

LEGAL SERVICES CORPORATION  
BOARD OF DIRECTORS

MEETING OF THE  
BOARD OF DIRECTORS

OPEN SESSION

Saturday, April 25, 2009

1:24 p.m.

Embassy Suites Hotel  
319 Southwest Pine Street  
Portland, Oregon

BOARD MEMBERS PRESENT:

Frank B. Strickland, Chairman  
Lillian R. BeVier, Vice Chairman  
Jonann C. Chiles (by telephone)  
Thomas A. Fuentes  
Herbert S. Garten  
David Hall  
Thomas R. Meites  
Bernice Phillips-Jackson (by telephone)  
Sarah Singleton  
Helaine Barnett, ex officio

## STAFF AND PUBLIC PRESENT:

Karen M. Dozier, Executive Assistant to the President  
Victor M. Fortuno, Vice President for Legal Affairs,  
General Counsel, and Corporate Secretary  
Mattie Cohan, Senior Assistant General Counsel, Office  
of Legal Affairs  
David L. Richardson, Treasurer and Comptroller, Office  
of Financial and Administrative Services  
Karen J. Sarjeant, Vice President for Programs and  
Compliance  
Charles Jeffress, Chief Administrative Officer  
Jeffrey E. Schanz, Inspector General  
Joel Gallay, Special Counsel to the Inspector General,  
Office of the Inspector General  
Thomas Coogan, Assistant Inspector General for  
Investigations, Office of the Inspector General  
David Maddox, Assistant Inspector General for  
Management and Evaluation, Office of the Inspector  
General  
Mathew C. Glover, Associate Counsel, Office of the  
Inspector General  
John Constance, Director, Government Relations and  
Public Affairs Office  
Kathleen Connors, Executive Assistant, Government  
Relations and Public Affairs Office  
Laurie Mikva, Board of Directors Nominee  
  
Don Saunders, National Legal Aid and Defenders  
Association (NLADA)  
Jonathan Asher, Executive Director, Colorado Legal  
Services, Chair, American Bar Association's  
Commission on IOLTA (by videoconference)  
Bev Groudine, Staff Counsel to the American Bar  
Association's Commission on IOLTA (by telephone)

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

2 (1:24 p.m.)

3 CHAIRMAN STRICKLAND: Good afternoon, everyone.

4 Let me call to order the meeting of the board of

5 directors of April 25, 2009.

6 The first item is approval of the agenda. Is

7 there a motion to approve the agenda?

8 M O T I O N

9 MR. FUENTES: So move.

10 MR. HALL: Second.

11 CHAIRMAN STRICKLAND: Any discussion?

12 (No response.)

13 CHAIRMAN STRICKLAND: Those in favor please

14 say aye.

15 (A chorus of ayes.)

16 CHAIRMAN STRICKLAND: Opposed, nay.

17 (No response.)

18 CHAIRMAN STRICKLAND: The agenda is adopted.

19 Approval of the minutes of the board's open

20 session of January 31, 2008.

21 M O T I O N

22 MR. FUENTES: Move approval.

1                   CHAIRMAN STRICKLAND: All right. Is there a  
2 second?

3                   MR. HALL: Second.

4                   CHAIRMAN STRICKLAND: Those in favor, aye.

5                   (A chorus of ayes.)

6                   CHAIRMAN STRICKLAND: Opposed, nay.

7                   (No response.)

8                   CHAIRMAN STRICKLAND: The ayes have it and the  
9 minutes are approved.

10                  Item 3 is the chairman's report. And this is  
11 somewhat of an animated report; I need to display  
12 something to you. You can't see this from a distance,  
13 but you're welcome to come up and take a look at it.

14                  At our January meeting in Washington, a  
15 photograph was taken on the third floor right in front  
16 of the LSC sign. And I think through the magic of  
17 Photoshop -- I think that's the name of the  
18 program -- two board members who were not in attendance  
19 at that meeting are now in this photograph.

20                  (Laughter.)

21                  CHAIRMAN STRICKLAND: Those include Professor  
22 David Hall and Jonann Chiles. They've been added to

1 the photograph. So we now have a picture of the entire  
2 board --

3 MR. HALL: What are we wearing?

4 (Laughter.)

5 CHAIRMAN STRICKLAND: Whatever you were  
6 wearing when another similar picture was taken. And it  
7 includes Helaine. And I'm pleased to say that we're  
8 going to have a copy of this sent to all of our  
9 directors, so you should be getting a package at your  
10 business address within the next several days.

11 I think this will be a nice memento for the  
12 board. That's why we used Photoshop -- I didn't do  
13 that, of course; I don't have that skill -- but  
14 everybody's in the picture. And it's sort of hard to  
15 come to a meeting where we have 100 percent attendance.

16 MR. FUENTES: Could you pass it down, Frank?

17 CHAIRMAN STRICKLAND: Yes. I'm sorry. I  
18 meant to do that.

19 MR. FUENTES: Were they able to add any hair  
20 to those who were there?

21 (Laughter.)

22 CHAIRMAN STRICKLAND: Well, it's not too late.

1 We could ask for Photoshop to do some more work on  
2 that.

3 MR. GARTEN: Frank, the last time I received a  
4 photo from the ABA, when I retired as chairman of the  
5 commission, I had Marilyn Monroe on my lap.

6 (Laughter.)

7 MR. GARTEN: You didn't do anything like that  
8 this time?

9 CHAIRMAN STRICKLAND: No. We didn't do that.

10 All right. The next item on our agenda is  
11 reports from individual board members. Do any board  
12 members have separate reports they would like to make  
13 to the full board? Lillian?

14 MS. BeVIER: As the board knows, I  
15 testified -- excuse me -- along with President Barnett.  
16 I just wanted to confirm my presence at that committee  
17 hearing. It certainly seemed to me, just as an  
18 observer, that the hearing was for the most part very  
19 friendly to the mission of LSC.

20 And I think it's also quite fair to say that  
21 Helaine comported herself in a way that spoke extremely  
22 well for the leadership and for management of the

1 board. She was asked a number of questions, to each of  
2 which she had a good response.

3 And the board was -- the committee was not as  
4 interested in the governance issues as we might have  
5 thought they were, but my guess is that we just  
6 had -- as a board, we had taken appropriate steps and  
7 were pretty clearly trying to remedy any of the issues  
8 that had been raised by the GAO. It was an interesting  
9 experience.

10 CHAIRMAN STRICKLAND: All right. Thank you,  
11 Lillian.

12 Do any other board members have individual  
13 reports?

14 MR. GARTEN: Yes.

15 CHAIRMAN STRICKLAND: Go ahead, Herb.

16 MR. GARTEN: On Tuesday and Wednesday of this  
17 week, I participated in the annual ABA Day in  
18 Washington. And that's an event -- and this year they  
19 stressed that the support for the Legal Services  
20 Corporation was the No. 1 priority.

21 And lawyers come from around the country.  
22 It's a very large group, calling on every member of

1 Congress in their delegation. And the Maryland  
2 delegation, of which I was part, did call upon most of  
3 our representatives in Congress. And we have  
4 tremendous support within that delegation for the role  
5 of Legal Services and the funding of it.

6 CHAIRMAN STRICKLAND: I had previously  
7 participated in that event with the Georgia delegation,  
8 but I did not go this year. I think our state bar  
9 president was there, and perhaps also the  
10 president-elect. So our state was also well  
11 represented.

12 Any other reports from board members?

13 (No response.)

14 CHAIRMAN STRICKLAND: All right. Thank you.

15 The next item is the president's report. And  
16 we'll ask Helaine to give us that.

17 MS. BARNETT: Thank you. I would ask the  
18 reporter to please include my entire report as part of  
19 the record of the meeting. I will only focus on a few  
20 highlights. Much of my report has been discussed at  
21 various committee members' -- at committee meetings so  
22 far, and so I will not repeat any of that.

1           I will just begin by mentioning that the only  
2 funding decision we did not make for the 2009 grants  
3 was the service area in Wyoming. And we published, as  
4 we indicated earlier, notice of funds availability for  
5 the Wyoming service areas in December 2008.

6           On March 2, we received notice of intent to  
7 compete for Wyoming service area from four interested  
8 parties. But on April 13th, the due date for the full  
9 grant applications, proposals were received from just  
10 two applicants, including the interim legal services  
11 provider.

12           We are currently reviewing -- staff is  
13 currently reviewing those applications, and it is  
14 anticipated that grant awards for the Wyoming service  
15 area will be made by July 1.

16           In addition, I think, as the board is well  
17 aware, we are in the throes of asking all our  
18 LSC-funded programs to maintain the "unable to serve"  
19 data during this two-month period which ends on May  
20 15th, after which we will analyze it along with the  
21 analysis of the state legal needs studies that have  
22 been issued since our first Justice Gap report in 2005,

1 with a comparison of the number of attorneys serving  
2 the general population compared to the number of legal  
3 aid attorneys serving the poor. And we hope to have  
4 with the board some time in September an updated  
5 Justice Gap report.

6 In addition, we continue our leadership role  
7 in foreclosure assistance. We've had our third  
8 national call. We actually have put on our website a  
9 special area for notice of legal resources available to  
10 our grantees handling foreclosures. And we continue to  
11 include expanded materials in that area.

12 In addition, our technology initiative grants  
13 program for 2009, we indicated there were three  
14 particular areas of interest that we would like to have  
15 programs submit applications for.

16 And the three areas we listed for special  
17 interest was: board training and oversight, the impact  
18 of the economic downturn, and the legal needs of  
19 veterans. We will be receiving in May these  
20 applications and looking to make final decisions  
21 probably more quickly than we have in the past for  
22 certain of these areas.

1           I think that is the highlights of the report.  
2 I'm happy to answer any questions about anything else  
3 that's in the report. Of particular note, I will just  
4 share with you that our Corporation Black History Month  
5 celebration this year was a collaborative effort with  
6 the ABA and the Commission on Youth at Risk.

7           It was a wonderful collaboration, where we  
8 went to the Annapolis Road Academy, which is a local  
9 alternative high school for attorneys (sic) at risk.  
10 And we've been asked would we please collaborate again  
11 with them next year, which I suspect that our committee  
12 will clearly endorse. And we had Chief Judge Robert  
13 Bell of the Maryland Court of Appeals as our keynote  
14 speaker.

15           Medical/legal partnerships I will quickly just  
16 mention. Staff and I attended the medical/legal  
17 partnership summit meeting We have approximately 40  
18 LSC-funded programs that have medical/legal  
19 partnerships. They really add value to our clients.  
20 They are a recruitment and retention issue. They are  
21 pro bono opportunities, issues, and additional funding  
22 sources.

1           And so we think that -- the title of the  
2 program was "Medical/Legal Partnerships in the LSC  
3 Context: One plus One Equals Three." And we certainly  
4 think there is added value to that.

5           So, Mr. Chairman, those are the highlights  
6 from my reports. I'm happy to answer any particular  
7 questions on any aspects of it.

8           CHAIRMAN STRICKLAND: Okay. Board members, do  
9 you have any questions for Helaine relative to her  
10 report?

11           (No response.)

12           CHAIRMAN STRICKLAND: Before moving to the  
13 inspector general's report, let me make one or two  
14 other points as a part of the chairman's report which I  
15 overlooked a moment ago.

16           First, I want to thank Tom Matsuda, executive  
17 director of Legal Aid Services of Oregon, for the warm  
18 welcome we had visiting his program here in Portland.  
19 And we also express appreciation to Chief Justice Paul  
20 De Muniz and Gerry Gaydos, president of the Oregon  
21 State Bar Association, for taking the time to  
22 participate in our luncheon program yesterday. I

1 thought the award-winners were very impressive and they  
2 had interesting stories. And it was quite impressive.

3 And I also want to recognize on the record an  
4 almost-board nominee, that is, Laurie Mikva from  
5 Chicago, or I guess, correctly, Evanston, Illinois.  
6 Laurie, we welcome you to this meeting, and I'm glad  
7 you were able to join us. And please continue doing  
8 that as long as you're in that category.

9 All right. Those are the two or three other  
10 items I wanted to add to my report. And now we'll have  
11 the inspector general's report.

12 MR. SCHANZ: Thank you, Mr. Chairman. A lot  
13 of what I've had to say we've already discussed during  
14 the normal course of business at this board meeting.

15 There's a couple points I do want to bring  
16 out, some specific to the IG community, which is the  
17 Council of the Inspectors General on Integrity and  
18 Efficiency. There's about 70 of us government-wide.  
19 There's two corporations involved that are similarly  
20 situated to myself, which is the LSC Corporation and  
21 the Corporation for Public Broadcasting, that report to  
22 boards of directors and are selected by boards.

1           So with that said, there is -- and my staff  
2 will tell you that I predicted this -- now that we're a  
3 member of a large council, we'll be requested to do a  
4 lot more work. Thankfully, I've had Joel Gallay take  
5 on that role in answering surveys and providing  
6 information and data to the overall council.

7           We've had receptions on the Hill -- not  
8 receptions so much as introducing ourselves as a  
9 council to individuals. There's been numerous hearings  
10 because a lot of the inspector generals are responsible  
11 almost solely for the Recovery Act money, the ARRA  
12 funds that have gone out.

13           LSC did not get those funds, so I don't have a  
14 direct role in that oversight. But yet the concepts  
15 that are out there apply, and I'll mention a couple of  
16 them to what I'm trying to do with the IG.

17           So we had our last meeting on Tuesday,  
18 April 21st, and just even getting the conference space  
19 in Washington is a challenge for that many people. But  
20 it's principals only.

21           A couple of the issues, the overarching  
22 issues, that were discussed were exploring solutions

1 for being able to track this much money that has gone  
2 out with the Recovery Act.

3           They talked about the need -- since there's a  
4 Recovery Act board, they talked about the need for IG  
5 independence and IG accountability, and that IG is  
6 particularly, in those agencies receiving a ton,  
7 literally, of Recovery Act money should focus on the  
8 big picture instead of auditing for stats. And because  
9 of the amount of money that's out there, they should  
10 focus on contractors and grantees because that's where  
11 the rubber meets the road.

12           There was also a presentation from POGO, and I  
13 know you'll remember that from Dutch Merryman's  
14 presentations on POGO. And in that, a couple of us,  
15 myself included, challenged their conclusions. It's  
16 the Project Oversight for Government Organizations.

17           And they were talking about -- and you may  
18 have seen this in the media, or possibly not because  
19 you're active attorneys and probably don't focus on IG  
20 things in the newspaper quite like I do -- and what I  
21 told them is -- while they were saying that there are  
22 some concerns with IG hotlines, and with Tom Coogan in

1 attendance, we reinvigorated the outsource hotline.

2 We've sent out posters to each of the 138  
3 grantees. And it's sort of like, if you build it, they  
4 will come. So we've gotten a lot of additional  
5 requests for information on how to report fraud, waste,  
6 or abuse; for increased hotline posters; and something  
7 that simplistic, and what I've instituted is -- and Tom  
8 knows this better than anybody -- is we have 24-hour  
9 feedback on any complaints that we receive, not on  
10 action taken but on recognition that, yes, somebody's  
11 willing to step forward.

12 And in the federal community they call them  
13 whistleblowers. And there's of course Whistleblower  
14 Act protections. But I've told them -- and I told the  
15 78 inspector generals that I didn't agree with POGO's  
16 conclusions. We've received and invigorated questions  
17 and answers based on the hotline poster, and hopefully  
18 based on the perception of the fairness of the Office  
19 of the Inspector General. We've also sent out fraud  
20 alerts.

21 At that same day, there was a Hill hearing  
22 with Senator McCaskill. And she's a former state

1 Auditor General from the state of Missouri and a friend  
2 of the IG community.

3 All the highlights of that hearing: Federal  
4 spending on contracting ballooned to more than  
5 \$500 billion last year, and a lot of that is because of  
6 the Iraq and Afghanistan war efforts. But she has kept  
7 close watch on the economic recovery funds, and  
8 supports the expansions of the investigative efforts of  
9 the inspectors general.

10 And things that I take to heart and the fellow  
11 colleagues that I have in the community, and  
12 McCaskill's subcommittee has an important  
13 responsibility to make government contracting as  
14 honest, transparent, and accountable as possible.

15 In so doing, she's going to recommend enhanced  
16 subpoena powers for the inspector generals on the lines  
17 of those afforded to grand juries. And that is  
18 something that we would welcome.

19 And one other issue that we talked about a  
20 little bit earlier today vis-a-vis the employee  
21 handbook and access to records: She said the issue is  
22 about records, noting that inspectors general need

1 complete access to contractor employees, former  
2 employees, current employees, and subcontractors to  
3 fully complete investigations.

4           So from an IG perspective, I think we have a  
5 friend on the Hill. But I knew that going into this.  
6 And she is taking her oversight responsibilities -- the  
7 subcommittee plans to hold hearings every six weeks on  
8 the use of the Recovery Act funds.

9           I will be attending later this month -- it  
10 unfortunately conflicts with the Equal Justice  
11 Conference, but there's an IG -- or CIGIE is what we  
12 call ourselves now, I guess, Council on Inspectors  
13 General for Integrity and Efficiency.

14           I mentioned earlier in the presentation today  
15 that we've had no access to records issue in  
16 conducting audit of the contracting practices of the  
17 Legal Services Corporation. That report is in its  
18 final stages and will be issued very, very shortly in  
19 draft for management to review.

20           Somewhere along the line today, we talked  
21 about management information memoranda, something that  
22 I instituted when I first came on board. We've issued

1 six during my tenure to give management an opportunity  
2 to correct something that we've found doing our field  
3 work audits, or take whatever actions they deem  
4 appropriate.

5 And that would just be not waiting for the  
6 formalistic audit report or report of investigation,  
7 but say, this is a systemic issue or it could become  
8 one. Please be aware of it. And management has always  
9 been very expedient in taking whatever actions they  
10 deem appropriate and notifying the OIG about that.

11 We did issue an audit bulletin, and there are  
12 some concerns with that that I mentioned a little bit  
13 earlier as it relates to cost. And I did note,  
14 Mr. Meites, that I will be responding to you on a  
15 couple of issues related to the audit bulletin and the  
16 work of the IPAs.

17 We do have a draft semiannual report. I have  
18 it in my briefcase. I haven't looked at it yet, but  
19 it's very robust. And I'm very proud of that. I'm very  
20 proud of my staff for doing the good work. So I have  
21 something important to tell Congress and to the board,  
22 that the IG of the Legal Services Corporation takes the

1 responsibility seriously, and is becoming much more  
2 productive and professional in all the work that we do.

3 Thank you very much. Any questions?

4 CHAIRMAN STRICKLAND: Thank you, Jeff. Do  
5 board members have any questions for Jeff?

6 (No response.)

7 CHAIRMAN STRICKLAND: All right, sir. Thank  
8 you.

9 MR. SCHANZ: Thank you.

10 CHAIRMAN STRICKLAND: Tom Meites, while you  
11 were out of the room, we had individual board member  
12 reports. And did you have a report you wanted to make,  
13 a separate report?

14 MR. MEITES: I do not.

15 CHAIRMAN STRICKLAND: All right. Thank you.

16 The next item is consider and act on the  
17 report of the provision for the delivery of legal  
18 services committee. I'll call on Chairman David Hall  
19 for that report.

20 MR. HALL: Thank you, Chairman Strickland.  
21 The committee yet yesterday. We do not have any action  
22 items, but I'd like to give a summary of what

1       transpired during the committee meeting.

2               We had a staff report from Karen Sarjeant that  
3       was updating us on the private attorney involvement  
4       initiative that the provisions committee has been very  
5       responsible for.

6               Quickly, she gave us an update on the PAI  
7       Honor Roll and suggested that after staff deliberation  
8       and discussions with others, that they have decided not  
9       to pursue that particular initiative, and to devote  
10       their energies in other directions.

11              They have created a PAI advisory group that's  
12       made up of individuals from the field, staff, and some  
13       executive directors. And they are meeting to see if  
14       there are some other issues that can be explored, and  
15       how to use their resources, the 12-1/2 percent that has  
16       to be devoted to PAI.

17              She does not anticipate that there'll be new  
18       regulations, but they are exploring and trying to get  
19       the input from others about how to better utilize that  
20       particular rule.

21              She also reported on law school activities.  
22       There was a solicitation of information from our

1 programs. Fifty of the grantees reported that they do  
2 have collaborations with law schools, ranging from  
3 clinics to faculty members being involved to all sorts  
4 of different initiatives. And so they are hoping to  
5 pull that information together and share it as best  
6 practices for the other grantees so that they can learn  
7 about that.

8           So the PAI initiative is still going forward,  
9 and they will continue to -- management will continue  
10 to update us on that.

11           The next item was the report and update on the  
12 Herbert S. Garten Loan Repayment Assistance Program.  
13 This was the third year report. Karen again provided a  
14 very thorough analysis. That report, like the others,  
15 has indicated that the program has achieved its goals  
16 and that it is helping with both the retention and  
17 recruitment.

18           After a very vigorous discussion, we  
19 have -- one of the questions that came up was whether  
20 this program remains as a pilot, or should it be a  
21 permanent part of LSC. And there was differences of  
22 opinion on that among committee members and other board

1 members who were present.

2           We have asked staff or management to come back  
3 with a recommendation. We are hoping that by the next  
4 meeting, that recommendation could be brought forward.  
5 If that's not possible, then we'll have to delay it.

6           Though we did not discuss it at the committee,  
7 I would assume that when management makes its report or  
8 makes its recommendation, that we will have an  
9 opportunity for public comment as well so that some of  
10 our other constituencies could address that.

11           The next item was again a staff report on the  
12 Native American programming and what sort of funds are  
13 needed there. We were told that they are still in the  
14 process of getting information from NAILS, and that at  
15 the next meeting, staff anticipates having a more  
16 definitive recommendation that would come before the  
17 provisions committee. And hopefully at that time we'll  
18 have some clarity in regards to directions.

19           The last item reported on by staff was an  
20 update on the legal services programs and deferred law  
21 firm associates. This is a new issue that is  
22 happening, based on the economy and law firms having to

1 defer appointments that they have made or offers they  
2 have made to incoming students, and furlough existing  
3 lawyers.

4           And many of the law firms are trying to direct  
5 some of these associates to pro bono activities,  
6 including some of our grantees. Staff's position,  
7 management's position, has been not to in any way try  
8 to develop these arrangements, but to at least serve as  
9 a repository for information about some of the  
10 complications, and to get that information out to our  
11 grantees.

12           In our board book that was provided to all of  
13 us, but certainly to provisions, there was some very  
14 valuable information that management has sent out to  
15 our grantees. On one level, this appears to be a  
16 wonderful opportunity to get more lawyers involved in  
17 pro bono. But the materials and the presentation by  
18 Karen Sarjeant indicated that there are clearly some  
19 complications, and that our grantees should certainly  
20 proceed with some caution and understanding in this  
21 area.

22           The final item that came before the committee

1 is that we had a very interesting report from the  
2 executive director of Legal Aid Services of Oregon, Tom  
3 Matsuda. His presentation was on some creative ways to  
4 deal with recruitment and retention.

5 On the recruitment front, he indicated that in  
6 urban programs they have not had a problem with  
7 recruitment, that they receive sometimes 50 to 70  
8 applicants for one position.

9 However, in rural areas it is just the  
10 opposite of that, and they have been struggling to get  
11 qualified attorneys for openings that they have, though  
12 it does not appear to be a product of compensation but  
13 a product of the remoteness of the location and the  
14 fact that there are very few attorneys in those  
15 offices, and thus people are reluctant to relocate to a  
16 place that is somewhat isolated and where they will not  
17 have a lot of other attorneys around them.

18 The most interesting part of his presentation  
19 was in the area of retention because they have worked  
20 very hard and somewhat creatively to try to do a better  
21 job of retaining the lawyers who they presently have.  
22 He took the position that there were three key

1 variables in having strong retention strategy. One is  
2 compensation, a second is supporting the individuals  
3 who are there, and a third training, and that all of  
4 that leads to having individuals to be motivated to  
5 work, and that motivation becomes very, very critical.

6           However, one of the things that they realized  
7 in trying to dig deeper on what might be causing some  
8 retention problems in their shop was looking at the  
9 market and comparing their compensations to others.

10           And what they began to realize is that  
11 individuals who were in the lower end of their  
12 employment range, that is, individuals who had been  
13 there from zero to five years, were being  
14 under-compensated in comparison to comparable public  
15 interest organizations, and that support staff and  
16 senior attorneys were not necessarily over-compensated,  
17 but certainly above what their peers were.

18           And so through some negotiations with the  
19 union, through some very delicate conversations and  
20 discussions, they were able to do a salary increase  
21 that only affected one group in the organization as a  
22 way to bring about some fairness. And he argues that

1 their ability to do that and to bring others into that  
2 discussion is certainly aiding in their ability to  
3 retain lawyers.

4           The last part of his presentation was that  
5 they also have an LRAP program that has been a part of  
6 LASO's operation for a number of years. And he  
7 believes that that has also contributed to their  
8 retention, and believes that that, along with  
9 mentoring, training, and getting younger lawyers to  
10 co-counsel with more experienced lawyers, have all led  
11 to them having a very good retention program.

12           I think some of the ideas that he shared are  
13 things that would hopefully be shared with other  
14 programs so that other grantees can learn from their  
15 experience.

16           There was no public comment or other issues  
17 that came before the committee. As I said earlier,  
18 there are no action items. So that ends the provisions  
19 committee report.

20           CHAIRMAN STRICKLAND: Thank you, David. Any  
21 questions for David about his report?

22           (No response.)

1                   CHAIRMAN STRICKLAND: Let me just take a  
2 moment to recognize on the record a great  
3 accomplishment by our colleague, David Hall. He's been  
4 named as the president of the University of the Virgin  
5 Islands. And we all congratulate you on that  
6 accomplishment, David.

7                   MR. HALL: Thank you.

8                   (Applause)

9                   CHAIRMAN STRICKLAND: Bernice and Jonann, are  
10 you on the call?

11                  MS. CHILES: Yes. This is Jonann. I'm on the  
12 call.

13                  CHAIRMAN STRICKLAND: Bernice, are you there?

14                  (No response.)

15                  CHAIRMAN STRICKLAND: Okay. I just want the  
16 reporter to note --

17                  MS. CHILES: I'd like to know if David Hall is  
18 moving to the Virgin Islands.

19                  CHAIRMAN STRICKLAND: What was the question?

20 I'm sorry.

21                  MS. CHILES: Well, maybe I didn't hear you  
22 correctly. But has David Hall been named president of

1 the University of the Virgin Islands?

2 CHAIRMAN STRICKLAND: Yes. That's correct.

3 MR. MEITES: Incredulously, she asks.

4 MR. HALL: And you have been made my provost.

5 So pack your bags.

6 MS. BeVIER: Accept, Jonann, without a

7 moment's hesitation.

8 CHAIRMAN STRICKLAND: Okay. The next item is  
9 to consider and act on the report of the finance  
10 committee. Tom Fuentes acted as chairman, and we'll  
11 call on Tom for his report.

12 MR. FUENTES: Thank you, Mr. Chairman. I  
13 would like to ask if our treasurer, our inspector  
14 general, our general counsel, and our chief  
15 administrative officer would join us up here at the  
16 table to be able to jump in as they might be called  
17 upon or would like to contribute.

18 We began this meeting of the finance committee  
19 with the whole intent of being brief, and I fear that  
20 it may have been one of the longer sessions of the  
21 finance committee.

22 Firstly, we received a presentation by our

1 treasurer on the distribution of the fiscal year 2009  
2 basic field grants. That report was received by the  
3 committee with appreciation and no matter of  
4 contention.

5 We then went on to consider the consolidated  
6 operating budget for fiscal year 2009. We have a  
7 resolution for the board from the finance committee.  
8 And we also had a matter contained therein which was  
9 referred to management and the general counsel at the  
10 time of the meeting.

11 I understand that our colleague, Herb Garten,  
12 may be bringing a resolution of that. Herb, what I'll  
13 do is we'll move through this and we'll come down to  
14 the end, and then we'll turn to you to hopefully bring  
15 that forward and get this done.

16 The resolution, I hope that you all have a  
17 copy of it now ahead of you -- in front of  
18 you -- related to approving the consolidated operating  
19 budget for fiscal year 2009. I will read only for the  
20 record the "be it resolved" clause.

21 "Therefore, be it resolved that the board  
22 hereby adopts a consolidated operating budget for

1 fiscal year 2009 totaling \$397,123,686, of which  
2 \$372,868,247 is for the delivery of legal assistance;  
3 \$17,746,898 is for the management and grants oversight;  
4 \$1,470,842 is for the Herbert S. Garten Loan Repayment  
5 Assistance Program; and \$5,037,699 is for the Office of  
6 the Inspector General, and is reflected in the attached  
7 documents, with the understanding that the proposed  
8 salary increases of 3 percent for locality adjustment  
9 and 2 percent for the merit are not to be approved by  
10 management and inspector general pending a further  
11 report to the board of directors at the next meeting."

12 So Mr. Chairman, I bring that to the board. I  
13 believe that the entirety of board was there present  
14 during this discussion. So I would move it at this  
15 time.

16 MS. SINGLETON: Second.

17 CHAIRMAN STRICKLAND: All right. You've heard  
18 the motion for the adoption of the resolution. I  
19 believe the resolution is 2009-003.

20 Is there any discussion on the motion?

21 (No response.)

22 CHAIRMAN STRICKLAND: Hearing none, all those

1 in favor of the adoption of the resolution please say  
2 aye.

3 (A chorus of ayes.)

4 CHAIRMAN STRICKLAND: Opposed, nay.

5 (No response.)

6 CHAIRMAN STRICKLAND: The ayes have it and the  
7 resolution is adopted.

8 MR. FUENTES: Thank you, Mr. President (sic).  
9 And again, we will come back to Herb because we  
10 referred a matter back to management and general  
11 counsel, and I believe some resolution of that has  
12 transpired since our meeting.

13 We received a presentation of the Legal  
14 Services Corporation financial report regarding the  
15 first six months of fiscal year 2009. We were  
16 appreciative of that report, and there were no matters  
17 of contention.

18 We considered and acted on a fiscal year 2010  
19 budget request, and a resolution was produced. Herb,  
20 may I ask you to pass this new resolution around? Let  
21 me read it to you.

22 "Resolution Regarding Budget Request for

1 Fiscal Year 2010: Whereas the board of directors of  
2 the Legal Services Corporation has approved a  
3 \$485,100,000 budget request for FY 2010;

4 "Whereas the Omnibus Appropriations Act of  
5 2009 provided \$4,200,000 for the LSC Office of the  
6 Inspector General, a significant increase over the  
7 \$3,162,000 that had been requested by the OIG; and

8 "Whereas the Legal Services Corporation  
9 Inspector General has submitted a supplemental request  
10 for an additional \$700,000 appropriation for 2010,

11 "Now, therefore, be it resolve that the board  
12 hereby approves the OIG request for an additional  
13 \$700,000."

14 M O T I O N

15 MR. FUENTES: That is the recommendation of  
16 the committee, and with that I so move.

17 CHAIRMAN STRICKLAND: All right. Is there a  
18 second to that motion?

19 MS. BeVIER: Second. Does it need a second?

20 CHAIRMAN STRICKLAND: It may not. It's the  
21 report coming from a committee.

22 All right. The motion is for the adoption of

1 the resolution 2009-004, which Tom just read. Is there  
2 any discussion on the motion?

3 MS. SINGLETON: I have a procedural question.  
4 Mr. Fuentes, yesterday you said resolutions take roll  
5 call votes. Is that correct?

6 MR. FUENTES: In some formats they do.  
7 Perhaps I should ask that question of the inspector  
8 general (sic).

9 MR. SCHANZ: No.

10 MR. FUENTES: Excuse me, of the general  
11 counsel.

12 MR. FORTUNO: We haven't in the past. I think  
13 it's a better practice. But that's not been the  
14 practice of the LSC board.

15 CHAIRMAN STRICKLAND: All right. Any  
16 discussion, then, on the resolution after -- did you  
17 have another question, Sarah, or was that it?

18 MS. SINGLETON: No. I just wanted to know if  
19 it was going to be by roll call. That's all.

20 CHAIRMAN STRICKLAND: Okay. Let's proceed to  
21 a vote, then, on the motion to adopt the resolution.  
22 All those in favor, please say aye.

1 (A chorus of ayes.)

2 CHAIRMAN STRICKLAND: Opposed, nay.

3 (No response.)

4 CHAIRMAN STRICKLAND: The ayes have it.

5 MS. SINGLETON: Could you please show me as  
6 abstaining? Sarah Singleton.

7 CHAIRMAN STRICKLAND: Certainly. Let the  
8 record reflect, Mr. Reporter, that Sarah Singleton  
9 abstained on the vote on that resolution.

10 MR. FUENTES: Thank you, Mr. Chairman.  
11 Fifthly, the committee received a presentation report  
12 on the 2010 appropriations process by our director of  
13 governmental relations and public affairs, and engaged  
14 in an informational exchange, which was very much  
15 appreciated.

16 I turn now back to the second matter of my  
17 report. A portion of what was brought to us as a  
18 committee was referred back to management and the  
19 general counsel related to refunding of \$500,000 for  
20 the Herb Garten program. So it's appropriate that we  
21 find wisdom in Herb.

22 MR. GARTEN: Well, first of all, a question:

1 I presume I can introduce the resolution during this  
2 period, so I will proceed.

3 You have before you a resolution regarding the  
4 restoration of \$500,000 to the loan repayment  
5 assistance program. After giving further consideration  
6 to this, I was able to discuss the matter with the  
7 Charles Jeffress and Vic Fortuno, and they, in  
8 conjunction with David Richardson, have prepared the  
9 resolution before you, which is very simple.

10 And it just provides for the restoration, and  
11 cites the background of what took place to begin with  
12 and what they propose to do. And they're sitting in  
13 front of you should any of you wish to question them on  
14 how this was resolved.

15 And it is my recommendation, and I think it's  
16 very timely, that we able to proceed with this adoption  
17 now so that we get back to the original resolution,  
18 which had attempted to cover this but which was passed  
19 over in favor of resolving it within management.

20 They are available to you if you want to ask  
21 any questions.

22 MR. FUENTES: Mr. Chairman, on behalf of the

1 finance committee, we're grateful for Herb's  
2 involvement here. Just from a parliamentary  
3 standpoint, we would have expected that this report,  
4 which we sought by referring this matter to management  
5 and the inspector general, would have come back to the  
6 finance committee, and then we would have made a proper  
7 recommendation to you.

8 But I think it's good to state for the record  
9 that most of this body, the entire board, was there  
10 present at that meeting and had the benefit of all of  
11 that dialogue. And, of course, we would eventually  
12 bring it back to the board.

13 So while we were anticipating that this might  
14 be at our next meeting, it's happened more  
15 expeditiously. But I for one don't have any objection  
16 that it comes directly to the board, as opposed to  
17 going to the finance committee and then coming to the  
18 board. And I would poll our other members of the  
19 committee that they concur in that. Otherwise, we're  
20 not following what we had agreed to do.

21 CHAIRMAN STRICKLAND: Understood. Is there  
22 any objection to proceeding with the introduction of

1 this resolution?

2 MS. SINGLETON: I have no objection to  
3 introducing it. I would like the opportunity to  
4 discuss it.

5 CHAIRMAN STRICKLAND: Absolutely I just  
6 want -- procedurally, I was asking that question.

7 MS. SINGLETON: Right.

8 CHAIRMAN STRICKLAND: All right, Tom. Go  
9 ahead and introduce the resolution. I beg your pardon.  
10 It's already been introduced. It was introduced by  
11 Herb, and you're now moving it on behalf of the  
12 committee. Is that correct, Tom?

13 M O T I O N

14 MR. FUENTES: No. I would let this come  
15 before the body as a motion to move a resolution by a  
16 member of the board of directors outside of the  
17 activity of the finance committee --

18 CHAIRMAN STRICKLAND: Oh, all right. Right,  
19 you're quite right.

20 MR. FUENTES: -- because I haven't had a vote  
21 in the finance committee.

22 CHAIRMAN STRICKLAND: Not coming from the

1 committee, then. You're moving it as a member of the  
2 board. And this is resolution 2009-005.

3 It's been moved. Is there a second to the  
4 motion?

5 MS. BeVIER: Second.

6 CHAIRMAN STRICKLAND: Right. Discussion.  
7 Sarah?

8 MS. SINGLETON: Two questions for general  
9 counsel. No. 1, was this item properly noticed for  
10 consideration by the board?

11 MR. FORTUNO: The specific issue was subsumed  
12 in an item in the finance committee. I think that the  
13 finance committee item on the new consolidated  
14 operating budget noted that, and in fact the proposed  
15 resolution, which I guess appears at page 92 of your  
16 board book, has at page 93, the second page of the  
17 report, that what was proposed there was that  
18 management -- the wording was, "Be it further resolved  
19 that the board approves management's request to pursue  
20 transfer authority of \$500,000 in MGO funds to LRAP,  
21 and after approval is received, the appropriate  
22 adjustment is to reflect it in the COB."

1           So I think that notice was given. This was  
2 not singled out as an individual action item. But I  
3 think it was clearly part of what was contemplated, and  
4 it was even in the resolution that was proposed and  
5 discussed.

6           MS. SINGLETON: My second question, then, is:  
7 Are you as our counsel willing to state that this  
8 resolution is in keeping with our legal obligations  
9 under the statutes regarding either -- movement of  
10 money between line items?

11           MR. FORTUNO: My opinion was discussed at some  
12 length. And I remain of the opinion -- however, I  
13 recognize, of course, that that is a legal issue on  
14 which others can differ. And in fact, there is a lot  
15 in the way of difference of opinion here.

16           There have been several opinions expressed. I  
17 do stand by mind, but I recognize that the board, after  
18 hearing from me and anyone else it chose to and in fact  
19 has heard indirectly from counsel to one of the  
20 committees, is free to take the matter up and act on  
21 it. And what the resolution that you have before you  
22 does is it presents the issue for discussion and

1 possible action by the board.

2 MS. SINGLETON: But if we approve this  
3 resolution, are we acting against advice of our  
4 counsel?

5 MR. FORTUNO: Yes, you would be.

6 MS. SINGLETON: It doesn't sound to me,  
7 Mr. Chairman, as though the issue has been resolved.  
8 It sounds to me as though we're being asked to vote on  
9 an issue contrary to advice of counsel based on our own  
10 estimates that the other advice we have been given is  
11 better, or more palatable, or something.

12 CHAIRMAN STRICKLAND: Let me ask you this  
13 question, Vic. Is this the procedure that was followed  
14 to transfer this money in the first place?

15 MR. FORTUNO: The procedure that was followed  
16 was what would ordinarily be a reprogramming notice.  
17 Yes, a notice was given to the appropriate  
18 congressional committees that the Corporation wished to  
19 transfer funds from the M&A line, now the MGO line,  
20 from LRAP to the M&A line. That was done by  
21 reprogramming notice, yes.

22 CHAIRMAN STRICKLAND: And what's the

1 difference between what was done then and what would be  
2 done by this resolution?

3 MR. FORTUNO: I think the resolution  
4 contemplates a similar notice going to the appropriate  
5 committees of Congress. And so I don't think that in  
6 terms of the process, the procedure utilized, there is  
7 any material difference.

8 CHAIRMAN STRICKLAND: So, having said  
9 that, why is it your legal advice that this is not the  
10 process we should follow? Or am I misunderstanding  
11 your advice?

12 MR. FORTUNO: While, you know, subject to  
13 reconsideration and consultation with others, I still  
14 believe that what occurred the first time was a  
15 transfer, but that we had statutory authority under  
16 those very narrow circumstances to effect that  
17 transfer.

18 And the same statutory language that gave us  
19 the authority said that the way in which to accomplish  
20 it was to use the procedures that are used for a  
21 reprogramming. So that's why providing the notices  
22 that we did under the reprogramming section was

1 appropriate because that's what the statute provided  
2 was to be the procedure used in the case of a transfer,  
3 which under that statute we had authority to do.

4 I just don't see similar authority in this  
5 statute to transfer the money back. I think the money  
6 should be transferred back. I believe very strongly it  
7 needs to be restored to LRAP. My only concern is of a  
8 technical nature, on the issue of whether this is a  
9 transfer or a reprogramming.

10 If it's a reprogramming, there's no problem  
11 with proceeding this way. If it's a transfer, someone  
12 could take issue with it because, the way I read it, we  
13 are without authority.

14 However, we do have word from folks on the  
15 Hill, as you've heard, that we have counsel for one of  
16 the committees indicating that that's how they would  
17 like to see it done. And I understand that if the  
18 reprogramming notice is sent up, what we expect is to  
19 get, as has been referred to, approval from all four  
20 corners.

21 So I don't know that anyone but me at this  
22 point has any reservation. And my reservation is of a

1 highly technical legal one.

2 MR. FUENTES: Mr. Chairman?

3 CHAIRMAN STRICKLAND: Yes, sir?

4 MR. FUENTES: This advice from the Hill, is  
5 that something that happened since our finance  
6 committee meeting of yesterday?

7 MR. FORTUNO: No. I believe we got it  
8 yesterday just before the finance committee.

9 MR. FUENTES: So this was the same advice or  
10 comment that was offered during our discussion?

11 MR. FORTUNO: Yes.

12 MR. FUENTES: Okay. Well, then, Mr. Chairman,  
13 on behalf of the finance committee, I must say that it  
14 was our direction to ask a resolution to come back to  
15 us that had concurrence of the parties -- the  
16 treasurer, the general counsel, the chief  
17 administrative officer for management, the inspector  
18 general, that we could all have nodding heads of  
19 agreement.

20 And I thought -- when Herb handed me this, I  
21 thought that had been accomplished, and I acted in  
22 bringing this or promoting this in a tone because I

1 thought all of that had happened.

2 Now it appears that that had not happened, and  
3 so I am less enthusiastic about it. I think we ought  
4 to stay with the recommendation of the finance  
5 committee to send them to do the work necessary, to  
6 bring it back, that we're not taking any chance of  
7 acting outside the law.

8 CHAIRMAN STRICKLAND: All right. Do you want  
9 to withdraw the motion?

10 MR. FUENTES: It wasn't my motion. It was  
11 Herb's motion.

12 CHAIRMAN STRICKLAND: Oh, I'm sorry. Herb, do  
13 you want to withdraw the motion?

14 MR. GARTEN: I'd like some further discussion.

15 CHAIRMAN STRICKLAND: Go ahead.

16 MR. GARTEN: Charles?

17 CHAIRMAN STRICKLAND: Go ahead, Charles.

18 MR. JEFFRESS: Mr. Chairman, the information  
19 that Mr. Fuentes just referred to, yesterday we had an  
20 e-mail from the Senate Appropriations Committee counsel  
21 on this point. We now have copies of that, and with  
22 your permission I'd like to give the copies to the

1 members of the board so you can see what the Senate  
2 Appropriations Committee counsel says about whether  
3 this is a transfer or a reprogramming.

4 CHAIRMAN STRICKLAND: Let's go ahead and pass  
5 that out.

6 MR. FUENTES: Mr. Chairman, point of order.  
7 May I ask who seconded the --

8 MS. BeVIER: I did.

9 MR. FUENTES: Did you?

10 CHAIRMAN STRICKLAND: Charles, is it  
11 significant as to when this was received relative to  
12 when we were discussing it yesterday?

13 MR. JEFFRESS: Mr. Fuentes is correct that we  
14 were -- we had the e-mail that came in Friday morning.  
15 As you can see from that, it was faxed to John  
16 Constance here at the hotel yesterday, and we now have  
17 copies for you.

18 While we mentioned it at the meeting  
19 yesterday, we did not pass out copies. I think it may  
20 be relevant to look at both the question that was posed  
21 to Erin Corcoran, who is the appropriations  
22 counsel -- if you read John Constance's e-mail at the

1 bottom of the letter, you'll see the question posed.

2 We very clearly lay it out.

3 There's a question from the general counsel as  
4 to whether this is a transfer or a reprogramming, and  
5 her response at the top that it cannot be a transfer  
6 because there's only one account. Therefore, it's a  
7 reprogramming.

8 CHAIRMAN STRICKLAND: Lillian?

9 MS. BeVIER: I take it that Vic had read this  
10 yesterday and has read it today?

11 MR. FORTUNO: Yes. I don't have a copy of it,  
12 but I've seen a copy. But I've read it, yes.

13 MS. BeVIER: And that your advice to us, your  
14 legal advice to us, has not changed. So that in  
15 essence, what we're being given is this e-mail in  
16 writing as opposed to Charles' oral report of it  
17 yesterday --

18 MR. FORTUNO: Yes.

19 MS. BeVIER: -- which was as complete  
20 as -- basically, you told us exactly what this e-mail  
21 said.

22 MR. FORTUNO: Yes.

1 MS. BeVIER: So thank you.

2 MR. FORTUNO: And it's been -- you know, it's  
3 been pointed out to me that this is someone with  
4 greater experience in this area who does this work day  
5 in and day out, so that appropriate weight should be  
6 accorded the opinion expressed herein. And I certainly  
7 don't take issue with that.

8 MR. GARTEN: Can I?

9 CHAIRMAN STRICKLAND: Yes, sir, Herb.

10 MR. FORTUNO: I'm just -- I just am not yet  
11 persuaded because while I certainly respect the  
12 opinion, I would like to know why that's the view and  
13 see what case law there is or other authorities as  
14 opposed to just a statement, a conclusory statement.

15 MS. BeVIER: I understand. And your advice to  
16 us stays.

17 MR. FORTUNO: Yes.

18 MS. BeVIER: All right. Well, that's really  
19 what my bottom line is right now because I think I  
20 need -- that's what I voted on yesterday, and I don't  
21 know that anything has changed.

22 CHAIRMAN STRICKLAND: All right. Any other

1 discussion? Yes, sir?

2 MR. FUENTES: All right. Well, I would say  
3 that if that be the case, with all due respect, it  
4 would be appropriate to withdraw your second.

5 MR. GARTEN: Why don't you -- why don't we  
6 finish the discussion.

7 MS. BeVIER: That's what I was -- I would  
8 withdraw my second, but I think that the discussion has  
9 proceeded and we've taken -- you know, I think we  
10 should proceed to have the discussion brought to an  
11 end. I plan to vote against the motion that I  
12 seconded, but that's --

13 MR. GARTEN: All right. Just to clear the  
14 record, do you think I had a reasonable belief that  
15 when I referred you to three people that I had  
16 discussed this with, that I could reasonably expect  
17 that there would be support for this?

18 MR. FORTUNO: Oh, and I do. I think that -- I  
19 thought -- I explained that I still hold my opinion,  
20 but that I certainly respect the stature of the person  
21 offering the contrary opinion; and that I'm certainly  
22 not only aware of but freely acknowledge that it's

1 someone with superior experience in this area; and that  
2 I very much believe that the money, in fact, does need  
3 to be returned, and also recognize that this is a board  
4 decision.

5 I was offering simply a legal view on a  
6 technical point, a fairly narrow technical point. But  
7 I certainly don't control the actions of the board. I  
8 simply offer an opinion.

9 MR. GARTEN: Right.

10 MR. FORTUNO: And the board decides -- and in  
11 fact, that there was a contrary opinion of considerable  
12 weight that could form a sufficient basis for the  
13 action proposed under resolution.

14 MR. GARTEN: One final question.

15 MR. FORTUNO: And I did -- and I prepared the  
16 resolution.

17 MR. GARTEN: All right. When you referred to  
18 notice to Congress at least 14 calendar days in  
19 advance, does anything take place during that period  
20 where they would review whether this is a proper  
21 request?

22 MR. FORTUNO: Typically, with -- and it'll

1 vary. There are variations on it. But the most common  
2 arrangement is for the statute that allows for this  
3 kind of notice to say that the agency has to give  
4 notice to the appropriate committees of Congress at  
5 least 14 days in advance.

6           It's technically a notice requirement, so they  
7 simply have to be given notice. As a practical matter,  
8 the way it's treated is if any of the four get back  
9 with anything short of a "We approve," or sometimes you  
10 don't get any word back -- but if you get back  
11 disapproval, while at least in theory it's possible to  
12 say, well, this is a notice requirement, it doesn't  
13 require getting consent, in fact the way it works is  
14 ordinarily, if there isn't consent, the action isn't  
15 taken.

16           But the 14 days is for purposes of giving the  
17 appropriate committees of Congress two weeks' time to  
18 consider the proposed action, and if they have  
19 objection, to communicate their objection.

20           MR. GARTEN: All right. Thank you. I  
21 withdraw the motion.

22           CHAIRMAN STRICKLAND: Okay. Parliamentarily,

1 is that -- do we need anything from the seconder, or is  
2 it sufficient if the movant withdraws the motion?

3 MR. FUENTES: No. It requires two, so if one  
4 pulls out --

5 CHAIRMAN STRICKLAND: All right.

6 MS. BeVIER: It requires two to withdraw it?

7 MR. FUENTES: No, no. I said it requires two,  
8 a mover and a seconder. So if either one withdraws,  
9 unless somebody else --

10 CHAIRMAN STRICKLAND: It has collapsed.

11 MR. FUENTES: That's right.

12 CHAIRMAN STRICKLAND: All right. Then the  
13 motion is withdrawn.

14 Let's get to the bottom of this. If we're  
15 trying to reprogram this money, or transfer it, or X,  
16 whatever the -- let's bring it to a conclusion because  
17 it seems to me we're dancing on the head of a pin. And  
18 I understand this is a substantial amount of money.

19 We want to do it in the absolutely correct  
20 manner, and try as hard as we have here at this  
21 meeting -- apparently we're not going to get that  
22 done -- but I would urge those involved in the process

1 to get it squared away, bring us a resolution that is  
2 the correct resolution along with the advice of the  
3 general counsel that it is okay for us to go ahead and  
4 vote on this so that we would not be voting it.

5 It's extraordinarily difficult to vote against  
6 advice stated on the record from our general counsel  
7 that there is some question about our going forward  
8 with it.

9 MS. SINGLETON: Mr. Chairman?

10 CHAIRMAN STRICKLAND: Yes?

11 MS. SINGLETON: I agree with your last  
12 statement. I don't believe that general counsel merely  
13 offers another opinion among many. You are supposed to  
14 take the advice of your general counsel because he is  
15 your lawyer.

16 If this cannot be resolved in a way that our  
17 counsel, our general counsel, feels comfortable with  
18 the resolution, one that he can recommend, then I do  
19 suggest that they follow what Mr. Garten suggested  
20 yesterday, which is to get an outside opinion, so that  
21 the board can have advice of counsel on this issue.

22 CHAIRMAN STRICKLAND: All right. That's an

1       excellent suggestion.  If we get to that set of  
2       circumstances, then is there already a process in place  
3       to seek that advice, or do we need to give that  
4       direction?

5               MR. FORTUNO:  No.  If the preference of the  
6       board is that if we get to that stage, we get that  
7       advice, we can certainly do that.  We don't need any  
8       further direction than what we've been given already.

9               CHAIRMAN STRICKLAND:  Okay.  If that's  
10       sufficient notice from the board to those of you seated  
11       at the table, I guess and in particular to you, Vic --

12              MR. FORTUNO:  Yes, sir.

13              CHAIRMAN STRICKLAND:  I'm not arguing with  
14       you.  I'm just saying we do need to move this ahead.  
15       And if that step is necessary, as suggested by Sarah,  
16       then let's take it.

17              MR. FORTUNO:  Yes.

18              CHAIRMAN STRICKLAND:  And if you can keep us  
19       informed about --

20              MR. FORTUNO:  Absolutely.

21              CHAIRMAN STRICKLAND:  -- the progress on it,  
22       that would be helpful.

1 MR. FUENTES: Mr. Chairman?

2 CHAIRMAN STRICKLAND: Yes, sir?

3 MR. FUENTES: Just two other small points I  
4 think are worth putting on the record here for the  
5 general board meeting.

6 One is that during the finance committee  
7 meeting, there was no discord as to our purpose and  
8 intent. And I don't think that anybody around this  
9 table disagrees with what we're trying to accomplish.  
10 I think that ought to be on the record, that we're all  
11 in favor of it.

12 Also, it was brought out that there was no  
13 urgency of the transfer, that we're not sure the money  
14 could be used if transferred immediately anyway. So  
15 that ought to be on the record.

16 CHAIRMAN STRICKLAND: And I also recall from  
17 that meeting that -- perhaps you posed the question, or  
18 at least somebody did -- that are we unable to make any  
19 LRAP loans as a result of this money not being  
20 transferred immediately. And I think the answer was  
21 no. And it would not have any -- is that correct,  
22 David? Did you respond to that inquiry?

1 MR. RICHARDSON: That is correct, sir.

2 CHAIRMAN STRICKLAND: Okay. Anything else on  
3 that --

4 MR. FUENTES: That's it, Mr. Chairman. Thank  
5 you very much.

6 CHAIRMAN STRICKLAND: All right. Thank you,  
7 Tom, and thanks to all of the presenters.

8 Next is consider and act on the report of the  
9 operations and regulations committee. Chairman Tom  
10 Meites.

11 MR. MEITES: Thank you, Mr. Chairman. We had  
12 a number of items, only one of which is an action item.

13 The first item we took up was a staff report  
14 follow-up of the January 30, 2009 presentation by  
15 several grantee board chairs on the role of grantee  
16 boards of directors and grantee governance and  
17 oversight.

18 MR. STRICKLAND: Tom, could you move that  
19 microphone just a little closer to you?

20 MR. MEITES: Let me get my notes here. Karen  
21 Sarjeant made the report, and she noted that the panels  
22 reported that they all did things their own way, but

1 they had three recommendations for us: one, that we  
2 might consider amending our regulations so that the  
3 percentage of mandated members, both attorney and  
4 client, be reduced to give more flexibility to the  
5 boards; second, that the LSC could be more proactive in  
6 providing guidance to grantee boards; and third, that  
7 LSC could facilitate communications between grantee  
8 board chairs.

9 Karen then took us through the steps that the  
10 staff has taken since the January meeting to implement  
11 the second and third of these recommendations. LSC has  
12 created a working group on board governance and  
13 oversight.

14 The first step that this group has taken is  
15 recognizing that the five grantee board chairs we heard  
16 is only a very small selection from our 137 grantees.  
17 The working group has undertaken an electronic survey  
18 to be completed in mid-May to all grantee board chairs  
19 and executive directors regarding the above  
20 recommendations and inquiring, essentially, how LSC can  
21 help boards.

22 Not only would this provide a self-assessment

1 for boards, it will also assist the LSC staff in  
2 determining how it can better provide information and  
3 aid communications and coordination between the board.

4           Some very specific sites were -- steps were  
5 also identified. There's a website that's being  
6 developed for board chairs to post and share successful  
7 practices, really building on our successful  
8 experiences with best practice sharing in the IT area.

9           The OCE is also preparing a training  
10 curriculum on LSC regulations for board training. And  
11 two other initiatives is a fiscal operations advisory  
12 group composed from our grantees, and a PAI advisory  
13 group. Both of these groups will aid the staff in  
14 identifying best practices.

15           We actually came back to this later in our  
16 discussion when we were talking about the staff  
17 response to the IG's report on the GAO reports. And  
18 the IG stressed that an integral part of compliance  
19 with our regulations, particularly in the fiscal area,  
20 is the tone at the top, that the board chairs are well  
21 trained, know best practices, and are in a position to  
22 oversee and assure -- oversee their board and assist

1 their board in meeting particularly their fiscal  
2 obligations.

3 So our committee felt that the steps the staff  
4 was taking as a follow-up were very appropriate. We  
5 asked for a further report at our next meeting. But we  
6 think that this is certainly going in the right  
7 direction, to help our board and our grantee boards and  
8 board chairs to really assist them in how to do their  
9 jobs.

10 The next area our committee considered was  
11 consider and act on the rulemaking petition regarding  
12 financial eligibility requirements in disaster areas.  
13 As the board will recall, this was proposed by an  
14 individual who was then the executive director of our  
15 Hawaii grantee.

16 Some months ago we received a staff memorandum  
17 opposing the proposal on the grounds that it would  
18 divert resources that our grantees otherwise would  
19 prefer to use in their own -- in normal operations in  
20 their existing responses to disasters.

21 We asked the stakeholders for comment. It  
22 took some time for those comments to be prepared. But

1 to date, Don Saunders of NLADA reported that although  
2 grantees that recently had experience with severe  
3 disasters reported that flexibility was of some  
4 assistance, they reported that they were able to use  
5 non-LSC funds to meet that need. And overall, the  
6 thought was that the notion expanding the eligibility  
7 would be a burden rather than a help to our grantees.

8 M O T I O N

9 MR. MEITES: On the basis of both the public  
10 comments and the staff recommendation, our committee  
11 recommends that the petition be denied. And I so move.

12 MR. STRICKLAND: All right. The motion by a  
13 committee perhaps doesn't require a second. Any  
14 discussion on the motion?

15 (No response.)

16 MR. STRICKLAND: Hearing none, let's proceed  
17 to a vote. All those in favor, please say aye.

18 (A chorus of ayes.)

19 MR. STRICKLAND: Opposed, nay.

20 (No response.)

21 MR. STRICKLAND: The ayes have it.

22 MR. MEITES: The next item turned out to be a

1 non-event, which is always welcomed by our committee.  
2 It was an agenda item, consider and act on inspector  
3 general's request to delete a reference in Section 2.4  
4 of the employees' handbook with regard to management  
5 procedures for cooperation with the OIG.

6           Between the time this agenda was prepared and  
7 today, the OIG and management had reached an accord.  
8 And indeed, management had agreed to delete the  
9 sentence to which the inspector general had taken  
10 exception. That ended our consideration of the matter.

11           The next and last matter we considered was a  
12 very, very informative follow-up report by Karen  
13 Sarjeant in response to what I take is the OIG's final  
14 report -- perhaps not absolutely final, but overall  
15 summary report of March 31st to the program issues  
16 identified by GAO.

17           Karen's remarks were lengthy and were  
18 comprehensive. They are -- the gist is set out in a  
19 letter that we received dated April 24th, so I won't  
20 summarize them. But I would like to inform the board  
21 of where our committee asked more work to be done.

22           After hearing the summary, we thought first of

1 all -- and asked both the Office of the Inspector  
2 General and OCE and OPP to prepare for us some kind of  
3 a summary for each of our meetings as to the various  
4 visits and reviews that each of the three offices had  
5 undertaken in the year to date and the status of each  
6 review.

7 I think that would give us a sense and some  
8 confidence that the work is being pursued vigorously,  
9 in a quantitative way, and that the cooperation and  
10 coordination that we'd heard about was in fact bearing  
11 fruit.

12 The second thing we asked for was part of our  
13 continuing discussion of the independent public  
14 accountants. As we all know, Congress has tasked them  
15 with responsibilities beyond what the usual auditor is  
16 asked to do, and we've all been concerned about whether  
17 in fact the IPAs have the capability of doing this, and  
18 if they do, that the expense won't be too great for our  
19 grantees.

20 We asked the IG at our next meeting to give us  
21 at least some kind of a handle on his view of the  
22 capabilities of the independent accountants with regard

1 to the what I call forensic tasks they're asked to  
2 undertake, and an estimate of the additional expense  
3 for the grantees of this work.

4           The thought was that if Congress wants -- and  
5 Congress does want the work undertaken and it can be  
6 undertaken, then -- and there is substantial expense,  
7 that is an expense that we might want to quantify and  
8 consider asking Congress to help our grantees bear.

9           The final item we asked for is that at our  
10 next meeting, that the discussion we heard about  
11 the -- from earlier on about the -- from our board  
12 chairs that led us to consider, in light of the IG's  
13 remark, that the tone at the top, as the board itself,  
14 is to assure fiscal integrity.

15           Whether it makes sense for us to consider  
16 amending our regulations to require an audit committee,  
17 I sit on the audit committee, and I believe it's been  
18 very useful for this board, and which led me to ask the  
19 IG and management to at least open a discussion at our  
20 next meeting on whether there are merits to a  
21 requirement in our regulations that each board does  
22 have an audit committee separate from a finance or

1 budget committee.

2           There was no -- no action is required by the  
3 board on that report. It's for information only.

4           The last item, the staff report on LSC's  
5 Freedom of Information function, we deferred to our  
6 next meeting.

7           That's my report.

8           MR. STRICKLAND: All right. Thank you, sir.

9           Are there any questions of Tom Meites relative  
10 to is report?

11           (No response.)

12           MR. STRICKLAND: The next item is to consider  
13 and act on the report of the audit committee. Chairman  
14 Herb Garten.

15           MR. GARTEN: There are basically three items  
16 that we discussed during the course of the meeting that  
17 took place yesterday. One of them involved the subject  
18 of a memorandum appearing at page 75 titled, "LSC Bank  
19 Funds: Protection from Bank Failure."

20           Tom Meites and I at the prior audit meeting  
21 had asked some questions regarding the safety of the  
22 substantial deposits that we have. And one of the

1 items was the auditor's report, which turned out to be  
2 incorrect, reflected that our deposits were not in the  
3 name of Legal Services Corporation. And that was  
4 disturbing. They checked into it, and the auditor's  
5 report was incorrect. And the bank has sent a letter  
6 or has notified them as to the correct title of the  
7 accounts.

8           Then the question was with all the bank  
9 failures that are occurring with substantial funds in  
10 banks that require a lot of government backing, whether  
11 the manner in which we held these funds gave us the  
12 full protection of the federal government.

13           And there were some questions raised as to  
14 whether the type of account that we had where we  
15 engaged in repossessions, whether government guarantees  
16 might not apply to anything over \$250,000, an amount  
17 way below the amount that we have in an account at a  
18 particular time, which I'm told could be \$15 million.

19           There is a government program in which you  
20 agree to forego any interest paid by the bank on these  
21 deposits. You will get the full guarantee of the  
22 federal government. The program, and I'm familiar with

1 it as a result of another client, is called the  
2 Temporary Transaction Account Guarantee Program, TAGP.  
3 It's a new program. It's in effect till the end of the  
4 year. The likelihood is it will be renewed.

5 But in any event, we asked that the records  
6 clearly reflect that we have to do something by the end  
7 of the year, and that this would be on the agenda for  
8 the next meeting. And the committee suggested or  
9 directed that we proceed with engaging in that program  
10 because the amount of interest paid on these accounts  
11 is not very substantial, and the amount of money at  
12 risk is substantial.

13 In the meantime, management has asked for a  
14 legal opinion from a Scott Anenberg, a partner at Mayer  
15 Brown, who specializes in banking and financial  
16 services. We have not heard from him today, but I  
17 think the prudent thing, and it's our suggestion -- and  
18 I'm not certain whether we need a resolution on this or  
19 not, Mr. Chair -- that we proceed to transfer the funds  
20 and take advantage of that self-protection program that  
21 I just described.

22 I think this is a management move. I'm not

1 certain that you need a resolution on this. But we do  
2 want to --

3 MR. MEITES: Herb, it's my view that we have  
4 independent authority as the audit committee to direct  
5 that that opinion be obtained. And I understand that  
6 although we cannot direct management to move money  
7 around, that they have agreed with our recommendation  
8 that the money be put in the account that you just  
9 identified.

10 MR. GARTEN: So we're informing the board as  
11 to what action we're taking, which I think is very  
12 necessary. If we get an opinion from Mr. Anenberg,  
13 we'll review it, we'll consider it, and we'll make a  
14 determination if anything should be changed.

15 Any questions on that particular item?

16 (No response.)

17 MR. GARTEN: If not, the second item that was  
18 discussed is the classification of Legal Services  
19 Corporation consultants. And here again we're waiting  
20 on an opinion which hasn't come in from the firm of  
21 Baker Botts to review the statement of facts that we  
22 provided them and obtain their advice -- and they've

1     agreed to do it on a pro bono basis -- as to the proper  
2     classification of the consultants.

3             They're either independent contractors or  
4     they're temporary employees. And the tax treatment of  
5     each of those categories is very, very different. So  
6     we're waiting for the response, which we expect by the  
7     end of April.

8             Any questions on that matter?

9             (No response.)

10            MR. GARTEN: Finally, I'm pleased to report  
11     that the cooperation that the audit committee is  
12     receiving from Jeffrey Schanz has been exceptional.  
13     We've worked together very well, as I've reported to  
14     you in the past.

15            And Jeff is in the process of advertising for  
16     bids for a proposal for audit services for the current  
17     fiscal year. He gave me yesterday a 19-page request  
18     for proposal, just ideas to start advertising. And I'm  
19     going to review this and give him any comments that I  
20     might have.

21            Jeff, would you like to make any further  
22     statements on this?

1           MR. SCHANZ: No. I appreciate the cooperation  
2 of the audit committee and your overseeing the RFP.

3           MR. GARTEN: Any questions with regard to  
4 this?

5           (No response.)

6           MR. GARTEN: If not, that ends my report.

7           MR. STRICKLAND: All right. Thank you. Any  
8 questions for Herb?

9           (No response.)

10          MR. STRICKLAND: Thank you, Herb. Let me note  
11 for board members that page 169 of the board book, the  
12 2009 board meeting schedule, we had a May 2009  
13 teleconference with a date to be scheduled. That is  
14 May 26 at 11:00 a.m. Eastern Daylight time. That's to  
15 develop the board's response to the semiannual report  
16 to Congress from the OIG. I think that's been  
17 circulated by e-mail, but I wanted to remind everyone  
18 of that date and time.

19          MR. FUENTES: The hour one more time,  
20 Mr. Chairman?

21          MR. STRICKLAND: 11:00 a.m. Eastern Daylight.

22          All right. The next item on the agenda is to

1 consider and act on the report of the governance and  
2 performance review committee. Chairman Lillian BeVier.

3 MS. BeVIER: Thank you, Mr. Chairman.

4 The first item that we had before our  
5 committee was the staff report on the transition manual  
6 and plan. We reviewed that material that was in our  
7 board book. The list of the materials that staff and,  
8 with the consultation last meeting, members of the  
9 board, plans to have available for the new  
10 incoming -- the incoming board members, both -- not all  
11 of them will be in print form. All of them will,  
12 however, be available in electronic form.

13 We received -- and management took note  
14 of -- several suggestions about matters that ought to  
15 be covered and included in the transition manual. We  
16 got as well from the inspector general a list of  
17 matters that he is going to -- well, that he has made  
18 available and will make sure that new members of the  
19 board are aware of on his website.

20 So there were several suggestions with respect  
21 to the materials that should be included in the  
22 transition memo. I won't rehearse all of those, but I

1 think that they were good suggestions. And we just  
2 want to make sure that incoming members of the board  
3 have available to them in writing everything that we  
4 can prepare and present to them so that they will have  
5 an opportunity before they start actually making  
6 decisions of knowing something about the lay of the  
7 land.

8 We also discussed in connection with board  
9 training the necessity to have some sort of additional  
10 format for the presentation of training material and  
11 for the presentation to the incoming members of what I  
12 might describe as sort of street smarts with respect to  
13 what being on this board has entailed and the kinds of  
14 issues that the board has had to deal with that are not  
15 always discernible from the written materials.

16 We think a combination of the written  
17 materials and some sort of training workshop format is  
18 probably the best way to proceed. Clearly, it's  
19 premature to get definite about that because we have  
20 issues of timing and so on. But we did ask the staff  
21 to -- in terms of next steps, not merely to tweak the  
22 training manual written materials, but to come up with

1 some possible alternative ways of handling the workshop  
2 idea for new members.

3 We by no means have come to closure on how we  
4 should proceed with that except to come to closure on  
5 doing something so that we can engage with them in ways  
6 that will be the most helpful to them.

7 That took quite a bit of time. The next issue  
8 that we addressed ourselves to was, as most of you  
9 know -- as all of you know since all of you were, I  
10 think, here at the meeting -- was the most difficult  
11 and challenging for us. That was the inspector  
12 general's memo on review of compliance with the  
13 Sunshine Act.

14 And in particular, there were two issues that  
15 the memo addressed. The memo was prepared for the  
16 board, but as a result of an inquiry that had been  
17 received by the inspector general from Senator  
18 Grassley.

19 And in response to Senator Grassley's inquiry,  
20 the inspector general had answered some questions and  
21 become aware of some issues with respect to the board's  
22 compliance with the Sunshine Act that the inspector

1 general wished to raise with us.

2 We heard from the inspector general and from  
3 our counsel, Vic Fortuno. And the issues had to do  
4 with, first, whether the notice, the public notice of  
5 the board's meeting in October -- was it -- yes, in  
6 October; it was the October meeting, wasn't it, that  
7 we're talking about, where we approved the contract of  
8 the -- or am I talking about the January meeting?  
9 Pardon me? October.

10 MR. SCHANZ: Salt Lake City.

11 MS. BeVIER: Forgive me. Whether the public  
12 notice of that meeting had included -- had been  
13 sufficient to inform the public that there was going to  
14 be action taken with respect to the possible renewal of  
15 President Barnett's contract.

16 Our counsel advised us that in a very strict  
17 reading of the statute and of the notice requirements,  
18 the notice had not been sufficient, not with respect to  
19 whether we were going to close the meeting and engage  
20 in the performance review of President Barnett, but  
21 rather with respect to whether we were going to  
22 actually consider whether she was going to stay on for

1 any period of time.

2 And so we -- the contract itself -- I need to  
3 be clear. The contract is not void. There's  
4 nothing -- there's not a problem with the contract. I  
5 think the committee was convinced that whether the  
6 notice was adequate or not, we're happy to be corrected  
7 about that.

8 And certainly in the future we'll be much more  
9 careful about giving adequate notice about what the  
10 committee plans to do at any particular meeting. And I  
11 think that was -- we appreciate that advice, and it was  
12 useful to the committee.

13 The next issue that the committee found  
14 difficult was the issue of Sunshine Act requirements  
15 with respect to evaluations of the president of the  
16 Corporation and the inspector general.

17 The analysis done by the Office of the  
18 Inspector General concluded that there is no exemption  
19 for meetings evaluating the president, that any  
20 considerations of personal privacy, Exemption 6 most  
21 particularly of the Sunshine Act, do not apply when the  
22 board is considering the performance of the top people,

1 and that therefore we have been in violation of the  
2 Sunshine Act in prior efforts to evaluate our  
3 president.

4           The issue came up, and several board members  
5 raised it -- several committee raised it -- with  
6 respect not so much to the privacy of the president  
7 herself or himself, as the case may be, but rather with  
8 respect to the privacy of third parties who either  
9 might work for the Corporation and be a part, an  
10 integral part, of any evaluation of the president's  
11 performance, whose privacy probably is protected by  
12 Exemption 6.

13           What the committee resolved to do with respect  
14 to this -- we found it a difficult issue. We couldn't  
15 quite decide how to work it out. We're persuaded that  
16 we need to be extremely careful to make sure that we do  
17 abide by the requirements of the Sunshine Act.

18           We passed a recommendation, which I bring to  
19 the board, that we submit this issue to the OIG and the  
20 Corporation's counsel to develop, if they can, a  
21 protocol for us to work with in future meetings with  
22 respect to means to protect -- during the course of an

1 evaluation of the president, means to protect the  
2 privacy of third parties.

3           The two choices that we had before us and that  
4 we hope they will consider are as follows. The first  
5 choice is to close the meetings, but because it is  
6 implicit in any evaluation that the names of -- or the  
7 performance of individuals other than the person being  
8 evaluated are likely to be at issue, close the  
9 meetings; redact as appropriate from the transcript any  
10 private, personal information; and then have the  
11 transcripts available to the public as soon after the  
12 meeting as we possibly can. That's one possibility.

13           The other possibility is to conduct the entire  
14 meeting in open session, and go into executive session  
15 with the vote of the full board if issues relating to  
16 third parties should present themselves during the  
17 course of the public meeting evaluating the president.

18                           M O T I O N

19           MS. BeVIER: If there are additional options  
20 that the two can consider, we trust the record will  
21 permit them to feel free to consider them. But that  
22 recommendation for the protocol -- that that go to them

1 to develop a protocol comes to the full board with  
2 the -- as a motion from the governance and performance  
3 review committee.

4 MR. STRICKLAND: Do you also have another  
5 motion, or is that --

6 MS. BeVIER: No. We tabled the other item.  
7 But I will --

8 MR. STRICKLAND: All right. That's a motion  
9 from a committee, does not require a second.

10 Is there any discussion on the motion?

11 (No response.)

12 MR. STRICKLAND: Hearing none, all those in  
13 favor please say aye.

14 (A chorus of ayes.)

15 MR. STRICKLAND: Opposed, nay.

16 (No response.)

17 MR. STRICKLAND: The ayes have it and it's  
18 adopted.

19 MS. BeVIER: The next issue about which the  
20 committee could not reach consensus at this meeting,  
21 and thus we do not come to the board with any  
22 recommendation regarding it, has to do with the making

1 available of transcripts of prior closed session  
2 meetings to the public within a particular time frame;  
3 first of all, how to -- first of all, whether to do  
4 that, and secondly, when and if we do that, how to  
5 redact from those transcripts the information that  
6 might invade the privacy of any third parties.

7           The committee considered several motions with  
8 respect to how to proceed with respect to this  
9 question. We were not able to reach consensus. We  
10 tabled that issue. We do plan to take it up at the  
11 next meeting.

12           That does not -- that matter does not come to  
13 the full board with any recommendation. It is  
14 something that I report to the board as being still on  
15 the table.

16           MR. STRICKLAND: Let me ask a question about  
17 that, and we may need some advice during this meeting.

18           Included in what was tabled was some  
19 discussion of the location of transcripts, being in the  
20 office of the corporate secretary. Is that right?

21           MS. BeVIER: Yes.

22           MR. STRICKLAND: And was there a disagreement

1 between the inspector general and the general counsel  
2 on that issue? Is Vic in the room?

3 MR. FORTUNO: Yes, sir.

4 MR. STRICKLAND: If I may inquire, do the two  
5 of you disagree on that, or are you in agreement?

6 MR. FORTUNO: I think we're in agreement. I  
7 think the best approach is to have all the transcripts  
8 maintained at LSC. We do have a vault, a safe, a large  
9 safe in which they're kept. So I think they'd be  
10 secure. And I think that's the best practice.

11 While it can be argued that the transcripts  
12 remain in the custody of the Corporation because they  
13 are with members of the board, the chairman of the  
14 relevant committee and the chairman of the board, I  
15 think the better practice is to maintain them at LSC  
16 headquarters in the safe. And I think that comports  
17 with the IG's recommendation.

18 MR. SCHANZ: Jeffrey Schanz speaking. I agree  
19 with that, and I think that certainly meets the intent  
20 of the Sunshine Act is to have the transcripts  
21 available in one location.

22 MR. STRICKLAND: All right. So how do we

1 handle the redaction? Suppose we have some offsite,  
2 but in custody of a board member, a transcript? How do  
3 we handle redaction if we then move those to the office  
4 of the corporate secretary?

5 MR. FORTUNO: If, as I understand it, we're  
6 talking about a transcript that's maintained offsite in  
7 the custody of someone -- the chairman of the committee  
8 or the board, that transcript could be reviewed by  
9 that -- if the board would prefer that, that transcript  
10 could be reviewed by that chair, whether it's committee  
11 or board, and the determination made under the Sunshine  
12 Act as to what's protected and what isn't; and what is  
13 not protected, then order release of that, making it  
14 available to the public.

15 It does not, I think, have to be done by the  
16 corporate secretary. It's the way it's been  
17 traditionally done, but I don't think it has to be done  
18 that way.

19 MR. SCHANZ: One other consideration we do  
20 have is during this first year of my working as the  
21 inspector general, on my recommendation we have two new  
22 ethics officers. And they could possibly play a role

1 in this process if we're comfortable with that.

2 MR. STRICKLAND: Yes, sir.

3 MR. MEITES: Well, I think the narrow -- I  
4 think there is consensus on moving the transcripts back  
5 here and lodging it with the corporate secretary. So  
6 although our committee -- it kind of fell out of the  
7 motion, perhaps, I think our committee was in  
8 agreement, Lillian, that that should be done.

9 So I think it would be consistent with our  
10 committee's deliberations that you could propose a  
11 motion to that -- a limited motion to that affect.

12 MS. BeVIER: I'm happy to accept a motion to  
13 that affect if -- I just would like to have this be on  
14 the record. I have had custody of these. The reason I  
15 have had them is because the general counsel of the  
16 Corporation said that it was appropriate for me to have  
17 them. And it was not.

18 So I don't feel the slightest bit of  
19 hesitation in sending them back. If the redaction  
20 occurs, I assume that he will send them to me and I  
21 will -- if I'm still the chairman then so that I can  
22 take out anything that refers to him. And then we can

1 work that out, whatever we decide to do. But I'm  
2 completely happy to accept a motion.

3 M O T I O N

4 MR. MEITES: Well, I will so move that the  
5 transcripts be physically lodged at LSC headquarters  
6 with the corporate secretary.

7 MS. BeVIER: Is there a second?

8 MS. SINGLETON: Second.

9 MR. STRICKLAND: All right. Discussion?

10 MS. SINGLETON: And for right now, nobody's  
11 going to redact them and they're not going to be made  
12 available. They're just going to be housed at the  
13 Corporation. That's all this motion does. Is that  
14 correct?

15 MR. MEITES: That is correct.

16 MS. BeVIER: That's my understanding.

17 MR. FORTUNO: And my intention, unless  
18 directed to do otherwise, is not to even review them  
19 but simply to secure them. And until a decision is  
20 made as to how you want to proceed with review and any  
21 further steps, they will simply be secured in the safe  
22 and no action taken, including review, until I hear

1 otherwise.

2 MR. STRICKLAND: All right. Moved and  
3 seconded. Is there any further discussion on that  
4 motion?

5 (No response.)

6 MR. STRICKLAND: All those in favor, please  
7 say aye.

8 (A chorus of ayes.)

9 MR. STRICKLAND: Opposed, nay.

10 (No response.)

11 MR. STRICKLAND: Adopted.

12 Anything else from your committee?

13 MS. BeVIER: Yes. We did have a -- we sort of  
14 collapsed, in part because of the pressure of time and  
15 in part because of just the way the IG's reports to  
16 various committees have proceeded and were proceeding,  
17 item 5 and item 6 on our agenda.

18 As you know, we've heard from the IG on a  
19 number of issues at these board meetings, and those  
20 briefings have been very helpful. They've all been  
21 sort of addressed to and relevant with respect to  
22 issues that he's addressing for the fiscal year 2009.

1           I think the bottom line on the IG's reporting  
2 to us with respect to that is going to be contained in  
3 the semiannual report that the board is going to review  
4 by phone in May. And so we held off in making that a  
5 sort of formal presentation with respect to the work  
6 plan.

7           With respect to the performance review of the  
8 inspector general, that matter, of course, was part of  
9 the Sunshine Act recommendations. And the inspector  
10 general's position within the organization is slightly  
11 different, given that his independence is statutorily  
12 mandated. And the board has every intention of  
13 respecting that independence. It's just a slightly  
14 different animal.

15           Nevertheless, the annual performance review of  
16 the inspector general is the board's job. What we were  
17 doing at this meeting was just kind of a six-month  
18 progress report. The final performance review of the  
19 inspector general will take place at our October  
20 meeting. That's the plan. That's what we adopted at  
21 our last meeting. We plan to proceed then.

22           So we heard and accept and appreciate the many

1 contributions of the inspector general to this board  
2 meeting and with respect, for example, to the GAO  
3 follow-up, with respect to his contribution with the  
4 audit committee. And we look forward to receiving his  
5 semiannual report.

6           Apart from that, there was no public comment  
7 and we did not consider and act on other business. And  
8 that concludes the report of the governance and  
9 performance review committee.

10           MR. STRICKLAND: Any questions of Lillian?

11           (No response.)

12           MR. STRICKLAND: One more note for Jeff and  
13 Vic. I presume that at least one of the items you will  
14 specifically address in developing this protocol is  
15 exemption 6. Is that correct?

16           MR. SCHANZ: We will fully research  
17 exemption 6 and see where it leads.

18           MR. STRICKLAND: Yes. I'm not trying to tell  
19 you what your conclusion should be.

20           MR. SCHANZ: Yes. Right.

21           MR. STRICKLAND: But there's been a lot of  
22 discussion about exemption 6. Did you hear what I said

1 at the outset, Vic? I think the board is presuming  
2 that one of the things you and Jeff will give close  
3 consideration to in developing this protocol is  
4 exemption 6. Is that correct?

5 MR. FORTUNO: Yes. We'll consider all the  
6 aspects of the matter before us. But what I understood  
7 the focus, the salient focus, was going to be was  
8 identifying a procedure that would allow for an  
9 evaluation of the chief executive while at the same  
10 time protecting as fully as possible the privacy  
11 interests of any third parties against any unwarranted  
12 invasion of those interests.

13 And so we were, I thought, going to be looking  
14 at protocols that would accomplish that.

15 MR. STRICKLAND: Right.

16 MR. FORTUNO: But we will also, of course, you  
17 know, take a closer look, although I think the IG has  
18 done a fairly thorough job of reviewing the Sunshine  
19 Act law, including exemption 6. But we'll take a look  
20 at that as well.

21 MR. STRICKLAND: Okay. Good.

22 MS. BeVIER: I would second that, Vic. I

1 think there's enough sort of interest in doing these  
2 two somewhat incompatible things that a fresh look and  
3 a more -- you know, just a different take on it with  
4 specific reference to exemption 6.

5 MR. FORTUNO: Yes.

6 MR. STRICKLAND: Remember, Mr. Meites' view on  
7 that, fairly strongly held.

8 MR. FORTUNO: Oh, absolutely. Indelibly  
9 ingrained.

10 MR. SCHANZ: I forget. I'd like to hear it  
11 again.

12 (Laughter.)

13 MR. STRICKLAND: All right. Thank you,  
14 gentlemen.

15 Before we have this interactive report on  
16 IOLTA with Jonathan Asher and Bev Groudine, tell us  
17 about how long is that expected to take, Charles. Do  
18 we know?

19 MR. JEFFRESS: Mr. Chairman, they were asked  
20 to make this report to you. I believe their  
21 presentation probably will not be longer than  
22 20 minutes. But your question, I can't predict.

1 MS. SINGLETON: Twenty minutes to tell us  
2 they're broke?

3 MR. JEFFRESS: Maybe less.

4 (Laughter.)

5 MR. STRICKLAND: I would like to pose a  
6 question to board members. Would you like a short  
7 break at this point before we commence that report?

8 MR. MEITES: Absolutely.

9 MR. FUENTES: Mr. Chairman?

10 MR. STRICKLAND: Yes, sir?

11 MR. FUENTES: Before we just break, while  
12 we're still sort of in Lillian's report, before we end  
13 it, I just want to offer a point of parliamentary  
14 clarification here.

15 You mentioned at some point when a motion was  
16 offered related to presentation of a point from a  
17 committee, that a second was not necessary. I don't  
18 believe that to be the case. Now, I heard a second at  
19 that time, but then you declared one not to be  
20 necessary.

21 But I would just like to -- where is Vic? I  
22 believe that a report means that the committee is

1 bringing a recommendation to the board for the board's  
2 adoption. So there wouldn't be any difference from a  
3 normal motion of the body, which would require both  
4 motion and seconder in order to be accomplished.

5 And I don't want us to get in a pattern that  
6 somebody's going to go back and say at the end of one  
7 of our meetings, well, gee, all those motions were  
8 not --

9 MR. STRICKLAND: Right.

10 MR. FORTUNO: I think that if the board was  
11 to follow strictly Robert's Rules of Order, my  
12 understanding -- and I've not looked at this in some  
13 time -- is that if a committee comes to the board with  
14 a proposed resolution, for example, where at the  
15 committee level you have one member of the board who's  
16 on the committee making the motion and a second member  
17 of the board who's also on the committee seconding the  
18 motion, and then the committee voting on it so that it  
19 passes and comes to the full body, that when it comes  
20 to the full body, it's understood that it's already got  
21 two votes, so that it doesn't have to go through the  
22 making the motion or presenting the resolution and

1 getting a second again.

2 I could be mistaken, but my belief is that  
3 while that can be done, that under Robert's Rules of  
4 Order it's not necessary, and that you can take that to  
5 already have a second.

6 MS. BeVIER: That's the understanding that I  
7 was operating under. A recommendation from a standing  
8 committee.

9 MR. MEITES: But to answer Tom's point,  
10 there's no harm in having a second.

11 MR. STRICKLAND: Oh, no.

12 MR. FORTUNO: No. None at all. And in fact,  
13 that's oftentimes the way it's been done.

14 MR. FUENTES: May I suggest that, one, we have  
15 that verified; two, why I don't think that's Robert's  
16 is because in some situations, even in this series of  
17 committee meetings, we've had instances where someone  
18 has either made or seconded a motion and has stated  
19 they're not voting for it, but they're just extending  
20 the courtesy to other members of the committee to bring  
21 the matter forward for discussion.

22 So I don't think that we want to rely on the

1 circumstances of a committee meeting, which we are not  
2 cognizant of. If the matter comes to this body, it  
3 should have a mover and a seconder for the body to  
4 consider it.

5 MR. MEITES: Tom, we've had instances where  
6 people not on the committee have offered seconds.

7 MR. STRICKLAND: All right. Victor, if you  
8 are -- are you considered our parliamentarian?

9 MR. FORTUNO: I guess, by default.

10 MR. STRICKLAND: All right. By default, if  
11 you would take a look at Robert's --

12 MR. FORTUNO: Certainly.

13 MR. STRICKLAND: -- on the specific question  
14 we've just raised. But unless it's absolutely clear, I  
15 think we will follow the practice that we have followed  
16 as long as we've been on this board of having a motion  
17 and a second, notwithstanding how it comes to us.

18 MR. MEITES: Mr. Chair, can we take a short  
19 recess?

20 MR. STRICKLAND: Yes. Let's take a short  
21 recess. Let's try to hold it to -- very short.

22 (Whereupon, a brief recess was taken.)

1           MR. STRICKLAND: Okay. Ladies and gentlemen,  
2 let's reconvene the board meeting. And it's time for  
3 our consideration of item 12 on the agenda, which is a  
4 report on IOLTA. And we're going to hear from our good  
5 friend Jonathan Asher, and also Bev Groudine.

6           And Jonathan, can you hear us?

7           MR. ASHER: Yes, I can.

8           MR. STRICKLAND: And we can see you. Can you  
9 see us?

10          MR. ASHER: Yes. Thank you, Mr. Chairman and  
11 board members. I'm Jon Asher, and I am pleased to be  
12 with you this afternoon and to speak with you as chair  
13 of the American Bar Association's Commission on IOLTA,  
14 a position held not too many years ago by your  
15 distinguished member, Herb Garten.

16          I am joined this afternoon by Bev Groudine,  
17 staff counsel to the commission. You can't see her.  
18 You picked the wrong one of us, I think, to have a  
19 camera with. But she is on the phone and is available  
20 to you as well.

21          I will give you a brief overview of the  
22 commission and what we know and, more, what we don't

1 know at this point about the impact of the economic  
2 downturn on IOLTA programs, and to share with you some  
3 examples, a couple of specific states. I am then, of  
4 course, to be available to you with Bev to answer any  
5 questions that you may have.

6           The Commission on IOLTA was created by the  
7 American Bar Association more than 20 years ago, and  
8 consists of nine members who are appointed annually by  
9 the president of the ABA. Members can serve no more  
10 than three one-year terms.

11           The commission's responsibilities are to  
12 collect, maintain, analyze, disseminate information on  
13 IOLTA programs involving the use of IOLTA accounts for  
14 the support of law-related public service activities,  
15 and on occasion to make recommendations for association  
16 policy, on the creation and operation of IOLTA  
17 programs, to maintain liaisons with state and  
18 territorial IOLTA programs, and oversee the IOLTA  
19 clearinghouse, which provides information, material,  
20 and technical assistance on IOLTA program design and  
21 operation.

22           One of the more important functions of the

1 clearinghouse is to collect and analyze data annually  
2 from each of the U.S. IOLTA programs. This data  
3 includes voluntarily submitted information from each  
4 program regarding the IOLTA income and grants, as well  
5 as program operations and their relationships with  
6 banks and financial institutions.

7           The data is gathered each spring. It is then  
8 analyzed and organized by Bev and staff, reviewed by  
9 members of the commission, and then is distributed to  
10 all IOLTA programs in the fall of each year.

11           The data is gathered for the previous fiscal  
12 year from each program. So the commission will  
13 distribute its IOLTA database update forms to each  
14 program either in the next week or two, very shortly  
15 thereafter, to collect 2008 IOLTA information and data.

16           So the latest information that is available in  
17 the IOLTA database is from 2007, and it reflects the  
18 highest national income generated by IOLTA accounts and  
19 the highest level of grants distributed in one year  
20 since the inception of IOLTA programs in the very early  
21 1980s.

22           Specifically, IOLTA income in 2007, as

1 reported by the states, totaled \$371.2 million. Total  
2 grants distributed were right around \$240 million. And  
3 of that, \$212.3 million was a provided for the delivery  
4 of legal services to the poor.

5 We know that given the downturn in the economy  
6 that began in the latter half of last year and  
7 continues to this date, that there is no doubt that  
8 IOLTA income is currently in significant decline.  
9 While we don't have specific or accurate, concrete  
10 national data yet for 2008, and certainly not for 2009,  
11 we're confident, no doubt, that revenue is down.

12 This is true because, as you know, IOLTA  
13 income is dependent on two factors: the principal  
14 balance held in IOLTA accounts, and the interest rates  
15 paid on those accounts. Due to the downturn in the  
16 economy, we know anecdotally from IOLTA programs that  
17 principal balances are generally down.

18 This, though, is not uniform, but it's  
19 particularly true in states in which only attorneys are  
20 authorized to handle real estate closing because the  
21 funds then held by lawyers in these real estate  
22 transactions are often -- not always, but

1 often -- eligible for deposit in IOLTA accounts. And  
2 as the real estate market has declined, so has the  
3 amount of funds from these transactions held in IOLTA  
4 accounts.

5 But, for example, here in Colorado, the  
6 Colorado Lawyer Trust Account Foundation had a board  
7 meeting this morning. I checked with the executive  
8 director of that program, and in Colorado their real  
9 estate agents and title companies do virtually all real  
10 estate closings.

11 The amount on deposit held in Colorado IOLTA  
12 accounts has not declined significantly. But here, as  
13 throughout the country, interest rates have declined  
14 precipitously but not uniformly.

15 The federal funds target rate is at its lowest  
16 rate ever. Over the last 18 to 20 months, the federal  
17 funds target rate has dropped from 5-1/4 percent to  
18 0-1/4 percent. And I think we provided to you in your  
19 board materials a graph that stops before the latest  
20 declines that shows the ups and downs in federal fund  
21 rates over the past 25 years or so.

22 So while many programs, through negotiations

1 or the voluntary largesse of financial institutions,  
2 the accounts are earning more than the federal funds  
3 target rate, we know from IOLTA programs that those  
4 accounts are not earning nearly the higher rates that  
5 were available in 2007.

6           And there in fact have been many newspaper  
7 accounts, probably some which triggered your request  
8 that I make a report to you on behalf of the commission  
9 on the status of IOLTA throughout the country. But  
10 there is no doubt that there's a large decline in IOLTA  
11 income.

12           However, that does not mean that IOLTA grant  
13 levels will decline or decline in exactly the same  
14 precipitous way that IOLTA income either has or may  
15 decline in the -- currently in the near future.

16           Whether and to the extent that grants decline  
17 in any given state or jurisdiction depends on a number  
18 of given factors that vary greatly from state to state.  
19 IOLTA programs are state-specific operations created by  
20 state supreme court or legislative rule. And how they  
21 operate in a given jurisdiction will greatly impact the  
22 extent to which grants will decline and how much and

1 for how long.

2           These factors include: whether and the extent  
3 to which an IOLTA program has been able or is chosen to  
4 build reserve funds over the past many years when  
5 revenue was higher; whether grants are paid from a  
6 current year's income or from the past year's income,  
7 so that if an IOLTA program only distributes grants  
8 from last year's money, they will not have been subject  
9 to the declines to the extent that a program may if  
10 they made grants through current year funds.

11           And whether and when the program implemented  
12 mandatory IOLTA or IOLTA interest rate comparability  
13 rules or procedures will also impact how much and when  
14 any declines may take place.

15           For example, as I tried to point out in my  
16 information to you, a state that has significant  
17 review -- reserves, excuse me -- and pays its grants  
18 from the prior year's, that program may be able to  
19 weather the economic crisis this year without the need  
20 to greatly reduce grants at all. Or a state, for  
21 example, that just became mandatory in the last year or  
22 so may see increased revenue from additional accounts

1 even though the interest rates have no doubt fallen.

2           On the other hand, if a state has no or very  
3 modest reserves, pays grants not from last year but  
4 from this year's current income, implemented  
5 comparability several years ago so that it has seen  
6 substantial increases in income, but is now suffering  
7 from large declines, and funds from real estate  
8 transactions are held in IOLTA accounts -- when you put  
9 together all of those factors in one, the decline will  
10 be precipitous.

11           But given the number of variables that can  
12 impact IOLTA grants distributed each year, each state  
13 depending on the number, and the severity of those  
14 variables, they will be impacted differently.

15           The only way to know for sure is to look state  
16 by state. Bev and I have attempted to get some  
17 specific information just from a couple of states.  
18 They are -- I think they reflect a range of what is  
19 happening. I think they give you, I would say, the  
20 richness of -- the opposite of the richness of some of  
21 the problems.

22           But it's only a start on analyzing the impact

1 truly across the country. But let me share with you  
2 just three states to give you a sense of the variety,  
3 but nonetheless some of the severity of the impact.

4           The California IOLTA program, for example,  
5 pays its grants out of both current year and past year,  
6 six months of the revenue from last year put together  
7 with six months of current year revenue to make grants.  
8 California went to comparability in March of 2008,  
9 which means lawyers were required to hold their client  
10 trust accounts -- if they are held in an IOLTA account,  
11 they have to be held in an account that pays rates  
12 comparable to similarly-sized and similar in all other  
13 ways of those accounts.

14           The California program has some reserves, but  
15 given that they went to comparability relatively  
16 recently, they did not have the increased revenue that  
17 might have allowed them to build even greater revenues  
18 than some states that had moved to comparability or had  
19 significant resources for one reason or another may  
20 have been able to build.

21           But for California, their income for the  
22 calendar year 2007 was \$17.8 million. In 2008, that

1 increased to \$22.7 million. They are projecting for  
2 calendar year 2009 \$3 million. So from 22.7 in 2008,  
3 their interest income, they project, will drop to  
4 \$3 million.

5 Grants from July -- are made from July 1  
6 through June 30th in California. And grants for, then,  
7 '07 to '08, July 1, '07 to June 30, '08, they report to  
8 have been \$13.8 million. Grants for July 1, '08  
9 through June 30th of this year they expect to be  
10 \$14.6 million.

11 But grants for '09 and '10 will drop almost  
12 10 percent, to \$13.2 million. And that significant  
13 shortfall between their income of 3 million and the  
14 grants of 13 will be made from what reserves they do  
15 have.

16 The California program has worked with its  
17 grantees, asking the grantees whether it would help  
18 them weather the storm if they had more money in the  
19 first year or if they equalize grants even though  
20 they're lower over the next two years. Grantees were  
21 split.

22 But the California program, in response to the

1 requests of their grantees, sent out all of the  
2 increase this year, but said that programs themselves  
3 could spread that payment of the reserves over the two  
4 years. But they anticipate that in year 2010/2011,  
5 that grant cycle, that grants will be reduced another  
6 70 percent from the '09/2010 level because the reserves  
7 will have been paid.

8 Connecticut, just by way of example: Their  
9 grants are paid out of current year's income. But they  
10 may be supplemented with funds from what -- their  
11 reserve is called a grant stabilization fund. In  
12 Connecticut, only lawyers are authorized to handle real  
13 estate transactions. Comparability went into effect in  
14 2006. The program does have, as I said, a grant  
15 stabilization fund.

16 In 2007 in Connecticut, IOLTA income was  
17 reported at \$20 million. In 2008, their IOLTA income  
18 had fallen to \$8 million. And they are projected  
19 interest income in 2009 in a total amount of  
20 \$3.5 million. Their IOLTA grants all go to the  
21 provision of legal services to the poor, except for a  
22 small amount that goes to law school scholarships.

1           In 2007, they reported recently that their  
2 grants were \$13.5 million. In 2008, those grants went  
3 up to \$19.9 million, but that included \$11.8 million  
4 from their stabilization fund. They anticipate this  
5 year, 2009, that grants will drop to only \$8 million,  
6 but \$4-1/2 million of that will again come from their  
7 stabilization fund.

8           Some of those figures in 2007 and 2008 are a  
9 little strange, I understand, because they had  
10 different timing on some grants. So those levels are  
11 an approximation.

12           Let me compare, though, California and  
13 Connecticut quickly to Michigan. Michigan pays legal  
14 aid and operating grants out of the previous year's  
15 income, except for some small, one-time projects are  
16 paid from current-year income. Lawyers and title  
17 agents handle real estate matters, very few of them,  
18 according to the program, by lawyers.

19           Comparability went into effect in Michigan in  
20 2005. And the program does have a reserve fund of  
21 about \$3.5 million. Their grants -- their income runs  
22 from October 1 through September 30th.

1           Rounded, and these are not quite exact but  
2 pretty close, their income in 2007 was \$5 million.  
3 Their income in 2008 is \$4 million. Their projected  
4 revenue in 2009, income income, will be -- excuse me,  
5 interest income -- will be \$1.2 million. So in the two  
6 years, it has dropped from \$5 million to \$1.2 million.

7           Their grants to legal services programs in  
8 2007 were \$1.5 million. Other grants were about 457-,  
9 \$458,000. In 2008, their legal services grants were  
10 \$1.8 million, and their other grants were also  
11 \$1.8 million. In 2009, their grants will continue to  
12 be \$1.8 million to legal services, but their other  
13 grants are projected to drop from that \$1.8 million to  
14 \$110,000.

15           So the program has not gone into reserves yet  
16 to pay for 2009 grants, but anticipates that it will do  
17 so in 2010/2011 to maintain grants at current levels of  
18 \$1.8 million for legal services, and at a level of  
19 \$85,000 for other, more discretionary grants.

20           Their reserve -- their program, where the  
21 fiscal policy is to be able to sustain grants for two  
22 years after annual income declines by capturing and

1 front-loading allocations to the reserve from income in  
2 very high periods when interest income is very good,  
3 such as from 2006 to 2008.

4 Let me start to wind up by saying that of  
5 particular interest, possibly, to you: LSC grantees do  
6 not receive any or a very little funding through IOLTA  
7 grants in some states. And so in those states, they  
8 will not suffer a direct economic impact from any of  
9 the declines in the IOLTA grants.

10 Instead, other providers of legal services in  
11 states that receive a much greater portion of their  
12 funding from IOLTA but little or no LSC or other  
13 funding, will bear the disproportionate brunt of the  
14 decline. So, too, in those states: Any increase in  
15 LSC funding will not help those non-LSC grantees that  
16 are bearing the brunt of the decline in IOLTA income.

17 A number of states, starting in 1996 or  
18 shortly thereafter, carefully surgically separated  
19 their LSC grantee from the program that receives IOLTA,  
20 sometimes other less restricted state funding. And LSC  
21 money was reserved for either a separate program,  
22 heavily funded their intake or hotline services.

1           Some of those states, I think, would include  
2 Connecticut, Massachusetts, Vermont, New Hampshire,  
3 Washington state, Oregon where you are now, where  
4 separate programs were formed. The non-LSC funded  
5 program heavily reliant on IOLTA funding are looking  
6 disproportionate, where their hit is not at all offset  
7 by the recent and hopefully future increases in LSC  
8 funding.

9           Yet even in the states in which the LSC  
10 grantees receive little or no IOLTA funding, or their  
11 IOLTA funding is fairly stable, nonetheless these  
12 programs are affected because of the increase in demand  
13 their services, and the likely decline in other funding  
14 sources -- not uniformly, but in some places  
15 foundations, private giving, are off. United Way and  
16 other charitable support for grantees is down.

17           So I suppose, in conclusion, I wish I could  
18 tell you an across-the-board percentage reduction or  
19 exactly what the dollar loss may be. But IOLTA is a  
20 state-specific program.

21           We gather data only annually and in the  
22 spring, so we are behind in knowing the extent of the

1 decline for 2008, and won't for some time for 2009 and  
2 beyond. To determine the true effect would require a  
3 state-by-state analysis, and even then that would be  
4 based on current income and projections for the rest of  
5 the year.

6           The commission is encouraging its IOLTA  
7 programs to work and communicate with their grantees  
8 thoughtfully during this difficult time. We are trying  
9 to learn lessons from the decline so that going  
10 forward, we can reduce some of the adverse impact of  
11 the instability of IOLTA grant funding when the next  
12 inevitable upswing and downturns in the economy and  
13 interest rate occur.

14           I guess my summary is: Some states have been  
15 hurt very badly already. Other states will be hurt  
16 later this year and into 2010. If the recession lasts  
17 long enough, or even if it were to end but banks were  
18 slow to increase interest rates, nobody will escape,  
19 ultimately, the impact of the economic downturn; but it  
20 will impact different states differently, and even LSC  
21 and non-LSC and other grantees within those states  
22 somewhat differently.

1           So Bev, before I ask for questions, do you  
2 have anything you want to correct or amplify on?

3           MS. GROUDINE: No. I think that was a very  
4 comprehensive report, Jon. So I'll be available to  
5 assist you with answering any questions that might  
6 arise.

7           MR. STRICKLAND: Okay, Jon. Thank you very  
8 much. We're going to take a poll here and see if any  
9 board members have questions for you or Bev.

10           Any questions?

11           (No response.)

12           MR. STRICKLAND: Hearing none -- Herb Garten  
13 has a question.

14           MR. GARTEN: Do you have any suggestions, Jon  
15 or Bev, as to how Legal Services Corporation could  
16 assist in this situation?

17           MR. ASHER: Well, it's a little -- I'm trying  
18 to speak as chair of the ABA commission, not as  
19 director of an LSC grantee, because of course, in that  
20 one respect, increased LSC funding for the system  
21 itself is absolutely, if not a godsend, Congress-sent  
22 help.

1           For years, IOLTA programs, state funding,  
2 other federal funding, was viewed as a way of  
3 diversifying funding to a state to offset the  
4 instability of LSC funding. This past year in some but  
5 not all states, the LSC increases helped offset some of  
6 the IOLTA and decreases in state and other funding, but  
7 that is far from uniform.

8           There are a number of states in which the  
9 legislature is making noble efforts, despite the  
10 economy, to help fill in for lost IOLTA funding. There  
11 are other states where, given the economics, don't make  
12 that possible, or the politics don't.

13           To me, and important thing that LSC can do is  
14 continue as you are to regressively defend and seek  
15 federal funding, and to recognize the realities that  
16 are not only impacting your grantees in some states,  
17 but also what is happening to the broader delivery  
18 system within a number of states, and to be aware of  
19 and work with your grantees in assessing what that  
20 means in terms of client needs.

21           That's probably more than you wanted to hear,  
22 Herb.

1           MR. STRICKLAND: All right. Let's see. Other  
2 board members have questions for Jon or Bev?

3           (No response.)

4           MR. STRICKLAND: Apparently there are no other  
5 questions. Jon and Bev, we thank you very much for  
6 your interesting and informative presentation, and we  
7 hope we'll hear further from you as more details  
8 develop that might be of interest to us.

9           MS. BeVIER: Thank you.

10          MS. GROUDINE: You're welcome.

11          MR. STRICKLAND: Thanks again. I think we'll  
12 now break the connection.

13           Okay. We've got a couple of other  
14 items -- well, we're now at the point for public  
15 comment. Is there any public comment?

16          (No response.)

17          MR. STRICKLAND: Hearing none, we'll need to  
18 consider and act on whether to authorize an executive  
19 session of the board to address items listed under  
20 Closed Session.

21           Is there a motion?

22          MR. MEITES: My colleague has just counted

1 noses, and we may be missing a few noses. Do we have  
2 enough for a quorum?

3 MR. STRICKLAND: We've got five.

4 MS. CHILES: I'm on the phone.

5 MR. MEITES: There we go.

6 MS. SINGLETON: Oh, good. Yay. Thank you.

7 MR. STRICKLAND: Thank you.

8 MR. GARTEN: Jonann, you always come to our  
9 rescue.

10 MR. STRICKLAND: All right. We need to take a  
11 vote, then. Was there a motion to go into closed  
12 session?

13 MS. SINGLETON: Is the only thing we're going  
14 to discuss litigation?

15 MR. STRICKLAND: Yes.

16 M O T I O N

17 MS. SINGLETON: I move we go into closed  
18 session.

19 MR. MEITES: Second.

20 MR. STRICKLAND: All right. All those in  
21 favor please say aye.

22 (A chorus of ayes.)

1 MR. STRICKLAND: Opposed, nay.

2 (No response.)

3 MR. STRICKLAND: The ayes have it, and we are  
4 now in closed session. We would ask those who are not  
5 participating in the closed session to excuse  
6 themselves.

7 (Whereupon, at 3:55 p.m., the meeting of the  
8 board was adjourned, to reconvene in closed session.)

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