard, I would have the appropriation of
- 11 \$2,600,000 for the inspector general. I will have the
- 12 new one once we get through this four-year phase-in.
- 13 CHAIRMAN STRICKLAND: In terms of discussion,
- 14 the --
- MR. GARTEN: Do you have the figure?
- 16 MR. JEFFRESS: Our hand calculation suggests a
- 17 \$16 million increase over what's in the budget right
- 18 now. David has gone to get a calculator and make sure
- 19 that our hand calculation is --
- 20 MR. GARTEN: All right, I think we can vote on
- 21 it knowing that it's within that range but rely on
- 22 management to give us the final figure based upon a

- 1 four-year phase-in.
- 2 CHAIRMAN STRICKLAND: So then, Charles, give
- 3 us the number then that the FY 2007 request would be.
- 4 That is, the total would be what dollar amount using
- 5 the four-year phase-in approach?
- 6 MR. JEFFRESS: That would be \$426.8 million.
- 7 CHAIRMAN STRICKLAND: Okay, \$426.8 million,
- 8 not \$410.8 million.
- 9 MS. BEVIER: No, \$411 million, \$427 million,
- 10 because we've added \$1 million.
- MR. GARTEN: Yes.
- 12 MR. JEFFRESS: I'm sorry. Adding the
- 13 additional \$1 million.
- MR. GARTEN: \$427.8 million, less whatever
- 15 happens with the inspector general's budget. You're
- 16 not giving your preview on my motion.
- 17 CHAIRMAN STRICKLAND: Okay.
- 18 MR. GARTEN: So if it will pass we have a
- 19 \$900,000 deduction on that total. Any further
- 20 discussion on the four-year phase-in?
- MS. BEVIER: Well, perhaps I should explain
- 22 that I'm not going to vote in favor of it, not because

- 1 I don't think that there are needs out there, because I
- 2 do, but because I'm just uncomfortable given how many
- 3 needs there are and not just for legal services but
- 4 throughout the country.
- 5 And that for us to ask for so much of an
- 6 increase in one year, I don't think that the reason
- 7 that Congress hasn't been funding us at the level of
- 8 need is that they don't understand that there isn't
- 9 this need out there.
- 10 I think the documentation is completely
- 11 correct and I don't disagree with anything. But I
- 12 don't think it's going to -- it's not a surprise to
- 13 anybody that there are unmet needs.
- 14 But I just don't feel that it's likely enough
- 15 that this will be taken seriously and that we will get
- 16 it or anywhere close to it that it makes sense for us
- 17 to put that as our budget number, so I'm afraid it's a
- 18 stretch for me to vote for \$411 million but I'm willing
- 19 to go there and to make a good pitch for that. I can't
- 20 go higher, and I'm sorry.
- 21 Maybe for Congress \$18 million here and \$18
- 22 million there is all a rounding error. For me it just

- 1 doesn't feel that way. So I'm sorry, Herb, I'd like to
- 2 vote for it. I'd like to vote for phasing it in over a
- 3 one-year period, but I just don't think it's
- 4 appropriate.
- 5 MR. GARTEN: I respect your opinion.
- 6 CHAIRMAN STRICKLAND: I'll also speak against
- 7 the amendment and in support of Lillian's position.
- 8 I'm in favor of accepting management's recommendation
- 9 for the five-year approach.
- 10 I don't have enough information to convince me
- 11 to shift from a five-year to four-year phase-in, so I'm
- 12 adopting the view that management has spent more time
- 13 on that than we have here today. So I'm in favor of
- 14 the approach recommended by management and therefore I
- 15 have to speak against your amendment.
- 16 MR. GARTEN: I also respect your opinion. In
- 17 the event, do I have a second?
- 18 (Laughter.)
- 19 MS. BEVIER: You mean all this was for
- 20 nothing?
- 21 MR. GARTEN: For lack of a second, the motion
- 22 to amend fails. All right, now unless I can think of

- 1 another one we'll go to the final amendment. You had a
- 2 preview of it.
- 3 MOTION
- 4 MR. GARTEN: That is the inspector general's
- 5 budget request of \$3.5 million, that we award \$2.6
- 6 million, which happens to be the Senate fiscal 2000
- 7 appropriation.
- 8 Considering all the factors I think I'm not
- 9 going to argue it. I'm just going to present it.
- 10 That's my motion to amend. So that would result in a
- 11 savings of \$900,000. Do I have a second?
- 12 (Pause.)
- 13 MR. GARTEN: I'll take a friendly amendment.
- MS. BEVIER: Not from me, sorry.
- It would be friendly but it wouldn't be an
- 16 amendment.
- MR. GARTEN: All right, the motion to amend
- 18 the inspector general's budget request fails. We have,
- 19 as I understand it, a budget mark of \$411.8 million
- 20 after taking into consideration one budget amendment
- 21 that was approved.
- 22 CHAIRMAN STRICKLAND: Do you need a new

- 1 motion?
- MR. GARTEN: I think it would help.
- 3 MOTION
- 4 CHAIRMAN STRICKLAND: I'll make a motion then
- 5 that the mark be \$411,800,000, including \$1 million for
- 6 emergency relief planning consistent with your
- 7 amendment. So as amended, \$411,800,000.
- 8 MR. GARTEN: All right, all in favor.
- 9 MS. BEVIER: Aren't we seconding that? I
- 10 second it.
- 11 MR. GARTEN: All in favor.
- 12 (A chorus of ayes.)
- 13 MR. FUENTES: Discussion, Mr. Chairman.
- MR. GARTEN: Sorry. Yes, go ahead.
- MR. FUENTES: I am not going to vote in favor
- 16 of this. I've expressed in earlier comments that while
- 17 I am very empathetic to our goals and agenda, I just
- 18 feel quite uncomfortable in light of the larger picture
- 19 to send a number of this magnitude to the Hill.
- I believe that sometimes a bit of caution is
- 21 appropriate. This is as much a considered political
- 22 experience, reflection on my part. While I am

- 1 empathetic to what we are attempting to achieve here, I
- 2 think that this number is too aggressive.
- 3 MR. GARTEN: All right, so you're not voting;
- 4 you're abstaining on --
- 5 MR. FUENTES: No, sir. I'm going to vote no.
- 6 MR. GARTEN: You're going to vote no. All
- 7 right. Since I intend to, as I tried to last year,
- 8 bring it to the full board, I'm going to abstain on
- 9 this vote. But you have as I see three votes.
- 10 MS. BEVIER: You have to abstain? Why?
- 11 MR. GARTEN: Well, I'll vote for it subject to
- 12 everybody understanding what my position will be at the
- 13 full board meeting.
- MS. BEVIER: That you'll bring it but you'll
- 15 argue in favor of the amendment?
- MR. GARTEN: Yes.
- MS. BEVIER: Oh, that's fine.
- 18 MR. GARTEN: All right, then I'm voting in
- 19 favor subject to that understanding.
- 20 CHAIRMAN STRICKLAND: All right, so you're
- 21 calling for a vote?
- MR. GARTEN: Yes, call for a vote.

- 1 MS. BEVIER: Well, I'm sorry, wait a second,
- 2 Herb. MR. GARTEN: Yes.
- 3 MS. BEVIER: Maybe you should vote against
- 4 because you actually think we should be higher. I
- 5 don't know. You just do what seems right.
- 6 MR. GARTEN: I think the proper thing for me
- 7 to do is to abstain.
- 8 MS. BEVIER: Okay.
- 9 MR. GARTEN: But I don't want to prevent the
- 10 committee from voting on this.
- 11 MS. BEVIER: Right. We still have a majority,
- 12 I think.
- MR. GARTEN: You seem to have the majority.
- MS. BEVIER: Are you going to vote for the
- 15 motion? MR. SUBIA: I have no comment.
- MS. BEVIER: No comment.
- 17 MR. GARTEN: Well, I want it to go to the full
- 18 board, so subject to the understanding that I will be
- 19 arguing for the amendment --
- 20 CHAIRMAN STRICKLAND: You're free to make a
- 21 different motion.
- MR. GARTEN: Okay.

- 1 MS. BEVIER: And so are we. I mean, we're
- 2 free to be persuaded by the full board as well.
- 3 MR. GARTEN: Okay, good. All right.
- 4 CHAIRMAN STRICKLAND: So let's vote on the
- 5 main motion.
- 6 MR. GARTEN: So voting on the main motion,
- 7 which now includes the one amendment. All in favor,
- 8 aye.
- 9 (A chorus of ayes.)
- MR. GARTEN: Opposed.
- MR. FUENTES: No.
- 12 CHAIRMAN STRICKLAND: Four to one.
- MR. GARTEN: You're abstaining or you're
- 14 voting?
- MR. SUBIA: Voting for.
- MR. GARTEN: All right, four to one. Do we
- 17 have any other business?
- 18 CHAIRMAN STRICKLAND: Not that I know of.
- 19 MR. GARTEN: All right. Any other public
- 20 comments before we close the meeting?
- 21 MOTION
- MS. BEVIER: I move we adjourn.

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MR. GARTEN: All right, all in favor, aye.

(A chorus of ayes.)

MR. GARTEN: Thank you for being present here

today in our nation's capital. We are adjourned.

(Whereupon, at 12:48 p.m., the meeting was

adjourned.)

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