

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

OPEN SESSION

Friday, September 22, 2006

9:03 a.m.

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

BOARD MEMBERS PRESENT:

Frank Strickland, Chair
Lillian BeVier
Jonann Chiles
Thomas Fuentes
David Hall
Michael McKay
Thomas Meites
Sarah Singleton
Herbert Garten

STAFF AND PUBLIC PRESENT:

Helaine M. Barnett
Demille James
Victor Fortuno
James Eastwick-Haskell
Charles Jeffress
Don Saunders, NLADA
Tom Polgar
Terry Brooks, ABA
Karen Sarjeant
Alan Briddell, Senate HELP
Kirt West

Laurie Tarantowicz
Joel Gallay
Patricia Batie

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MOTIONS: Pages 14, 14, 15, 19, 21, 35

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

2 MR. STRICKLAND: If someone will do a roll
3 call for us, and then we will call the meeting to
4 order.

5 MS. BATIE: I will. This is Patricia Batie
6 for the record. I am calling the roll of the Board of
7 Directors. Lillian BeVier.

8 MS. BeVIER: Here.

9 MS. BATIE: Jonann Chiles.

10 MS. CHILES: Here.

11 MS. BATIE: Tom Fuentes.

12 MR. FUENTES: Here.

13 MS. BATIE: David Hall.

14 MR. HALL: Here.

15 MS. BATIE: Mike McKay.

16 (No response.)

17 MS. BATIE: Tom Meites.

18 (No response.)

19 MS. BATIE: Mr. Meites?

20 MR. MEITES: I'm here.

21 MS. BATIE: Okay. Thank you. Bernice
22 Phillips.

1 (No response.)

2 MS. BATIE: Sarah Singleton.

3 MS. SINGLETON: I'm here.

4 MS. BATIE: And Frank Strickland.

5 MR. STRICKLAND: Here. Oh, did I -- I thought
6 I heard Mike McKay answer.

7 MS. BATIE: Mike McKay.

8 MR. MCKAY: I'm here.

9 MS. BATIE: Thank you.

10 MR. STRICKLAND: Did Bernice answer?

11 MR. GARTEN: She did not. Herb Garten. You
12 didn't call my name.

13 MS. BATIE: Mr. Garten, thank you.

14 MR. STRICKLAND: All right. I believe we have
15 ten sitting board members at the moment, and I think I
16 heard nine people answer present. Is that correct,
17 Pat?

18 MS. BATIE: That is correct.

19 MR. STRICKLAND: All right. And at the
20 appropriate time, I guess -- let me call to order a
21 meeting of the Board of Directors of the Legal Services
22 Corporation.

1 MS. BARNETT: Excuse me, Mr. Chairman, would
2 you like to ask anybody who is on the line to identify
3 themselves that is not a Board member?

4 MR. STRICKLAND: Yes. Well, first let me call
5 the meeting to order. This is a meeting of the Board
6 of Directors of the Legal Services Corporation on
7 Friday, September 22nd, 2006, called pursuant to a
8 notice published in the Federal Register.

9 And first I think the court reporter has
10 already had a roll call of the members of the board who
11 are on the call, and I would ask that those names be
12 noted for the record.

13 Before proceeding with our agenda items, I
14 would like to ask others who are participating in the
15 call either in person or by telephone to identify
16 themselves at this time.

17 MS. TARANTOWICZ: This is Laurie Tarantowicz.

18 MS. JAMES: Demille James, LSC.

19 MR. SAUNDERS: Don Saunders with NLADA.

20 MR. BROOKS: Terry Brooks with the American
21 Bar Association.

22 MR. STRICKLAND: Anyone else on the phone?

1 MS. BARNETT: In the conference room at LSC,
2 there are a number of people and we will all identify
3 ourselves.

4 MR. STRICKLAND: All right. Please do that.

5 MR. BRIDDELL: Adam Briddell, Chairman Enzi's
6 office.

7 MR. GALLAY: Joel Gallay from the IG's office.

8 MR. EASTWICK-HASKELL: Jason Eastwick-Haskell.
9 I'm temp here at LSC.

10 MR. WEST: Kirt West, Inspector General.

11 MR. POLGAR: Tom Polgar, LSC.

12 MS. SARJEANT: Karen Sarjeant, LSC.

13 MR. FORTUNO: Victor Fortunato, General Counsel
14 of LSC.

15 MS. BARNETT: Helaine Barnett.

16 MR. JEFFRESS: Charles Jeffress, LSC.

17 MS. BATIE: Patricia Batie, LSC.

18 MR. JEFFRESS: That's it.

19 MR. STRICKLAND: Is that everyone?

20 MR. JEFFRESS: Yes.

21 MS. BATIE: Yes.

22 MR. STRICKLAND: All right. The first item on

1 the agenda -- on our agenda is in fact the approval of
2 the agenda, and I would ask for a motion to approve the
3 agenda as submitted.

4 MS. SINGLETON: Mr. Chairman, this is Sarah
5 Singleton, and I would like to amend the agenda.

6 MR. STRICKLAND: -- amendment.

7 MS. SINGLETON: I'm sorry?

8 MR. STRICKLAND: Go ahead and say your
9 amendment.

10 MS. SINGLETON: My amendment, looking at what
11 was published in the Federal Register, and my amendment
12 is that item 16, Discussion of the above briefings,
13 which is now listed for the closed session after
14 briefing various authorities to me directly or
15 indirectly by authority and Vic, I think it probably
16 would be better done in open session, so I would move
17 to move that agenda item to an open session.

18 MR. STRICKLAND: I take it from what you're
19 saying, Sarah, that you would mean to reconvene an open
20 session after completion of items 14 and 15. Is that
21 right?

22 MS. SINGLETON: Yes, that's correct.

1 MR. STRICKLAND: All right. Is there a second
2 to that amendment? Any objection to voting on the --

3 MS. BeVIER: Excuse me, Mr. Chairman. Sarah,
4 could you explain why you became persuaded that this
5 amendment -- I'll second it for purposes of --

6 MR. STRICKLAND: All right. Go ahead.

7 MS. BeVIER: This is Lillian BeVier speaking.
8 I just wanted to know why.

9 MS. SINGLETON: The reason why was I just sent
10 a copy of a case, and I'm sorry, I don't have the name
11 of it in front of me, that Laurie had sent to Vic
12 suggesting that the provision under the Sunshine law
13 that we were relying on could not be broadly, or is not
14 broadly construed by the courts and is not even read as
15 one might read it just reading the plain language of
16 that particular provision.

17 In addition, Vic sent me a treatise on how to
18 apply the sections of the Sunshine Act, all of which
19 made it seem as though we should err on the side of
20 discussions being in open session as opposed to in
21 closed session. And so, discretion being the better
22 part of something, I thought it would be better to move

1 that.

2 MS. BeVIER: Thank you.

3 MR. MEITES: Mr. Chairman, Tom Meites. May I
4 address the motion?

5 MR. STRICKLAND: Yes, sir.

6 MR. MEITES: I have read several cases. I do
7 not agree with the IG's view. I do not agree that we
8 are erring at all in CD, in closed session. However, I
9 agree and will support the motion, because we have not
10 had sufficient time and sufficient legal consult to
11 make a decision on this matter in my opinion.

12 I would urge that we put this on agenda for
13 the Charleston, West Virginia board meeting, and before
14 that we have outside counsel advise us on the contours
15 and dimensions of confidential briefings. I simply
16 cannot believe that any court in the United States
17 would determine that in preparing a response to an
18 invitation from Congress to testify, the board of
19 directors of a semi-independent agency not deliberate
20 and plan and discuss and consider its response
21 privately. I simply do not believe that that is a
22 result that would be reached because it defies common

1 sense. And I have found in 35 years of practicing law
2 that common sense is the yardstick for interpretation
3 of the laws.

4 So I urge that we put this on the agenda for
5 West Virginia, that we, since we have over a month, we
6 ask outside counsel to thoroughly review the situation
7 and advise us at the meeting. And I would hope that
8 when we receive that advice from our attorney that at
9 least that can be private.

10 Thank you.

11 MR. STRICKLAND: Thank you, Tom. Is there any
12 other discussion on the motion regarding the agenda?

13 MR. GARTEN: Herb Garten here. What has been
14 the past precedent, though, over the years in
15 connection with this particular issue?

16 MR. STRICKLAND: I don't know, but perhaps Vic
17 Fortuno could come in on that.

18 MR. FORTUNO: The exemption that's been relied
19 on that was discussed at the meeting on Monday and
20 relied on in the crafting of this agenda pursuant to
21 instructions from Monday is --

22 MS. BeVIER: Could you please speak up?

1 MR. FORTUNO: Yes. I'm sorry. Can you hear
2 me now? Oh, I'm sorry. Yes, the exemption that we're
3 talking about relying on in this case has not been used
4 in the past because I think it's for most matters not
5 applicable. And in this case, I think the common cause
6 case, which is the one that Laurie had referred to,
7 which is a well known Supreme Court case on the
8 government and Sunshine Act, does I think tend to
9 support the proposition that the exemption is to be
10 narrowly construed. And I don't think it would be
11 applicable to the circumstances before us. And in
12 fact, it's seldom if ever applicable to circumstances
13 confronting the board.

14 So I would tend to agree with Laurie, which is
15 that while a case can be made for closing this because
16 disclosure of what's being discussed would tend to
17 frustrate a proposed agency action, I think that most
18 authorities accept the proposition that the agency
19 action that they're talking about in Sunshine is not
20 the kind of agency action we're contemplating here.

21 MR. MEITES: May I respond to that briefly?

22 MR. STRICKLAND: Yes, sir.

1 MR. MEITES: This is not the time to have a
2 debate on how to interpret Supreme Court cases, and
3 that's why I urge you to put it on the agenda. But
4 that case, Common Cause case, speaks in generalities
5 about how you interpret the statute. It in no way
6 addresses the issue before, which is why I want a
7 thorough review of the question before the next board.

8 Thank you.

9 MR. STRICKLAND: Any further discussion on the
10 approval of the agenda?

11 MR. WEST: This is Kirt West. I would just
12 like to clarify that we don't have a position on this.
13 We just provided the case to Vic in terms of just some
14 information we have. But the office of Inspector
15 General does not have a position on this. It's a legal
16 question for the general counsel and the corporation to
17 decide.

18 MR. STRICKLAND: Okay. Unless there's an
19 objection -- well, I tell you what, let's proceed
20 orderly here and --

21 MS. BeVIER: Mr. Chairman, this is Lillian. I
22 would wonder if Sarah would amend her motion to include

1 the direction to the board or perhaps to you that
2 independent legal counsel be consulted on this and we
3 receive that advice and put it on the agenda for the
4 October meeting and we have that advice at that time.

5 MS. SINGLETON: Yes. I would accept that
6 amendment.

7 MR. STRICKLAND: All right.

8 MR. GARTEN: Herb Garten here. What is the
9 purpose of us going into closed session if we pass this
10 motion?

11 MR. STRICKLAND: Well, it's to obtain a
12 briefing that's stated on the closed session agenda as
13 I understand it, that we will be briefing, and take no
14 action, be able to ask questions during a
15 briefing -- please correct me if I'm wrong on that,
16 Vic. But we're not permitted to take any action, and
17 if we decided to take any action, we would then resume
18 the open session.

19 MR. FORTUNO: That's absolutely correct. This
20 is Vic, and the answer is, that's absolutely correct.
21 The closed session would be for purposes of the two
22 briefings, and then after that, any discussion among

1 the board or any proposed action would occur in open
2 session.

3 MR. GARTEN: Thank you.

4 M O T I O N

5 MR. STRICKLAND: All right. Let's proceed
6 first to take up the amendment to the agenda, and if
7 there's no further discussion, all those in favor of
8 the amendment proposed by Sarah Singleton, please say
9 aye.

10 (Chorus of ayes.)

11 MR. STRICKLAND: Opposed, nay?

12 (No response.)

13 M O T I O N

14 MR. STRICKLAND: All right. The amendment is
15 adopted by unanimous vote. So I will now entertain a
16 motion for approval of the agenda as amended. Is there
17 such a motion?

18 MS. SINGLETON: So moved. This is Sarah
19 Singleton.

20 MR. STRICKLAND: Is there a second?

21 MS. BeVIER: Second. This is Lillian BeVier.

22 MR. STRICKLAND: All right. Any discussion

1 approval of the agenda as amended?

2 (No response.)

3 MR. STRICKLAND: All those in favor, please
4 say aye.

5 (Chorus of ayes.)

6 MR. STRICKLAND: Those opposed, nay?

7 (No response.)

8 MR. STRICKLAND: By unanimous vote, then, the
9 amended agenda is approved.

10 M O T I O N

11 The next item is to consider and act on
12 whether to authorize non-public briefings of the Board
13 and discussion by the Board as performance the items
14 listed below under Closed Session.

15 Is there a motion to authorize such action?

16 MS. BeVIER: So moved. This is Lillian
17 BeVier.

18 MS. SINGLETON: Sarah Singleton seconds.

19 MR. STRICKLAND: The effect of that motion
20 then is to now go to Closed Session. So any discussion
21 on that motion?

22 (No response.)

1 MR. STRICKLAND: Hearing none, all those in
2 favor of the motion, please signify by saying aye.

3 (Chorus of ayes.)

4 MR. STRICKLAND: Opposed, nay?

5 (No response.)

6 MR. STRICKLAND: They ayes have it, and we
7 will now go into closed session. That requires that
8 people excuse themselves from the call. It's not just
9 that. We have to dial into a different number, and
10 certain people will be out of the closed session and I
11 presume will be standing by for a resumption of the
12 open session. Those who have called in logistically,
13 we'll be sure that we can get back in touch with you so
14 that you will know when to call in again.

15 MS. BeVIER: They can't just stay on the line?

16 MR. STRICKLAND: They could, but it could be a
17 while.

18 MR. GARTEN: Mr. Chairman, I will just come
19 over to the corporation.

20 MR. STRICKLAND: You'll alert Terry?

21 MR. GARTEN: Yeah.

22 MR. STRICKLAND: And is there anybody else who

1 has called in that we would want to contact about the
2 resumption of the open session if there is such a
3 resumption?

4 MS.TARANTOWICZ: This is Laurie Tarantowicz.

5 MR. STRICKLAND: Are you in the building?

6 MS.TARANTOWICZ: No. I'm not in the building.

7 I'm on the phone. If the OIGs can be in the closed
8 session, would it be possible for me to call in as
9 well?

10 PARTICIPANT: Laurie, I've just given you the
11 number.

12 MS.TARANTOWICZ: Okay.

13 MR. STRICKLAND: I'll take care of that then.

14 Is there anyone else impacted by this shift
15 in -- well, I think we've covered it.

16 MS. BATIE: Chairman Strickland?

17 MR. STRICKLAND: Yes?

18 MS. BATIE: This is Pat Batie. I wanted to
19 let Terry Brooks and Don Saunders know that I can
20 e-mail them when the open session resumes. I can do
21 the same for Adam, who is here from the congressional
22 office. And I don't know if there's anyone else that

1 needs to be contacted, but I can certainly do that, so.

2 MR. STRICKLAND: Okay.

3 PARTICIPANT: That would be great, Pat.

4 MS. BATIE: Okay. I'll do that. I'll get a
5 phone call from someone when they're about to resume
6 the open session, and then I can dispatch the e-mail.

7 I also wanted to just remind you all that we
8 have an unfamiliar court reporter here, or who is
9 unfamiliar with your voices, so would you please
10 remember to identify yourselves in the closed session
11 when you speak?

12 PARTICIPANT: Pat, we call in the same number
13 I think.

14 MS. BATIE: You will call back in for the open
15 session, yes, to the same number. Thank you.

16 MR. STRICKLAND: All right. We need to ring
17 off and dial in on the other number and reconvene.

18 MS. BATIE: That's correct.

19 MR. STRICKLAND: Thank you very much.

20 (Whereupon, at 9:20 p.m., the Open Session of
21 the Board of Directors was recessed, to resume
22 following the Closed Session.)

1 OPEN SESSION (RESUMED)

2 MR. STRICKLAND: All right. We will now
3 reconvene in open session the Board of Directors
4 meeting of the Legal Services Corporation on September
5 22nd, 2006.

6 I will report that we had an extensive
7 briefing by the Office of Inspector General and LSC
8 management relative to the two items on the agenda for
9 the closed session, is the investigation requested by
10 Chairmen Enzi, Grassley and Cannon and reconvene in
11 open session to consider and act on items, and I would
12 ask another Board member, please, to -- those items
13 sequence so that we can act on them. Sarah, could you
14 bring up?

15 M O T I O N

16 MS. SINGLETON: Yes, Frank, I can. I move
17 that the LSC meeting in January be held at LSC
18 headquarters pursuant to the IG's recommendation.

19 MR. STRICKLAND: Is that recommendation number
20 two?

21 MS. SINGLETON: That's -- yes it is.

22 MR. STRICKLAND: Okay. Is there a second to

1 that motion?

2 MS. BeVIER: Second.

3 MR. STRICKLAND: All right. Moved and
4 seconded that the LSC Board meeting in 2007 be held at
5 LSC headquarters. Any discussion on the motion?

6 MR. GARTEN: Herb Garten here. Are we talking
7 about the January 2007 meeting?

8 MR. STRICKLAND: Correct.

9 MS. SINGLETON: That's correct. I'll accept
10 that as an amendment.

11 MR. STRICKLAND: Yes, I think that was the
12 intent. So, is there any further discussion on that
13 motion?

14 (No response.)

15 MR. STRICKLAND: I'm hearing none. Let's
16 proceed to a vote on the motion. All those in favor,
17 please say aye.

18 (Chorus of ayes.)

19 MR. STRICKLAND: Those opposed, nay.

20 (No response.)

21 MR. STRICKLAND: The vote is unanimous and
22 that motion is adopted.

1 Now I believe there was a second action item
2 that we wanted to take up. Will someone present that
3 for us, please.

4 MS. SINGLETON: Mr. Chairman, this is Sarah
5 Singleton again. In item number -- recommendation
6 number 9 in the IG's report deals with locality pay and
7 suggests that the Board needs to make a determination
8 about it.

9 M O T I O N

10 I move that the management and IG, if he
11 chooses, should present information to the Board at its
12 January 2007 meeting on the issue of locality pay
13 differential, and that the Board should consider and
14 act on that information at its January meeting.

15 MR. STRICKLAND: Thank you. Is there a second
16 to that motion?

17 MR. FUENTES: Second.

18 MR. STRICKLAND: All right, moved and seconded
19 as Sarah just stated. Any discussion on that motion?

20 (No response.)

21 MR. STRICKLAND: Hearing none, all those in
22 favor of the motion please say aye.

1 (Chorus of ayes.)

2 MR. STRICKLAND: Those nay.

3 (No response.)

4 MR. STRICKLAND: The vote is unanimous. The
5 ayes have it and the motion is adopted. I would also
6 add the additional comment that I believe that all who
7 participated in the closed session would -- was a
8 productive effort. So, is there any further business
9 to come before the meeting today?

10 MS. SINGLETON: Mr. Chairman, this is Sarah
11 again. I would just like to extend my thanks to the IG
12 and the members of the management team who put together
13 the initial report and the response in such short order
14 and the reactions thereto in a way that will make the
15 process more productive.

16 MR. FUENTES: Mr. Chairman?

17 MR. STRICKLAND: Yes, sir?

18 MR. FUENTES: This is Tom Fuentes in
19 California. I would like to add to that, I must say
20 that at 4:30 this morning when the alarm went off, I
21 was not very happy about this meeting.

22 But I think that participating in it has

1 proven to be of much value, certainly more
2 consequential than just the items that we discussed,
3 but in the bigger picture, related to the involvement
4 of this Board in the management of the Corporation.

5 I would like to move at this time to -- or
6 suggest, whichever, to agendize an item for our next
7 meeting, and that be that we might consider and discuss
8 at our next meeting the possibility of a more regular
9 opportunity to have a telephone conference meeting like
10 this, perhaps even on a monthly basis, where we might
11 hear a briefing from management and IG of the current
12 ongoing activities of the Corporation.

13 I think we need to send a message to the
14 Congress that this Board is more engaged, that it is
15 more hands-on, that it does take with all seriousness
16 their concerns expressed to the matters that are before
17 us today and have been before us in the past.

18 So, all I'm asking for at this time is that we
19 agendize the consideration of a regular schedule of
20 conference briefings by telephone in the future.

21 MR. STRICKLAND: Well, why don't we consider
22 that a directive to management to place that on the

1 agenda for the October meeting in Charleston, West
2 Virginia?

3 MR. FUENTES: Thank you, sir.

4 MR. STRICKLAND: All right.

5 MS. BeVIER: Mr. Chairman, this is Lillian
6 BeVier speaking. I am thinking that it's appropriate
7 to bring the Board up to date with respect to the
8 hearing that is to take place, and that we might need
9 some Board discussion about that, about what's going to
10 be happening there, who's been invited, what the status
11 of the invitations are and so forth. Maybe you could
12 let us know where that stands?

13 MR. STRICKLAND: I will tell you that -- thank
14 you for bringing it up -- and I will tell you that I
15 have received a letter from Chairman Sensenbrenner
16 inviting me to testify at the hearing on Tuesday, and I
17 intend to be there.

18 MS. BeVIER: My understanding is that
19 President Barnett has also been invited, but I
20 understood and really think the Board ought to affirm
21 the conclusion that this is a Board matter and that the
22 president -- we're completely willing, and she is

1 completely willing to appear at oversight hearings and
2 to cooperate with the congressional committee, but I
3 guess I have two reasons for thinking it's not
4 appropriate for her to appear, unless of course she is
5 subpoenaed, in which case of course she would comply.

6 But in the first place, it's a Board policy
7 that is being -- that is the subject of and Board
8 authority that is the subject of the pending
9 legislation. That's an important reason why it's
10 inappropriate for the president, who does not have
11 authority over the Board, who is in fact an employee of
12 the Corporation, to opine on the issue.

13 But secondly, since management is the subject
14 of ongoing investigation by the IG, there are lots of
15 reasons to think that it might be inappropriate for her
16 to appear at this particular hearing, either because it
17 might -- it just might affect the outcome of the
18 investigation, and we know how sensitive everyone has
19 been with respect to the IG's independence, and I think
20 given that it's an ongoing and incomplete investigation
21 that the IG is conducting, it would be inappropriate
22 for the president to be there at this time. And I

1 really do stress at this time.

2 MR. POLGAR: Lillian, this is Tom Polgar. The
3 Board voted on Monday at the meeting that it's going to
4 speak for itself on the issue, and it also voted to
5 designate a group of four to be the spokesmen for the
6 Board on this issue. And in the debate that preceded
7 those votes, it was made quite clear that the Board
8 didn't want Helaine speaking on the issue. I don't
9 think we need to do another resolution. I think the
10 record is already plenty clear.

11 MS. BeVIER: That's fine, so long as it is
12 clear. I think it should be clear to all that with
13 respect to the decision to not accept this invitation
14 but to be completely open to accept invitations in the
15 future with respect to this invitation and this
16 legislation, the Board is completely behind the
17 president.

18 Remember that the invitation came to her, and
19 she's going to have to respond to it, and I
20 think -- and she had not been invited formally at the
21 time of the Board meeting on Monday. So I'm just
22 raising this to make sure that on this issue with

1 respect to her appearing at this hearing, the Board
2 is -- believes it would be inappropriate for her to
3 appear. And I want to just make it for the record. I
4 mean, I'm not inviting a vote. I'm just trying to put
5 it on the record is all.

6 MR. STRICKLAND: Thank you for doing that,
7 Lillian. And also, Lillian, while you have the floor,
8 did you care to make a comment about the interview you
9 may have had with the Associated Press reporter?

10 MS. BeVIER: I did, on Tuesday, I think it
11 was. No. Wednesday, I got a call from an AP reporter
12 who -- and initially I said it's not appropriate for me
13 to be discussing what you're talking about, because he
14 was talking about Board meetings and so forth. And he
15 then said, well, you might want to talk about this with
16 me because I have in front of me copies of the
17 transcripts of a number of closed meetings of Board
18 committees and the Board itself.

19 So, I did feel as though it was not the right
20 time to not respond, because it was -- well, I just
21 didn't feel like it was the right time to say, I'm
22 sorry, I'm not going to talk to you. I wanted to find

1 out what he had, and I wanted to be able to say, first
2 of all, these -- the Board and the CEO Evaluation
3 Committee was always talking about whether or not to
4 even evaluate the IG; that that was the issue before
5 us, and we still haven't even resolved it. So we never
6 were, as he had suggested, about to fire the IG. As I
7 told him, we hadn't even addressed that question. So
8 that it was very important for him to take all the
9 comments that he saw in the committee reports in
10 context.

11 I then said -- he then asked me how we
12 had -- how I had felt when I got -- when we got the
13 letter from the chairman threatening us with criminal
14 prosecution if we did engage in firing the Inspector
15 General. I told him that as a nominee of the President
16 and having been confirmed by the Senate and having
17 accepted and come to this task with every good intent
18 and all good faith, I was insulted by the letter. I
19 just couldn't think of any other word to use.

20 And so, at one point the reporter said,
21 although he was not -- he said this is not for the
22 record, but just between you and me, I think you should

1 know that of course they weren't going to, you know, of
2 course they weren't going to have you arrested. They
3 were just -- they were just posturing, and I said,
4 nevertheless, they wrote what they wrote and they said
5 what they said.

6 And, you know, then I got the, oh, this is
7 Washington story, and expect people to treat other
8 people appropriately because this is Washington, D.C.
9 I tried to emphasize that I thought all of us who came
10 and served on the Board had done so in good faith and
11 with every effort to behave appropriately, to abide by
12 congressional restrictions and so forth.

13 But I thought it was important that you know
14 that some of those transcripts -- he didn't tell me
15 which ones, and, you know, some of them were sent to
16 one committee, some of them, as you know, were sent to
17 the IG. The one committee they were sent to is not the
18 committee that is investigating, as far as we know.
19 It's only the committee who is interested in the IG.

20 Anyway, they were leaked to the reporter.

21 MR. MEITES: Tom Meites. Can I ask Lillian a
22 question?

1 MR. STRICKLAND: Yes, sir.

2 MR. MEITES: Lillian, if you could remind me,
3 to whom did the Board provide transcripts of closed
4 Performance Review Committee meetings and Board
5 meetings?

6 MS. BeVIER: This is a decision that -- well.

7 MR. MEITES: No. Who received them?

8 MS. BeVIER: Who received them? The closed
9 Performance Review Committee meetings, not including
10 the last one, were released to Kirt.

11 MR. MEITES: Okay.

12 MS. BeVIER: After the Board meeting in July,
13 we were asked to -- at the Board meeting in July, we
14 were asked in addition to supply certain portions of
15 Board meeting transcripts and CEO Evaluation Committee
16 meeting transcripts. And Sarah and I undertook to
17 look -- the request for those was quite specific, and
18 it was not from the Oversight Committee. It was from
19 the Homeland Security Committee.

20 MR. MEITES: Mm-hmm.

21 MS. BeVIER: And we supplied them with
22 transcripts. Sarah, correct me if I'm misstating.

1 I've tried to put this in the deep recesses of my
2 memory banks. We supplied them with transcripts which,
3 some of which were very short little pieces, and some
4 of which we complied explicitly. Kirt had given that
5 committee the specific page numbers that he thought
6 were relevant. We were directed to read the whole
7 transcript so that those pages that had been supplied
8 would in fact be put in appropriate context. And in a
9 few cases, we added pages to make the context more
10 clear. We were also directed to delete from what we
11 sent references to other employees, in particular,
12 evaluations of the president. And we did that. And we
13 sent that to -- we sent them to Vic, and Vic sent them
14 to the committee.

15 MR. MEITES: Lillian, from the portions of the
16 transcript that the reporter read to you, could you
17 tell whether they were transcripts we sent -- you
18 sent -- to the IG, to the congressional committee, or
19 to both?

20 MS. BeVIER: You know, I'm sorry, Tom. I
21 can't be certain about that. I can easily check it.

22 MR. MEITES: But you'll agree with me, won't

1 you, Lillian, that the source, either directly or
2 indirectly, that the report obtained those from was
3 either from the Inspector General or from the
4 congressional committee?

5 MS. BeVIER: Absolutely. And moreover, it was
6 either from the Inspector General himself or, because
7 he had obtained those in connection with his evaluation
8 of the Board, so with his investigation, or because the
9 ones we sent to the other committee were not sent
10 directly to the IG. They were sent just to that
11 committee, so that -- but they were all sent at his
12 indication of -- at the IG's indication of which ones
13 should be sent. So, it's true they were leaked either
14 by the IG or by someone on one of the congressional
15 staffs.

16 MR. MEITES: Thank you very much.

17 MR. WEST: This is Kirt West. I would like to
18 make a statement. Those transcripts did not come from
19 me. They've been locked in my safe. I'm the only one
20 that has the key, and that's where they're at. So they
21 came from --

22 MR. STRICKLAND: -- I'm sure you can hear our

1 concern that these documents are being leaked to the
2 press, and then we're on the hitting end of a hit
3 article in the newspaper. So, it seems to me to be a
4 fair area of concern for us.

5 MR. WEST: I understand your area of concern
6 and I think many of the things that I have sent up to
7 Congress as well as things that you have sent up to
8 Congress seem to be on a conveyor belt to the media. I
9 think that's -- but I will tell you unequivocally that
10 those transcripts did not come from me.

11 MS. BeVIER: Well, I understood -- did you
12 send them to Congress?

13 MR. WEST: I did not send them to Congress.
14 The only thing I did was reference pages. It's my
15 understanding -- I did not reference, you know, what
16 was -- I did not send copies of the transcripts to
17 Congress. I didn't send portions of the transcripts to
18 Congress. I identified pages in transcripts that they
19 might want. And that's what I think you got the
20 request from.

21 MR. POLGAR: This is Tom Polgar. Yes, you
22 gave them dates and pages numbers and suggested they

1 ask us for them. So that started the conveyor belt.

2 MR. STRICKLAND: Well, I don't know that we
3 can resolve this today. It's unfortunate that that's
4 the way business seems to be conducted in Washington,
5 but we'll have to live with that.

6 MS. BeVIER: I just thought it was important
7 for the Board to be aware of this.

8 MR. STRICKLAND: Thank you for bringing it up.
9 Is there any other business to come before the meeting
10 today?

11 MR. POLGAR: This is Tom Polgar. One thing I
12 should mention, I got a call yesterday from the
13 Government Affairs Committee staff from Melvin
14 Albright, and he said they're satisfied. They're
15 stepping back from this. They're not going to do
16 anything else on this issue.

17 MR. STRICKLAND: Okay. Thank you for that
18 update.

19 MS. SINGLETON: I'm sorry. I don't understand
20 what the "this" is, Tom? Could you -- this is Sarah.

21 MR. POLGAR: This goes back to following that
22 committee's request of the transcripts, they

1 subsequently asked for a meeting with the chairman,
2 which took place last Monday morning in advance of the
3 Board meeting, to discuss -- to get his views of what
4 was going on with respect to the Inspector General and
5 the performance review issue and all that.

6 We had that meeting at eleven o'clock last
7 Monday. The chairman reported on it at the last -- at
8 the Board meeting Monday, and then -- and the follow-up
9 now was yesterday I spoke to committee staff, and they
10 said they're not doing anything else on the issue.
11 They're not getting involved -- they're satisfied, and
12 they're walking away from it, and they certainly don't
13 intend to get into the substantive issues pertaining to
14 the reports and the investigations and so forth.

15 MR. STRICKLAND: Did that answer your
16 question, Sarah?

17 MS. SINGLETON: Yes it did. Thank you.

18 MR. STRICKLAND: Okay. Is there any other
19 business to come before the meeting today?

20 (No response.)

21 M O T I O N

22 MR. STRICKLAND: All right. I would entertain

1 a motion to adjourn.

2 MS. SINGLETON: So moved.

3 PARTICIPANT: Second it.

4 MR. STRICKLAND: All right. And thanks to all
5 of you for your patience this morning. It's been a
6 long meeting, but I think it's been a very productive
7 one. I thank all of you for your close attention
8 today.

9 MR. HALL: Frank, this is David.

10 MR. STRICKLAND: Yes, sir?

11 MR. HALL: Could I talk to you somehow today
12 about whether I'll be able to come the hearing or not?
13 Is there a way I could reach you?

14 MR. STRICKLAND: I'll be in my office today.
15 Do you have numbers, or?

16 MR. HALL: Yes. If it's the office number, I
17 do have that.

18 MR. STRICKLAND: I'll be here during the day
19 today.

20 MR. HALL: Okay.

21 MR. STRICKLAND: Thank you so much. Anything
22 else?

1 (No response.)

2 MR. STRICKLAND: Okay, everybody. Do we need
3 to vote on that motion to adjourn? All those in favor
4 say aye.

5 (Chorus of ayes.)

6 MR. STRICKLAND: Opposed, nay.

7 (No response.)

8 MR. STRICKLAND: The motion passes, and we're
9 adjourned. Thanks again.

10 (Whereupon, at 11:42 a.m., the Open Board
11 Meeting concluded.)

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