

LEGAL SERVICES CORPORATION  
BOARD OF DIRECTORS

MEETING OF THE  
PROVISION FOR THE DELIVERY  
OF LEGAL SERVICES COMMITTEE

Friday, October 30, 2009

2:09 p.m.

Rutgers School of Law - Camden  
217 North Fifth Street  
Camden, New Jersey

COMMITTEE MEMBERS PRESENT:

- Laurie Mikva, Acting Chairman
- Thomas A. Fuentes
- Bernice Phillips-Jackson
- Frank B. Strickland, ex officio

OTHER BOARD MEMBERS PRESENT:

(None)

## 1 STAFF AND PUBLIC PRESENT:

2 Helaine M. Barnett, President

Karen M. Dozier, Executive Assistant to the President

3 Karen J. Sarjeant, Vice Pres. for Programs and Compliance

4 Mattie Cohan, Senior Assistant General Counsel, Office  
of Legal Affairs5 David Maddox, Assistant Inspector General for Management  
and Evaluation, Office of the Inspector General

6 Thomas Coogan, Assistant Inspector General for

Investigations, Office of the Inspector General

7 John Constance, Director, Government Relations and  
Public Affairs Office8 Sean Driscoll, Special Assistant, Government Relations  
and Public Affairs Office

Julie A. Reiskin, LSC Board Nominee

9 John G. Levi, LSC Board Nominee (by telephone)

De Miller, President, Legal Services of New Jersey

10 Felipe Chavana, Executive Director, Essex-Newark Legal  
Services Project11 John Fitzgerald, Executive Director, Northeast New  
Jersey Legal Services12 Douglas Gershuny, Executive Director, South Jersey  
Legal Services13 Paul Mullin, Executive Director, Central Jersey Legal  
Services14 William Rempel, Executive Director, Ocean-Monmouth  
Legal Services15 Diane Smith, Executive Director, Legal Services of  
Northwest Jersey16 Anne Milne, Executive Director, Utah Legal Services  
(by telephone)17 Jack Jay Wind, Board of Directors Member, Northeast New  
Jersey Legal Services18 Robert E. Stein, Standing Committee on Legal Aid &  
Indigent Defendants (SCLAID), American Bar  
Association19 Julie Strandlie, Standing Committee on Legal Aid &  
Indigent Defendants (SCLAID), American Bar  
Association21 Don Saunders, National Legal Aid and Defenders  
Association (NLADA)

22 Davia S. Yablonsky, Private Attorney

1	.	Approval of agenda	52
2	.	Approval of the committee's meeting minutes of July 24, 2009	52
3	.	Presentation by the New Jersey LSC Program Executive Directors on coordination of work in the face of increased client demand and decreased funding, with an overview by De Miller, President, Legal Services of New Jersey	
9	.	Staff update on activities implementing the LSC Private Attorney Involvement Action Plan -- Help Close the Justice Gap: Unleash the Power of Pro Bono	53
12	.	Staff update on Native American Delivery and Funding	62
13	.	Staff report on LSC training initiatives	63
14	.	Public comment	70
15	.	Consider and act on other business	70
16	.	Consider and act on adjournment of meeting	73
17		Motions: 52, 52, 73	

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

(2:09 p.m.)

CHAIRMAN MIKVA: I'm going to call this meeting to order. People on the telephone, could you please identify yourself?

(No response.)

CHAIRMAN MIKVA: Is there anyone on the telephone?

OPERATOR: Ms. Barnett, you do have Joella Pablica, John Eidleman, and Janice Giorretto.

CHAIRMAN MIKVA: Thank you. The first item is approval of the agenda. Are there any additions or corrections to the agenda?

(No response.)

CHAIRMAN MIKVA: Motion to approve?

MS. PHILLIPS-JACKSON: So move.

CHAIRMAN MIKVA: Second?

MR. FUENTES: Madam Chairman, I believe that --

OPERATOR: Excuse me. Ms. Cohan has joined.

MR. FUENTES: Madam Chairman, before we take up what is here as an agenda, I think we should

1       acknowledge that we are not a committee constituted  
2       today because of the absence of members; that our  
3       chairman, David Hall, is not with us; our acting  
4       chairman, Sarah Singleton, is not with us. That would  
5       leave us with six members, and we are three, not  
6       constituting a quorum.

7                So I would say that our first order of  
8       business should be to declare for the record that we  
9       are functioning as a committee of the whole and not as  
10      the committee.

11               CHAIRMAN MIKVA: I believe you're right,  
12      although we sent a messenger to Mr. Fortuno to see if  
13      Frank can count towards a quorum. And we don't have an  
14      answer to that yet.

15               MR. FUENTES: Okay. So why don't we hold off  
16      on taking actions, move into presentations, and then  
17      once we decide whether we have a quorum or not, move  
18      forward with adopting things.

19               CHAIRMAN MIKVA: Thank you. That's a good  
20      idea.

21               Mr. Miller, welcome. Will you introduce your  
22      panel here?

1           MR. MILLER: Thank you, Madam Chair. My name  
2           is De Miller, head of Legal Services of New Jersey.  
3           And as you know from the morning, starting at my far  
4           left we have executive directors from the six regional  
5           LSC-funded programs in New Jersey: Diane Smith, Bill  
6           Rempel, Felipe Chavana, Jack Fitzgerald, Doug Gershuny,  
7           and Paul Mullin.

8           And our purpose this afternoon is to go over  
9           none of the ground we went over this morning, but  
10          rather to focus on one discrete issue that was merely  
11          alluded to this morning, and that is the degree of  
12          unmet need and, more significantly, the situation with  
13          funding in New Jersey juxtaposed against --

14          OPERATOR: Excuse me. Mr. Levi has joined.

15          MR. MILLER: -- against the context of that  
16          need.

17          And to facilitate this presentation, I gave to  
18          each board member before the meeting started who's  
19          present here a copy of the study that has been  
20          referenced a number of times in the conversation prior  
21          to this meeting. And that is the booklet titled,  
22          "Unequal Access to Justice: Many Legal Needs, Too

1 Little Legal Assistance," which was issued just last  
2 month by the Poverty Research Institute that we run.

3 It was a legal needs study of the low income  
4 population in New Jersey. It was modeled very much on  
5 the base of the ABA study that was done in '93/'94. It  
6 used, actually, the same for sampling design, and in  
7 general overall design used the same consultants that  
8 were used to that study, an organization in affiliation  
9 with Temple University. We used an independent survey  
10 firm based in New York City which has a very  
11 well-established national reputation.

12 And I'm not going to -- I just want to  
13 highlight a couple things that are unique about -- it's  
14 by far the most extensive state-based study done in the  
15 country. We did a total of 2800 telephone interviews.  
16 A little over 400 of those were of people who had  
17 incomes of more than 200 percent of the federal poverty  
18 line, very much the same as the kind of comparison that  
19 was done by the ABA in its '94 study that I had the  
20 privilege as serving as an advisor on.

21 And just a couple of major points about it.  
22 The results are very congruent with the vast majority

1 of state-based legal needs studies, as detailed in the  
2 Corporation's own Justice Gap reports of 2005 and 2009.  
3 In general, approximately one out of every three low  
4 income people will have at least one legal problem in  
5 New Jersey each year.

6 One way our study differs from others is most  
7 of the others look at households. We actually only  
8 looked at individuals over the age of 18 because we  
9 were worried about the distortion that can follow when  
10 one person talks about the legal problems of another  
11 person. It's a significant area for potential error.

12 And if you look at, in particular, in the  
13 conclusion on page 67, beginning of part 3 --

14 OPERATOR: Excuse me. Mr. Driscoll has  
15 joined.

16 MR. MILLER: -- we were able, by virtue of the  
17 fact we were studying individual legal needs and  
18 because we had a hugely statistically significant  
19 interview population, 2400 people, we were able to say  
20 that going beyond the one of three have legal problems  
21 general statistic and only one of five will have the  
22 assistance of a lawyer, very, very congruent with the



1 national figures -- we were able to go beyond that and  
2 say that of the individuals who come within this study,  
3 461,500 New Jerseyans would, by virtue of these  
4 figures, have at least one legal problem this year.

5 And more specifically, only 100,000 of them  
6 will have some form of legal assistance from any  
7 source, not just from us -- from private lawyers, other  
8 nonprofit providers, governmental agencies, anybody.  
9 So it's truly comprehensive in establishing the  
10 contours of the gap.

11 And the other statistic that I would how long  
12 for you right at the bottom of the page, given that of  
13 the people who have problems, about half will have more  
14 than one problem, at least two, we can tell you that in  
15 any given year, say, this year, 736,000 will have legal  
16 needs that do not have the assistance of a lawyer.

17 So this is the study that the Chief Justice in  
18 his lunchtime remarks referred to. It's very  
19 disturbing in terms of the context and the work that is  
20 left to do. Having been a member of the advisory panel  
21 to the Corporation's Justice Gap study, I know the  
22 debates that went on. I was able to be on the phone

1 during those conversations of the board.

2 I know the debates went on about how to  
3 address that: Is that a money response? Is it a pro  
4 bono response? Is it a court practice reform response  
5 to make them more hospitable to pro se unrepresented  
6 litigants. And our answer unquestionably, very much  
7 like the Corporation's, is it's actually all of the  
8 above. We can't do it with pro bono alone. We  
9 certainly can't do it with just reforming court  
10 procedures. There's clearly a money need there, a  
11 resource need, that is huge.

12 So with that as context, our purpose this  
13 afternoon was just to give you one window, open the  
14 window on one state, New Jersey, in terms of our  
15 current funding situation. And this I did go over very  
16 briefly this morning, and I will go over it briefly one  
17 more time.

18 In 2007, which was our so-called high water  
19 mark, the highest funding legal services programs in  
20 New Jersey had ever received, we received total funding  
21 of just over \$73 million. Of that, a little over  
22 40 million was from the interest on lawyers' trust

1 accounts, or IOLTA fund of the state of New Jersey.

2 That annualized 40 million by the end of '08  
3 was at an annualized level of 3 million. That's a  
4 pretty dramatic drop. It's now back at an  
5 annualized -- if "back" is the word; it's probably a  
6 misnomer -- back at the annualized level of about 8.

7 MR. FUENTES: Eight?

8 MR. MILLER: Eight million. Yes.

9 So the shortfall, the raw shortfall right now,  
10 is 32 million. The state of New Jersey, recognizing  
11 the situation even in the tough budget times, with the  
12 leadership of the governor of the state, did come  
13 through with a very substantial augmentation of our  
14 funding.

15 And our state funding in the 12 months that  
16 closed on June 30 of this year went from 16.4 to 29.6  
17 million. So we got an additional 13.2 million from the  
18 state of New Jersey, which we currently have. So that  
19 gap has been closed from a total of 32 million by that  
20 13.2.

21 So that's where we are right now. We're a  
22 little under 20 million in terms of a gap. We've

1 lost -- as I indicated in the statements this morning,  
2 we've lost roughly 75 staff since 2007, with many more  
3 on the way. We thought it might be helpful if  
4 each -- very briefly, if each -- not the longer  
5 presentations of the morning -- if each of the  
6 directors told you just what attrition they've faced  
7 already, had to implement in their program, and what  
8 further cuts or attrition they envision in the  
9 immediately foreseeable future, meaning the rest of  
10 2009 and 2010.

11 And so at that point, if Diane's ready, we'll  
12 start with Diane.

13 MR. FUENTES: Excuse me. May I interject a  
14 question before you move on to another speaker?

15 MR. MILLER: Sure.

16 MR. FUENTES: Because uniquely, perhaps, you  
17 are in a position to answer this question like nobody  
18 else that I know.

19 You were engaged in the methodology of this,  
20 and you followed closely the preparation of the Justice  
21 Gap report. Could you comment for us the similarities  
22 and differences of methodology used for these two

1 documents?

2 MR. MILLER: This is -- certainly. This  
3 relates to -- I forget which part of the Justice Gap  
4 report it was. But this relates to the portion of that  
5 report that is called "State Studies." And we've based  
6 on kind of a meta-analysis of those studies to see what  
7 kinds of common themes could be drawn from them.

8 This is just one of those studies. The one  
9 thing I would emphasize that I mentioned earlier is  
10 it's the biggest. It's one of the most recent, but  
11 it's also the biggest. It's the only one at a state  
12 level that's looked at the incomes, the legal needs of  
13 the income group above 200 percent of poverty.

14 And we differ from those other state studies  
15 that were commented on in Justice Gap, one in the fact  
16 we talked -- we looked at individuals, not at  
17 households, which we felt was more precise.

18 There's also a good bit more analysis here of  
19 lawyer-seeking behavior, lawyer-aversive behavior, when  
20 people seek attorneys, when they don't seek attorneys,  
21 a little bit of examination, as much as it's possible  
22 in a quantitative study, as to why they don't seek

1 attorneys.

2 One of the things we do at the end of this is  
3 say, sadly, if you're in the professional social  
4 science research business, there's always another study  
5 or 15 to do. We think there's probably got to be a  
6 qualitative study on the heels of this to really get  
7 into more of the behavior of folk who don't seek  
8 lawyers, but really understand the things that make  
9 them afraid of or intimidated by or not encouraged by  
10 the judicial systems in their states.

11 So I think -- I feel it's richer, but that's  
12 the part of the Justice Gap study that this relates to.  
13 There are other methodologies, entirely different  
14 methodologies, in the Justice Gap study as well.

15 MR. FUENTES: Thank you.

16 CHAIRMAN MIKVA: Mr. Miller, I have one  
17 question, too. So from what you've been telling us,  
18 all other sources of funding besides state and IOLTA  
19 have remained roughly the same?

20 MR. MILLER: Roughly the same. The  
21 Corporation has gone up a little bit. It certainly  
22 feels like it went up a lot. I'm sure, to you all at

1 the national level, it translated to little old New  
2 Jersey, little old dense, overpopulated New Jersey, has  
3 about 700,000 in toto. So it didn't make a huge dent  
4 on the gap I was talking about.

5 But everything else has been relatively  
6 constant. There are disturbing signs in the wind. It  
7 appears that the U.S. Department of Justice, we gather,  
8 may be thinking or giving grants in the domestic  
9 violence area that are less likely to go to legal  
10 services programs and more likely to go to other kinds  
11 of providers.

12 So that may be an impact that will echo  
13 through the legal assistance community nationally.  
14 You'll see it may cause some additional stress for your  
15 grantees, like us.

16 CHAIRMAN MIKVA: Thank you.

17 MS. SMITH: I'd like to add a little bit to  
18 the revenue. While the major revenue sources, other  
19 than IOLTA, have remained relatively constant, some  
20 increases from LSC, the local funding sources are also  
21 very stressed. We have 40 funding streams and amazing  
22 finance --

1 MR. MILLER: In the northwest.

2 MS. SMITH: Right. In Legal Services of  
3 Northwest Jersey, our little program, we have 40  
4 funding streams. We have funding from five United  
5 Ways. Not surprisingly, United Way has been hit very  
6 hard. Morris County United Way cut everybody by  
7 30 percent, for instance.

8 The county governments are also very stressed  
9 and are reducing around. Mental health funding, which  
10 Paul mentioned this morning and we also have mental  
11 health funding, also is getting reduced each year. And  
12 so they just all kind of add to it.

13 On the other side, there are some new funding  
14 sources -- the homelessness prevention. The county bar  
15 associations in particular have been very responsive.  
16 But so if that means that this year I got 5,000 from  
17 the county bar instead of 3,000, well, that's a big  
18 increase, but it doesn't fill the pot. So although  
19 those are good signs, they don't come near to solving  
20 the problem.

21 So what are we doing about it? The first thing  
22 we did was what we call the budget scrubbing. I don't



1 remember who coined that term. We looked at every  
2 single line item and asked if there was a way that we  
3 could do it more efficiently or cheaper. But when you  
4 reduce non-personnel expenses in our business, it  
5 really doesn't do much. It's all in personnel.

6 We're down several attorneys per some lost  
7 colleagues, and we didn't replace them. We replaced  
8 two, but not the other two. We're projecting -- our  
9 layoffs now have been moved to April. But we're  
10 projecting additional layoffs in April. Part of the  
11 reason we're able to move that forward was because of  
12 the HPRT funding. And also we offered reduced work  
13 schedules to all staff, and two attorneys took us up on  
14 it. So they'll be working 80 percent. But that means  
15 less services because they're not there to provide the  
16 services.

17 Our special unit attorneys, which were funded  
18 through September 30th, provide assistance in areas  
19 that we've traditionally not been able to provide  
20 assistance to. We're carrying them through the end of  
21 the year, but we don't know what's going to happen  
22 after that, whether they could be assigned to other

1 work or they won't be able to. And we're also  
2 projecting a furlough week, either Thanksgiving week of  
3 2010 -- so you can have the conference -- or the last  
4 week in December.

5 In addition to that, a few years ago we  
6 changed to a high deductible health insurance with an  
7 HRA, which has saved us some funds. But we just got  
8 our renewal notice, and it's a 33 percent increase.  
9 I'm not quite sure what we're going to do about that.  
10 And we're predicting no contributions to the retirement  
11 plans of any of our attorneys -- or any of our staff in  
12 2010.

13 That's basically the kind of place where we  
14 are. And what we're trying to do is keep our eye on  
15 the vision, making sure that we don't chase money, that  
16 funding opportunities are carefully screened and to  
17 make sure that they are for our mission. We are  
18 seeking any of those kinds of funding opportunities  
19 that relate to our mission.

20 MR. MILLER: Mr. Rempel?

21 MR. REMPEL: Yes. Bill Rempel. Good  
22 afternoon. Thank you. I echo what De and also Diane

1     said about the situation.  And like Diane said, we've  
2     also gone through our financials line by line and tried  
3     to make as many efficiency cuts as we could.  But  
4     again, it's really personnel, and unfortunately, that's  
5     what we need more of.  We need more personnel.

6             And so far, we've lost three staff.  We've  
7     lost an education lawyer and a health care lawyer,  
8     which were providing quite a bit of service for us.  We  
9     can't replace those people.

10            We've also lost -- in addition to the IOLTA,  
11     we've lost the majority of our local grants.  We don't  
12     have as many local grants as Diane mentioned.  But for  
13     instance, our Title 3 in Ocean County has reduced to  
14     zero next year, and our Title 3 in Monmouth County was  
15     cut completely in half.

16            We are contemplating four attorneys next year,  
17     two staff.  We're also going -- obviously, we've got to  
18     talk about reducing our fringe benefits, and we're also  
19     going to think about furlough days, not necessarily in  
20     a week, but maybe one day a week for a certain period  
21     of time.

22            And we're going to try to keep as many staff

1 as we can. But again, the goal is to do as much as we  
2 can with as many as we have for as many as we can. But  
3 our situation is very bleak. Thank you.

4 MR. FUENTES: Laurie, a question. I think in  
5 the earlier session when you spoke, did you mention  
6 that you have some hirings of more senior staff rather  
7 than young, fresh, out of --

8 MR. REMPEL: We have in the last few years.  
9 Yes, we have. But I think that's going to -- because  
10 of the fact that we've had a lot of older people doing  
11 our pro bono work that were ready to retire, that have  
12 been working with us for many years, were able to come  
13 on board. So we have been very lucky that way, yes.

14 MR. FUENTES: Can you give us a picture of  
15 salaries in that range of work? I mean, we hear about  
16 salaries of new start, fresh graduates in programs  
17 across the country. Those kind of figures we hear all  
18 the time. But what do you have to pay for --

19 MR. REMPEL: I can speak for our program, not  
20 for anyone else's. But our program, I can say exactly  
21 that a new attorney right out of law school starts at  
22 about \$49,000. We do have a few bumps that someone

1 might get if they speak a foreign language or if you  
2 have particular expertise in poverty law.

3 I can speak specifically about a lawyer we  
4 just brought in, 35 years, and she starts at 71,000.  
5 So that's pretty much the breadth.

6 MR. FUENTES: That's very helpful to me.  
7 Thank you.

8 MR. REMPEL: Thank you.

9 MR. CHAVANA: At Essex-Newark Legal Services,  
10 we are staring at next July as the end of the cliff.  
11 This is in part because we've been thinking about the  
12 rainy day and saved a little bit. But also, we got  
13 substantial Cypress money this past year, and that's  
14 making the entire difference.

15 But we're facing -- we would be facing layoffs  
16 come July. And layoffs are incredibly destructive, not  
17 only in terms of the diminution in case handlers and  
18 therefore services that a layoff represents, but also  
19 how layoffs affect overall morale in the program.

20 And those of us who have been around and lived  
21 through past layoff situations know that it takes  
22 programs a great deal -- not only do you lose all sorts

1 of expertise and everything else, but in essence, it  
2 takes -- the program can spiral in a negative way in  
3 terms of morale and take a great deal of time to  
4 recover.

5 So we're looking and are going to be looking  
6 at everything we can do to avoid layoffs. We have  
7 pared down, obviously, literally no non-personnel  
8 expenditures -- no capital purchases, none of  
9 that -- and are aggressively looking at things like  
10 pension contribution and other things. Maybe no  
11 parking, no security -- I mean, we're going to do  
12 everything that we can to buy time.

13 It's only a question of time because  
14 ultimately, unless the shortfall, the huge shortfall  
15 that De alluded to is closed, all we can do by the  
16 measures that I have laid out is buy additional time.

17 So I'm hoping that somehow we can buy our way  
18 through the end of October/November of next year, and  
19 maybe possibly to the end of 2010, and hope that  
20 something makes a difference for us and the rest of the  
21 programs. Thank you.

22 MR. MILLER: One point of clarification since

1 you spoke this morning of places in your city where  
2 police don't go. Are you at one of those places as you  
3 eliminate security?

4 (Laughter.)

5 MR. CHAVANA: Actually, I used to be the  
6 security in my office. But that's when I was 20 years  
7 younger and had a lot more muscle. But I don't know  
8 now.

9 MR. FITZGERALD: This is Jack Fitzgerald from  
10 Northeast New Jersey Legal Services, for those people  
11 on the telephone. Our situation is pretty much the  
12 same as all the other programs in New Jersey. Our  
13 budget has been \$12 million a year for the last several  
14 years.

15 With the IOLTA shortfall, even with the  
16 additional funds from the state, we're looking at a  
17 budget deficit of \$1.6 million this year. We recently,  
18 within the last month or so, laid off six support  
19 staff, two managers, two attorneys.

20 One of the things I worry about the most is  
21 also with IOLTA funding through Legal Services of New  
22 Jersey, we had a number of special projects that were

1 funded. One of them is a full-time education law  
2 specialist, a full-time employment law specialist, a  
3 full-time health law specialist, social worker,  
4 translator.

5 We have some special projects of our own that  
6 we fund out of general funding. For immigration law,  
7 we have a full-time immigration law specialist; and two  
8 full-time foreclosure specialists, one of them funded  
9 with IOLTA money through Ellis & Shea. That money just  
10 ended on September 30th. We're keeping those people  
11 on. We think that's extremely important work to do.  
12 The problem is, it's just the positions are just not  
13 supported any more.

14 And the additional problem is, and like Felipe  
15 said, it's really a waiting game because the last thing  
16 we want to do is lay off these people with this  
17 specialized expertise, only to have IOLTA money kick in  
18 at some point in the future, hopefully the near future,  
19 and then try and restart those programs.

20 I guess the advantage with what's happened  
21 with IOLTA is we saw this coming. It happened, not  
22 gradually by any means, but it happened over a period



1 of time. As a result, I think, like some programs, we  
2 are able to carry over as of July 1st as much as we're  
3 permitted to by our grants. That will see us through a  
4 portion of this year. But unless something happens  
5 very dramatically very quickly, we're going to be  
6 laying off more people, too.

7 The problem, if it were a normal grant and you  
8 lose the grant, you know what's happening. You can  
9 predict what your budget is going to be like for the  
10 next year or two. This, we didn't know how fast it was  
11 going to go away, and we have no idea how fast it's  
12 going to come back. We all think it will come back; at  
13 what point in the future, we're just not sure.

14 Even with that, and even with the layoffs, we  
15 have two unions, one for the attorneys, one for the  
16 support staff. We're going to both of them, and over  
17 the next several months we'll have some extremely  
18 difficult conversations about reducing pension  
19 benefits, reducing health insurance coverage, possibly  
20 eliminating some of the other types of insurance  
21 coverage that people have.

22 And I would just echo what Felipe had to say.

1 It's extremely stressful on everybody, not just  
2 managers trying to manage this situation, but the  
3 entire staff who never had to think about issues like  
4 this, that could spend their time concentrating on  
5 providing services. Now, just from an organizational  
6 point of view, things like this are an everyday  
7 distraction for staff and managers.

8 To me it comes at a particularly bad time  
9 simply because with the addition of IOLTA money over  
10 the last several years, frankly, we thought we were  
11 starting to address some of the issues that are raised  
12 in the legal needs studies that we've done in the past,  
13 and felt like we were making some progress.

14 Now what's happened is we're not only not able  
15 to keep on that road of trying to address some of these  
16 problems, but we're taking several steps back. That's  
17 extremely frustrating to some of us who have been in  
18 legal services our whole lives; when we finally get to  
19 the point that we think we're making progress in  
20 attacking problems that we were never able to address  
21 before, and now have to take these steps back.

22 We think the IOLTA funding situation will

1 resolve itself. It's just a question of when. Without  
2 some action, without some increase in IOLTA activities  
3 soon, we're going to have to make some additional cuts  
4 that will be even more painful.

5 CHAIRMAN MIKVA: Thank you.

6 MR. MILLER: You're coming with the good news?

7 MR. GERSHUNY: No. Doug Gershuny from South  
8 Jersey Legal Services. I would echo mostly what my  
9 colleagues here have said. We have seen significant  
10 drops in funding, not only from the IOLTA crash but  
11 also from local sources.

12 We also receive a number of United Way grants  
13 that have been hit hard. One in particular has been  
14 hit very hard because the main source of their business  
15 contributions went out of business. It was a rather  
16 large industry.

17 So our funding has dropped significantly since  
18 2007. And it would have been harder had it not be for  
19 the significant award the programs received this year  
20 as a result of a consumer case.

21 In 2007, our general IOLTA allocation was  
22 about 35 percent of our total budget. This year, it's

1 3 percent. So that kind of shows you the change and  
2 how it impacts locally.

3 When we saw IOLTA dropping, we did plan for  
4 the future to the extent that you could. I think the  
5 original projection models were a 5 percent cut,  
6 10 percent cut. I mean, it was -- you're thinking in  
7 normal ranges.

8 But we did implement hiring freezes and the  
9 like. And as a result of attrition and other -- we  
10 lost 23 staff since the end of 2007, half of whom  
11 are -- we have 11 attorneys in that mix. We've had to  
12 redeploy resources, obviously, to be able to address  
13 client need.

14 To make it further complicated is that while  
15 funding is dropping significantly, the demand is  
16 raising. It's not as if there's a level demand. We're  
17 in very hard economic times, and while some of the  
18 papers might be declaring the recession over, we're not  
19 seeing that at our intake unit.

20 A lot of people are being hit very hard. The  
21 foreclosure cases, a lot of them haven't even gotten  
22 through the judicial process yet. People are calling

1       there. And we've had to redeploy staff to be able to  
2       meet the demand as best we could.

3               One very difficult choice we had to make was  
4       to sort of redeploy some members of a special unit we  
5       had to deal with -- it was called our SSI, health,  
6       exchange, law project, or sort of affectionately known  
7       as the SHERPAs. We came up with a -- but it was an  
8       interesting team, a team approach to dealing with  
9       disability that included attorneys, and it included  
10      social workers. It was a very holistic approach to  
11      dealing with a very difficult situation for clients  
12      that we had to redeploy those people to be able to  
13      meet.

14             And obviously, we would not be able to meet  
15      the need as much as we could, you know, as best we  
16      could. We're trying, but we can't. I mean, we're  
17      losing staff. We are also looking at this proverbial  
18      cliff next year if funding doesn't go up higher than it  
19      needs to be.

20             We will have to have layoffs and cut staff.  
21      We've had many difficult conversations with our three  
22      unions in our program already. And while, you know, we

1 have made some progress, there's a lot of variables out  
2 there. We don't know what's going to happen  
3 funding-wise next year. We don't know where we're  
4 going to be. But if trend continues, we're going to  
5 lose more stuff, and that means less clients are going  
6 to be served.

7 We looked through the budget and scrubbed it,  
8 as I think the term was. And we've cut non-personnel  
9 expenses by a quarter of a million dollars over the  
10 last year and a half. There's nothing left to cut  
11 there. What's left is personnel, and that's the  
12 painful cuts.

13 We thought we were going to have to do layoffs  
14 in January of 2009. And when we sent out the notices  
15 last fall, in compliance with our union contracts, it  
16 was very disruptive. I mean, it's bad for morale,  
17 obviously. It affects client services. And luckily,  
18 the state was able to come through with replacement  
19 money to get us through to this point.

20 But 2010 is the wild card. And if trends  
21 continue, we too will have to make significant cuts.

22 CHAIRMAN MIKVA: Good news, Paul?

1           MR. MULLIN: Good afternoon. I'm Paul Mullin,  
2 Central Jersey Legal Services. And unfortunately, I  
3 don't have much different to say.

4           We have been impacted very much the same as  
5 the other programs, as you might expect. Doug talked  
6 about percentage of funding. Let me give you a little  
7 picture of the actual dollars the IOLTA has made, the  
8 difference it has made to us.

9           Two years ago we received about \$3.2 million  
10 in IOLTA funding. This calendar year, we will have  
11 received \$224,000. It's a huge difference in our  
12 funding. Our total funding was almost \$9 million prior  
13 to the cuts. We'll be lucky to have 7 million this  
14 coming year.

15           We've already done what the others have done  
16 in trying to address the shortfall in funding by  
17 cutting costs wherever we clients. We have not filled  
18 four attorney positions and five paralegal -- four  
19 political positions.

20           And these positions were people who were  
21 committed to doing the work they were doing. But they  
22 saw the handwriting on the wall. And they, fortunately

1 for them, started looking before the job market got  
2 really bad.

3           There have been no salary increases this year.  
4 There will be no salary increases next year. There  
5 have been no pension contributions this year, nor will  
6 there be next year. Some staff have voluntarily  
7 reduced their time and salary to 80 percent or some  
8 fraction -- some percentage in between 80 and 100.

9           We have, as the others have, gone through our  
10 budget and tried to save wherever we could. We've cut  
11 down drastically on the library expenses, relying  
12 almost exclusively on Westlaw and Lexus through our  
13 state subscription.

14           Statewide, Legal Services of New Jersey has  
15 assisted in trying to reduce costs. We have -- we  
16 almost have a contract, I believe, negotiated for phone  
17 service. I expect to save about 50 percent of my  
18 telephone costs on a calendar year, going from 60,000  
19 to 30,000 based on negotiating for a group statewide to  
20 reduce those costs. We hope to do something similar  
21 with supply costs, to get a group rate statewide to  
22 reduce costs there.



1           But again, as everyone has said, the major  
2 cost we have is the personnel cost. And we anticipate,  
3 come April, we will at a minimum -- this is the  
4 optimistic outlook -- have to lay off six attorneys,  
5 two more paralegals, and at least two support staff.  
6 And that's the optimistic outlook.

7           We are hopeful that we will have additional  
8 funding through the Legal Services Corporation. And we  
9 are hopeful that IOLTA increases in the near future.  
10 But we are preparing for the worst. And it has already  
11 impacted our services.

12           We are doing like a triage. The cases that  
13 we will provide actual representation is being  
14 constricted. We will end up giving more advice brief  
15 service and less representation, and make it a narrower  
16 and narrower group of cases in which we will be able to  
17 provide full services.

18           We will also lose expertise in specialty  
19 areas. And we will merge areas to have attorneys who  
20 specialize in a particular area take on more than one  
21 specialty area. And as was mentioned earlier, at this  
22 time we are getting an increased demand, given the

1 economy.

2 So it's a tough situation. And we are working  
3 together to try and get through it as best we can.

4 MR. MILLER: So just to tie it all together,  
5 one thing, I guess, I'm permitted to do, having been at  
6 this, as Frank was so kind as to point out at  
7 lunchtime, nearly 40 years, you could look at the  
8 history of legal services as -- in many ways, but in  
9 phases where the first -- say from '65 to 1980, things  
10 to out of whack in terms of toward a federal  
11 dependence. Most states at that point were 80 to  
12 90 percent or more funded with LSC money by 1980.

13 Then, with the retrenchment that started in  
14 '81 at a federal level and continued some ups and then  
15 some downs through the '80s and the '90s, up to really  
16 perhaps the beginning of this year -- I prefer to think  
17 we're not in another blip, to be optimistic, things  
18 kind of got out of whack the other way.

19 Because as you're accustomed to hearing, I  
20 think from your finance committee considerations, the  
21 equivalent of our 1980 funding in 2009 dollars is over  
22 800 million, well over 800 million. And we're nowhere

1 near that level of federal funding now.

2 And the states and IOLTA, the advent of IOLTA,  
3 which was a huge boon to legal assistance, kind of  
4 tilted, as New Jersey is an example -- we went from an  
5 85, 88 percent federal state to a 92 percent  
6 non-federal state by 2007. So we sort of went out of  
7 whack the other way.

8 What we're really looking for is a nice,  
9 healthy balance between state and federal funding. And  
10 right now, anything you can do to bring the federal  
11 share -- continue to bring that federal share up is  
12 absolutely critical because, as you heard from our  
13 chief justice at lunchtime, the state of New Jersey is  
14 facing, at a minimum, an 8 billion -- he was being  
15 optimistic; it's colder, 8 to 10 billion -- shortfall.

16 Those of you from California might think  
17 that's small. But in our world, it's pretty big. And  
18 it's not practically going to be cured any time real  
19 soon for the state. And I'm not sure we're ever going  
20 to get -- nor should we; perhaps the country could  
21 get -- through the halcyon housing market days of a  
22 couple of years ago. So IOLTA may not come back ever

1 to where it was, or not for a very long period of time.

2 So the federal role is critical.

3 This is what's happening on the ground. I  
4 hope we've been a little helpful to you in terms of  
5 just trying to translate both the need and the gap and  
6 what realistically -- how it's affecting programs.  
7 That's what we're trying to do this afternoon.

8 And thank you. I will just -- by personally  
9 saying what everybody else has already said because  
10 they're more gracious than I am. Thank you very much  
11 for all that you do as individuals.

12 And I know Frank and Tom in particular have  
13 traveled a lot of miles in a lot of parts of this  
14 country in the quest of greater justice, and done it  
15 with class and dignity. And that raises the stock for  
16 all of us as a country in terms of federal support for  
17 the program. So it's been greatly valuable. And  
18 Helaine has traveled even more miles than that over an  
19 equal period of time. So thank you.

20 CHAIRMAN MIKVA: Thank you.

21 MR. FUENTES: I would just like to offer some  
22 comments. Gentlemen and lady, the input that you've

1 given us, the remarks and comments that you've offered  
2 us this morning, have been very illuminating, very  
3 helpful, have given me a perspective and an insight  
4 that I have not had before in a number of areas. I'm  
5 very grateful to each of you, genuinely.

6 Tell me, if you could, you've broken down the  
7 big picture of the state and you've talked to us about  
8 the IOLTA monies and how those have moved. And you've  
9 talked about the state funding and how those have  
10 moved.

11 But I don't think you gave us a specific  
12 number related to LSC numbers --

13 MR. MILLER: The ballpark figure is --

14 MR. FUENTES: -- what part that is of all of  
15 that.

16 MR. MILLER: The ballpark is, I think, just  
17 under 7 million, right around 7, I think just a little  
18 short, on the short side of 7 million. That's with the  
19 increase last spring. This year, last spring.

20 MR. FUENTES: And is there a radical  
21 difference from region to region as to some of you  
22 getting big pieces, some of you getting small pieces?

1 Or is it pretty even?

2 MR. MILLER: It's very even. We have used,  
3 for decades now, since the late '80s, late '70s, a  
4 formula-based, much like the Corporation's formula  
5 basis, numbers of low income people. We just use a  
6 higher level because of the higher eligibility level  
7 with state and IOLTA funds. So it's per capita poverty  
8 population. That's how we distribute that.

9 MR. FUENTES: As your research people look  
10 into these studies and project for you the burden  
11 ahead, and we know the burden of the current great  
12 recession that we're in, and we know how that has  
13 created more work for you to do; and they look out to  
14 the future with the hope that IOLTA comes back because  
15 business and the echo give you is going to come back.

16 Do they crystal ball the figures of how your  
17 market is going to be, then, how your general need is  
18 going to be, then? Because, you know, a higher economy  
19 should --

20 MR. MILLER: Well, the sad part about the  
21 study that I distributed today is it's basically 2007  
22 data. It's pre-recession data. So the answer is yes.

1 They do, and they say, this doesn't reflect what it is  
2 now. But the bad news, or the worse news, is it's not  
3 going to get better in terms of this report when the  
4 economy eventually picks up. And then after that, I  
5 stop asking questions since I can only handle so much.

6 MR. FUENTES: Thank you very much.

7 MR. MILLER: Thank you.

8 CHAIRMAN MIKVA: Any other questions? This is  
9 Laurie Mikva. I have a question.

10 Do you see a danger of losing this increased  
11 state funding as a result of the state's --

12 MR. MILLER: Yes.

13 CHAIRMAN MIKVA: Yes?

14 MR. MILLER: Yes. I mean, for a couple of  
15 reasons. I mean, the electoral decks are swinging  
16 wildly to people, and there's very much uncertainty  
17 just as to you don't know who is going to be governor.  
18 We must -- unfortunately, there's not a clear  
19 understanding from either person who has run exactly  
20 how they would plan to close an \$8 to \$10 billion gap.

21 So yes, I think we're -- and everybody, all  
22 New Jersey's funding, more than we need to know. But

1 New Jersey's fiscal problems are largely a function of  
2 lots of fixed costs, lots of debt, lots of pension, a  
3 lot of obligations that were not funded adequately at  
4 the time they were embarked on.

5 So without a lot of political courage from  
6 whichever side of the aisle things go in November,  
7 without a lot of political courage in addressing that  
8 stuff, then all of the cuts are going to come from  
9 places where the pain translates almost directly to the  
10 most gullible people. That's kind of the way it's  
11 going now.

12 CHAIRMAN MIKVA: Mr. Fuentes.

13 MR. FUENTES: Earlier, I think the figure that  
14 I heard was that in combination with all the regions,  
15 there's about 64,700 clients serviced in the past year.  
16 Was that --

17 MR. MILLER: 67,300.

18 MR. FUENTES: 67,300. Okay. That's close  
19 enough for government work.

20 MR. MILLER: Indeed.

21 MR. FUENTES: How many lawyers are there in  
22 New Jersey? How many members of the bar are there?



1           MR. MILLER: Thirty-five practicing -- well,  
2 licensed lawyers, 84,000 or so.

3           MR. FUENTES: 84,000?

4           MR. MILLER: Practicing lawyers, 35,000.

5           MR. FUENTES: 35,000.

6           MR. MILLER: A little under 35. Then there's  
7 a bunch in government who are not permitted under New  
8 Jersey rules to do any pro bono. Judges can't do any  
9 pro bono. And the rest are largely living in Florida  
10 and other places that are warmer than we are.

11          MR. FUENTES: So theoretically, if we could  
12 whisper into the ears of 35,000 to each take two more  
13 cases, we would --

14          MR. MILLER: We'd have 70,000 cases.

15          MR. FUENTES: Yes. That would be a big impact  
16 on it, wouldn't it?

17          MR. MILLER: It would be helpful.

18          MR. FUENTES: And how --

19          MR. MILLER: That's actually a very  
20 interesting figure. If that happened, it would be  
21 about 10 percent of the unmet need that we've  
22 documented in the study.

1           MR. FUENTES: But it would respond to that  
2 thing that we speak to about for every poor person  
3 served, one is not served, wouldn't it?

4           MR. MILLER: Well, it'll affect the ratio. I  
5 mean, sure, it'll make a dent in that ratio. The  
6 interesting thing about the pro bono is we saw actually  
7 a wonderfully illustrative range of rewards at  
8 lunchtime in terms of types of situations.

9           But New Jersey's statistics have been -- I  
10 think the country's statistics have been remarkably  
11 consistent ever since I've been watching this for about  
12 2-1/2 decades of my career. Over 50 percent of the  
13 lawyers in New Jersey, dense as we are, practice alone.  
14 And together, sole practitioners and two-person  
15 offices, the last figure I saw was constitute  
16 64 percent of all of the practicing lawyers.

17           And say what you will, I mean, a lot of those  
18 people don't get their bills paid anyway, and they  
19 consider that a form of pro bono, and it actually shows  
20 up here, you know, as that. But they're not  
21 realistically in the same position to do high volume  
22 pro bono services that the large firm -- there was one

1 large firm that got --

2 MR. FUENTES: My own experience is -- I'm an  
3 old county party chairman for 20 years. And poor  
4 friends and poor folks call all the time and, you know,  
5 with the need for a lawyer because that's part of  
6 politics at a grassroots level.

7 And I'm inclined to pick up the phone, usually  
8 to a single, sole practitioner. There's very  
9 responsive and receptive kindness by them. I'd be more  
10 inclined, being down there at the grassroots in my  
11 community, in touch with my community, to probably call  
12 a sole practitioner than I would one of the firms with  
13 a lot of big mahogany desks. I'd get a response in my  
14 town to that.

15 MS. SMITH: I think you touch on an  
16 interesting point, and I was thinking about it when  
17 everybody was talking at lunch today, too, is that pro  
18 bono -- there's 35 faceless attorneys out  
19 there -- 35,000 faceless attorneys. But the way you  
20 get pro bono is through relationships, through lone  
21 folks showing up at Felipe's office, De sitting next to  
22 me at some dinner.

1           And so it's -- and that's how it happens. And  
2           it's one attorney at a time, maybe one firm or one  
3           corporation. And so the numbers of pro bono attorneys,  
4           I think, could never be 35,000. And that would have to  
5           develop each relationship and cement it, make it a good  
6           experience, and then hopefully they tell the attorney  
7           down the hall, this is a good experience. And that  
8           relationship gets us the next one.

9           But it is pretty labor-intensive. It just  
10          doesn't happen. It takes resources, personnel and  
11          financial resources, to make it happen and make it do  
12          well.

13          MR. FUENTES: Would you venture a guess what  
14          part of your budget is geared toward that kind of  
15          relationship-building, what kind of education and  
16          recruitment of pro bono rather than toward paying an  
17          attorney to render service? How much of your overall  
18          budget would you spend?

19          I come out of -- I came to this board out of  
20          food banking. That was my area of experience in  
21          charity. And we found that for our hungry neighbors,  
22          that the issue of hunger was more really a matter of

1 education; once you started to teach our neighbors that  
2 their neighbors were hungry, soon their neighbors were  
3 fed because we were each touched in our hearts to  
4 respond to that.

5           And so in the food bank that I helped  
6 establish in our community, we focus as much on  
7 education as we do on actually delivering sacks of food  
8 because as soon as our community knows that those  
9 around us have a human need, everybody's responsive and  
10 our work is less.

11           So I would like to know what priority is given  
12 in local, regional efforts toward education and  
13 soliciting involvement of pro bono.

14           MS. SMITH: I'm not sure I can put a number on  
15 it because it is just that kind of  
16 relationship-building and education. And to be frank,  
17 our mass recruitment efforts have been pretty much  
18 failures. And those are the ones that cost hard money,  
19 postage and what have you, and we can document that.

20           How we get an attorney to join our volunteer  
21 panel as one of our attorneys is down at bankruptcy  
22 court and we're all sitting in the hall waiting for the

1 trustee to get there, and they have a conversation. So  
2 that doesn't get billed, really, to pro bono. It's  
3 billed to the bankruptcy case.

4 But they come back and they say, I talked to  
5 somebody, and we have a real concerted effort. You to  
6 somebody, you tell the pro bono coordinator that you  
7 talked to that person, and then that pro bono  
8 coordinator is going to reach out the next day.

9 MR. FITZGERALD: We have three full-time  
10 paralegals who do nothing but try to recruit attorneys  
11 and refer cases out to those attorneys. And we  
12 struggle to have each of those people refer out 150 or  
13 200 cases a year, when that same paralegal in one of  
14 our units is probably going to have at least that many  
15 cases, if not more.

16 So part of the problem is it's very  
17 labor-intensive, and there's a real question as to how  
18 cost-effective it is to spend all this staff time to  
19 try and get attorneys to sign up and to try and get  
20 them to take cases, when you could take that same  
21 person and have them handle those same cases  
22 themselves, or some other equivalent case, and probably

1 do more of that work. That's the real problem.

2           What I see, quite frankly, is -- and the  
3 reason that I think it's hard for, you know, a board of  
4 directors of a legal services program, or maybe even  
5 this board, to fully understand why there's not more  
6 pro bono work is everybody in this work would do pro  
7 bono if they were in private practice. They spend  
8 hours volunteering for a legal services board or our  
9 board of directors.

10           But those are the same people that are going  
11 to take cases, quite frankly. You see the same people  
12 in leadership positions in the bar association. We  
13 gave an award to somebody who's -- he's going to  
14 be -- Dan Jablonski; he's going to be president of the  
15 Passaic County Bar next year. He's done all kinds of  
16 pro bono cases for us. And he's on our board of  
17 directors.

18           The problem is, there's only so many Dan  
19 Jablonskis. The fact is, the general attorney  
20 population, my experience is, isn't nearly so willing  
21 to volunteer.

22           MR. GERSHUNY: Our experience, we have two

1 attorneys and a full-time paralegal who do nothing but  
2 work on the pro bono program, plus other staff who  
3 assist in terms of either the support staff or  
4 directors who just do recruitment or other attorneys  
5 that do recruitment at a bar function or whatever.

6 It is labor-intensive. I would have to agree  
7 with that. And I think that it also depends on the  
8 ability of -- not just the willingness, but the ability  
9 of practitioners to absorb the pro bono work. I think  
10 one of the things we have experienced during this  
11 recession is that a lot of the solo practitioners have  
12 done less because they have to work more to earn what  
13 they were making before the recession hit.

14 Some of the larger firms have been able to  
15 absorb it better. But I think some of the smaller  
16 private attorneys, they've had a harder time. That's  
17 been our experience, at least.

18 MR. MILLER: It raises an interesting -- I  
19 mean, your experience at the food bank is an  
20 interesting thing to think through and sort of try on  
21 the comparison, look for parallels or the lack thereof.  
22 One thing -- I could probably predict what an attorney



1     who's a private attorney in New Jersey would say about  
2     the analogy in New Jersey right now, and that is that  
3     they get asked at the office, at home, figuratively at  
4     church, and on the way to and from.

5             The appellate division itself, the appellate  
6     division of the public defender's office, the federal  
7     courts, at least, those three in an organized way in  
8     the last 12 months have made a major push for pro bono  
9     attorneys.

10            On top of that, as the chief justice talked  
11     about, what he didn't say was his mediation program is  
12     being largely staffed by volunteers. So there's that  
13     on top of everything else. So they feel like they've  
14     been -- you know, even the best, the most charitable  
15     instinct, feels a little besieged right now. So it's a  
16     different kind of climate.

17            The other thing that's just a complicating  
18     factor that we talked a little bit with you all this  
19     morning is the attorney world is a little different  
20     from the food world in the sense that the contribution  
21     you make to food is collecting or supporting it  
22     financially, you know, whatever. We run a food drive

1 out of our office most of the year, it seems.

2 But the difference is the sale has to be made  
3 to the large number of practicing lawyers who have  
4 never been in court. And all of that timidness and  
5 fright is another kind of -- one more obstacle that we  
6 have to get by.

7 MR. FUENTES: You should give them the  
8 opportunity and charge them, huh?

9 (Laughter.)

10 MR. MILLER: Believe me, we've thought of all  
11 kinds of strategies like that.

12 MR. MULLIN: I was just going to say that  
13 you're right as far as the education piece. There's  
14 the education piece for just telling them that where  
15 they are, we need their help. There's a further  
16 education piece that we talked about this morning using  
17 the Merck attorneys.

18 Of course, many of the attorneys don't do the  
19 work we do. Even if they're in private practice, not  
20 in a corporate setting, they may be in a private  
21 practice setting that's mostly transactional or doing  
22 wills and estates. And we need them to do domestic

1 violence or landlord/tenant. And so there's that  
2 education piece.

3 And we've tried to do both. But it also goes  
4 back to the connections to even get to the point where  
5 you're going to -- they'll be receptive to the  
6 education or learning about what we do.

7 And many times if you get them to the point  
8 where they understand what they do, they want to help,  
9 and they have the confidence that will help them along  
10 the way and get to the point where they'll feel  
11 comfort, and after they get through that first case,  
12 then it builds and it builds and you develop a  
13 long-term relationship. But it's an extremely  
14 long-term process and it takes a lot of resources.

15 CHAIRMAN MIKVA: Thank you very much. This  
16 has been not particularly uplifting, but illuminating.  
17 Thank you very much.

18 PANEL: Thank you.

19 (A brief recess was taken.)

20 CHAIRMAN MIKVA: This is Laurie Mikva. I  
21 would note that we do have a quorum with Mr. Strickland  
22 here. So there are four members.

1 I would ask for a motion to approve the  
2 agenda.

3 M O T I O N

4 MS. PHILLIPS-JACKSON: So moved.

5 MR. FUENTES: Second.

6 CHAIRMAN MIKVA: And the meeting -- the  
7 minutes from the meeting of July 24th, are there any  
8 additions or corrections?

9 M O T I O N

10 MR. FUENTES: Move approval as submitted.

11 MR. STRICKLAND: Second.

12 CHAIRMAN MIKVA: Sorry. Was there anyone  
13 against approval of the agenda? All in favor?

14 (A chorus of ayes.)

15 CHAIRMAN MIKVA: Sorry. Back to the --

16 MR. STRICKLAND: Same for the agenda? All in  
17 favor on that? Did we ever approve it?

18 CHAIRMAN MIKVA: That's what I was going back  
19 to.

20 MR. STRICKLAND: Oh, I'm sorry.

21 CHAIRMAN MIKVA: All right. We just approved  
22 the agenda. All right. On to the committee meetings.

1 Were there any additions or corrections?

2 (No response.)

3 CHAIRMAN MIKVA: And did we have a motion?

4 MR. FUENTES: Yes.

5 CHAIRMAN MIKVA: Okay. All in favor?

6 (A chorus of ayes.)

7 CHAIRMAN MIKVA: All right. Now we are up to  
8 No. 4, staff updates. And Ms. Sarjeant.

9 MS. SARJEANT: Thank you very much. Karen  
10 Sarjeant, vice president for programs and compliance.  
11 And I wanted to give you a very brief update on our pro  
12 bono activities that staff are undertaking.

13 In listening to the last panel, it became very  
14 clear about the importance of private attorney  
15 involvement. One of the things that this committee,  
16 this board, did was to approve the PAI plan to help  
17 close the justice gap. And we asked boards to pass  
18 resolutions in support of enhanced pro bono activity.

19 107 of our programs have done that. What our  
20 staff has done in the last few weeks is a concerted  
21 push to be in communication with those programs that  
22 have not yet passed a resolution because we do believe

1 that the work and the effort at the board level to  
2 focus on private attorney involvement can often be a  
3 very important step in reinvigorating the programs'  
4 private attorney involvement activity.

5 So we have gone back to those programs and are  
6 asking them to try to get a resolution done by the end  
7 of the year. Now, for some programs, they will not be  
8 able to do that because of their board schedule, and  
9 there might not be a meeting. But we do want them to  
10 focus on the importance of doing exactly what one of  
11 the panelists, the former panelists, talked about, and  
12 that is making those individual connections to support  
13 private attorney involvement.

14 CHAIRMAN MIKVA: I just have a question. What  
15 does the resolution say, essentially?

16 MS. SARJEANT: The resolution  
17 encourages -- well, the LSC board did a resolution, and  
18 then we sent that out as a pattern to all of the other  
19 programs. And it encourages -- it talks about the  
20 support for private attorney involvement. It  
21 encourages efforts to enhance private attorney  
22 involvement.

1           And it just -- you know, we want boards to  
2     take a renewed look at what they're doing, what the  
3     program's doing. It talks about partnerships and the  
4     importance of reaching out to encourage programs to be  
5     involved or private attorneys to be involved with  
6     LSC-funded programs. We also sent out other materials  
7     to help in the discussions with bar associations and  
8     others to encourage a renewed look at pro bono.

9           CHAIRMAN MIKVA: Thank you.

10          MR. FUENTES: May I ask a question at this  
11     point?

12          MS. SARJEANT: Sure.

13          MR. FUENTES: What in the process of  
14     evaluating requests for funding from LSC would address  
15     the issue of evaluating at the local level what the  
16     local recipient agency is doing to educate and promote  
17     pro bono? Is that a criteria before we make a grant?

18          MS. SARJEANT: In our request for proposals  
19     for LSC funding, which is patterned after the  
20     performance criteria, there is in fact a section that  
21     asks a lot of questions, and has -- and programs need  
22     to respond to those.

1           In addition, we have the regulation, 45 CFR  
2   1614, that requires all programs to have a private  
3   attorney involvement plan. And that plan needs to talk  
4   about what they're doing in outreach to the private  
5   bar, what activities they're going to undertake, and we  
6   look at all of that in the evaluation process during  
7   the competition process.

8           And it also is a part of our onsite  
9   evaluation, both from the Office of Program  
10  Performance, who looks at how does the program do their  
11  outreach? What are their numbers looking at? What  
12  kinds of activities are being undertaken? And our  
13  Office of Compliance and Enforcement looks at that part  
14  of the regulation that focuses on what LSC dealers,  
15  what money is being allocated to private attorney  
16  involvement, and are they doing that in compliance with  
17  the regulation.

18           So it's a very significant part of our  
19  evaluation, both onsite and through the RFP process.  
20  Our staff advisory committee is continuing to look at  
21  what else we can do and what additional -- when we get  
22  the plans, for example, what else we need to do to get



1 back to programs to say, this appears to be very  
2 effective. This does not appear to be as effective.

3 So it is one of those areas that we continue  
4 to look at as we revise and update our competitive  
5 grants process.

6 MR. FUENTES: Is that a point system sort of  
7 thing, or is it a subject decision, or how would you  
8 evaluate that a particular locality is really great in  
9 doing their pro bono and educational effort?

10 MS. SARJEANT: Well, I think there are several  
11 things that go into it. And the plan itself we do not  
12 assign a point value to, but we evaluate the plan  
13 against what the regulation requires. And we look at  
14 what's in the performance criteria.

15 And on many of the visits and in many of the  
16 reports that result from those visits, you will see  
17 that there was a significant amount of time spent  
18 onsite talking to not only the staff who are involved  
19 in that, but oftentimes the bar associations,  
20 representatives from the board of directors, and others  
21 to get a true sense of what the actual engagement is.

22 Because as with anything else, many people

1 can -- you know, what you write sometimes differs from  
2 what your practice is. So it's very important that  
3 when we have the opportunity to be onsite, that we  
4 really talk to the staff, to the management, to the  
5 private bar about what's actually happening on the  
6 ground.

7 So, you know, it's a significant part of our  
8 process. But as I said, there's no point value that's  
9 assigned to the plan itself.

10 MR. FUENTES: Well, I think that our keen  
11 interest and our focus and our energy that we put into  
12 that is one of those you can either, you know, give a  
13 man a fish or you can teach him to fish. And if we're  
14 more inclined to teach him to fish, we're really going  
15 to be helping him.

16 And I think the higher the priority that we  
17 can give by expressing the position of Washington, of  
18 LSC, to encourage education of the community in general  
19 and pro bono as the highest of ranked efforts, we serve  
20 the nation best.

21 MS. SARJEANT: Well, let me move on to the  
22 second part of the update on the private attorney

1 involvement action plan because I think that will  
2 address some of what you are getting at.

3           And that is, we've had this private attorney  
4 involvement advisory group that has had members  
5 participating from our grantee programs. And over the  
6 last several months, we've had many discussions with  
7 the group. And we really started out focusing on our  
8 regulation, and is there additional guidance that LSC  
9 needs to give to help programs better interpret our  
10 regulation, do more work and more creative, more  
11 effective work under the regulation.

12           And after many discussions with the advisory  
13 group, we've come to somewhat of a different point.  
14 And I think that -- and so what we're going to do is we  
15 as an advisory group decided that the focus on the  
16 current regulation was too narrow, that what we need to  
17 encourage happening in our community and in our LSC  
18 programs is to step back and think about: What is the  
19 creative private attorney involvement work that's being  
20 done currently, and what needs to be done? What are  
21 some of the things that are holding programs back from  
22 doing that.

1           And so we're expanding the regulation -- I'm  
2     sorry, expanding the discussion so that it's not  
3     focused on the regulation or LSC's current  
4     interpretations of that regulation, but we're saying,  
5     if we were coming to a point at saying, private  
6     attorney involvement, clearly a value in legal services  
7     delivery, what do we need to do now as an organization,  
8     as LSC, to be the most supportive and help programs be  
9     more proactive?

10           There are some very creative things going on  
11     in our programs around engaging private attorneys.  
12     Some of that work can be allocated to our 12-1/2  
13     percent. Some of it cannot. Some of it is -- you  
14     know, the reg is 25 years old. It was created at a  
15     time when the legal services environment was  
16     significantly different.

17           And we think that the discussion now needs to  
18     take a step back and say, if we were going to look at  
19     what LSC needs to do to really enhance programs'  
20     ability to engage private attorneys, what kinds of  
21     things do we need to do in supporting that? And that  
22     will at some point lead us to: Are there changes that

1 need to be made to the regulation?

2 So in fact, at this national conference, NLADA  
3 conference, coming up in November, the advisory group  
4 is doing a panel and we are doing a workshop. We will  
5 have two grantee executive directors participating on  
6 the panel. We have a representative from the ABA,  
7 Steve Scudder, who will be participating with us on  
8 that panel.

9 And what we are going to do is really try to  
10 open up and have a discussion with our programs and  
11 others that are there about what is the creative work  
12 that's going on now, and what does LSC need to do to  
13 support that work?

14 And so it should be a very interesting  
15 discussion. And I would encourage any of the board  
16 members who are planning to attend that conference, I  
17 hope you will have the opportunity to come to that  
18 session because it is -- you know, I think everybody at  
19 LSC, everybody that's been participating with the  
20 advisory group, agrees that private attorney  
21 involvement is an established value in legal services  
22 delivery.

1           And we need to be talking about how do we find  
2 a way to get more of the thousands of licensed  
3 attorneys active with our programs. So that is our  
4 goal. And we will see what comes of that. But we're  
5 hoping for a very good turnout and outcome from it.

6           CHAIRMAN MIKVA: Thank you. Is that it for  
7 PAI?

8           MS. SARJEANT: Yes.

9           CHAIRMAN MIKVA: No. 5, staff update on Native  
10 American delivery and funding.

11          MS. SARJEANT: Yes. This is an issue that has  
12 been before the board several times. And if you will  
13 recall, at the July meeting we were asked, the  
14 committee, to delay hearing LSC's recommendation  
15 because the Native American Indian Legal Services  
16 organization had recently, very recently, contacted us  
17 and said they would like some additional time.

18          And we agree with that because we want to  
19 be -- whatever recommendation we come up with for the  
20 committee and for the board, we want it to be fully  
21 informed from our discussions with the organization.

22          So about two weeks ago, we received a paper

1 from them with a lot of information in it. We plan to  
2 meet with them in November and work through both the  
3 data that we gathered, through the work that we had  
4 done by the demographic consultant, and also look at  
5 the data that they're presenting.

6 And hopefully we will be in a position then to  
7 come back with, you know -- it might even be a joint  
8 recommendation on what should be done or proposed to  
9 the board. So at this time there's no recommendation  
10 to put forward, but we are actively working with NAILS  
11 to get to a recommendation.

12 CHAIRMAN MIKVA: Thank you. Any questions?

13 (No response.)

14 CHAIRMAN MIKVA: No. 6, staff report on LSC  
15 training initiatives.

16 MS. SARJEANT: Now, this is a -- I wanted to  
17 share with you today from the finance committee meeting  
18 in September. There were some questions raised about  
19 our proposal for the 2011 budget on training, where  
20 we're asking for \$500,000 to create a training unit.  
21 And at the same time, there was -- in the request from  
22 NLADA there was a figure of \$10 million for training.

1           So the one thing I wanted to do, first of all,  
2           was make sure that everybody was on the same page in  
3           terms of these are two very different training  
4           activities and focus. NLADA's focus and what they are  
5           talking about, and it's also a discussion that LSC  
6           certainly wants to be a part of, and that's focused on  
7           a national training capacity that is something LSC used  
8           to do when there was funding in the LSC appropriation  
9           to support that.

10           There is not that funding right now, but that  
11           doesn't mean there isn't a need for the development,  
12           redevelopment, and expansion of a national capacity.  
13           But the \$500,000 that we requested in the 2011 budget  
14           is a project that really is growing out of the  
15           oversight work that we have done and the work that we  
16           are doing with the advisory groups. And it's much more  
17           narrowly focused.

18           We want to focus our work. And we're already  
19           doing it and we will be doing it in 2010 and hopefully  
20           in 2011. But it's focusing our work on those issues  
21           have come up as a result of our oversight work.

22           So we're looking at grantee board governance



1 and oversight, grantee capacity to effectively and  
2 efficiently apply the range of LSC rules and  
3 requirements, the effective engagement of private  
4 attorneys in legal services delivery, and the effective  
5 uses of technology.

6           So let me just very briefly tell you what we  
7 have in our work plans or what we're doing in 2010 and  
8 what we hope to do in 2011. So in 2010, the training  
9 activities that we are working on and that we can do  
10 with our current staffing in the Office of Compliance  
11 and Enforcement, for example, we expect to do more new  
12 executive director training.

13           This is something that OCE used to do. We  
14 thought it was an effective way to engage new executive  
15 directors early on in their leadership of an LSC  
16 program. And we expect to do more of that in 2010.

17           We expect to do more CSR handbook training.  
18 And we're -- in all of the thing that I'm talking  
19 about, it will be a mix of web-based and in-person  
20 training. And so we're working on figuring out which  
21 works best.

22           But for the CSR handbook, we know that there

1 are new staff coming in to LSC programs, and we want to  
2 make sure that those new staff are adequately trained  
3 in the CSR handbook. We want to do some refresher  
4 training with people and staff who's already been  
5 trained with that. And because, you know, we can do  
6 this over the web, we can train entire programs or  
7 regions, and it can be done in a very cost-effective  
8 way.

9 From the board governance survey and the work  
10 that's been done, we know there's a need for training  
11 on just all of the regulations and the requirements  
12 that LSC programs need to operate in compliance with.

13 And so we're looking at -- in conjunction with  
14 the Office of Compliance and Enforcement and the board  
15 governance working group, we're looking on developing  
16 training curricula that address that, that create a  
17 training package around the LSC regulations, and the  
18 existing restrictions, and what programs can and can't  
19 do, and what kinds of systems you need to have in place  
20 to make sure you're doing all of this correctly.

21 Also, from the work that the board governance  
22 working group is doing, we hope to create an online

1 board resource at LSC using our LSC resource  
2 information website. We've recently filled the staff  
3 position for LRI, and in a meeting just the other day  
4 there's an ambitious plan to get that site to be much  
5 more useful to programs, customer-friendly so that  
6 there's good information up there that boards can  
7 access, that staff can access, on a range of board  
8 issues that they may need information on.

9 We hope to do, in terms of another piece of  
10 training, is a program letter on board governance best  
11 practices. We hope in 2010 -- we plan to develop a  
12 welcome package for new board chairs and new executive  
13 directors that again would be online and easily  
14 available.

15 We want to consider creation of a grantee  
16 board member listserv. That's something that we're  
17 thinking about. We haven't finalized that yet. And we  
18 also want to consider whether it would make sense for  
19 LSC to do something similar to what it did with the  
20 executive director conference, and that is have a board  
21 chair conference, which gives us an opportunity to do a  
22 lot of training at that point.

1           We also have TIG grants out that are  
2 specifically targeted to developing board training  
3 materials. So that's some of the ongoing work from the  
4 board governance group.

5           We also have a fiscal operations advisory  
6 group, and their major task right now is revising the  
7 accounting guide. There is training that's planned on  
8 that at the November conference and also at our January  
9 TIG conference because that conference is being held in  
10 conjunction with an administrators conference. So it's  
11 a really good time to talk about fiscal operations and  
12 the changes to the accounting guide that are going to  
13 be published for comment very soon.

14           And so those are the kinds of things we want  
15 to do, and plan to do, during this 2010 year. And then  
16 in 2011, we hope to just continue to build on that. We  
17 expect to hire two staff to create the core of a  
18 training unit within LSC, with the responsibility for  
19 developing and facilitating an active LSC training  
20 capacity and calendar.

21           And as we listened to the previous panel and  
22 you hear about all of the cuts that are likely to come,

1 the loss of expertise, the loss of staff, it's going to  
2 be very important that LSC provides the kind of support  
3 that it can on these issues of training because it's  
4 going to be harder and harder for programs to do this  
5 on their own.

6 And again, LSC is focusing on those types of  
7 training that we've seen the need for in our oversight  
8 work. We're not doing the substantive law training.  
9 We're looking at training around compliance, training  
10 around board governance, best practices. We're looking  
11 at leadership development, those kinds of things.

12 So we're very excited about the opportunity to  
13 expand the training and the dissemination of best  
14 practices on board governance and oversight, and on  
15 fiscal management and oversight.

16 And so, you know, it will be a new activity  
17 for LSC on this scale. Nonetheless, we think it fits  
18 squarely within our oversight responsibilities because  
19 in order to achieve the kind of compliance that we  
20 expect our programs to have, we have a responsibility  
21 to do the training.

22 And I know I'm way over time.

1                   CHAIRMAN MIKVA: Anything more on training  
2 initiatives?

3                   (No response.)

4                   CHAIRMAN MIKVA: Thank you.

5                   Public comment?

6                   (No response.)

7                   CHAIRMAN MIKVA: New business? Is there any  
8 new business? I have a question about new business,  
9 which is the other part of the training, which is  
10 what -- Mr. Saunders, maybe you want to come up here.  
11 But what would be involved in getting more information  
12 about setting up what you called national training  
13 capacity and putting a line item in budget requests?

14                   And one of my thoughts is that it's a way to  
15 increase the budget in a different way, and obviously  
16 not to take away from what's going on, but perhaps get  
17 additional funds.

18                   MS. SARJEANT: Well, I think -- and then  
19 certainly Don can respond to what's currently going  
20 on -- there are conversations going on about creating,  
21 recreating, a national training capacity. And as I  
22 said, that was something that LSC did used to

1 be -- they were funded to do. And there were regional  
2 training centers. There was a training capacity in the  
3 regional offices.

4 It is -- and we have lots of historical  
5 information. And I think the important thing is for  
6 LSC to make sure that we're engaged in the discussions  
7 that are going on about recreating that national  
8 capacity so that at some point if there is going to be  
9 an approach to get it back in the funding for LSC, that  
10 that is more of a joint effort as opposed to having  
11 just, you know, maybe one organization saying we should  
12 do it or something.

13 So I do think it's something that LSC would  
14 certainly want to be engaged in, the discussions.

15 MR. SAUNDERS: Don Saunders with the National  
16 Legal Aid and Defenders Association. Thank you, Madam  
17 Chair.

18 Very briefly, certainly the work that we are  
19 doing, we absolutely want to work with LSC. I think  
20 clearly, the resources that are involved in this, the  
21 federal component has to be a part of it.

22 We have created a very representative

1 committee to look at the needs. As Karen suggested, in  
2 other areas things are much different than they were  
3 when LSC last had a training capacity. There are new  
4 technologies. There are new needs.

5 We have a committee created that involves a  
6 lot of stakeholders that provide training now to talk  
7 about ways in which a 21st century training system  
8 could be created. We have a two-part session in our  
9 annual conference next month which will be looking at  
10 infrastructure, which will actually serve as a forum  
11 for the field to talk about ways in which we can  
12 provide for professional development and how we can pay  
13 for it.

14 As you heard today, with the budgets under  
15 such pressure, it's very difficult for programs to find  
16 resources to do that. So we are very aggressively  
17 looking at developing a plan that we can talk to the  
18 board about working with the staff.

19 We're also very happy to be doing a  
20 substantive law conference next year. We had to cancel  
21 it this year for economic reasons. But we're also  
22 ourselves thinking about ways in which we can continue



1 to move professional development forward.

2 CHAIRMAN MIKVA: Thank you.

3 MR. SAUNDERS: Thank you.

4 CHAIRMAN MIKVA: Any more new business?

5 (No response.)

6 CHAIRMAN MIKVA: Could I get a motion to  
7 adjourn?

8 M O T I O N

9 MS. PHILLIPS-JACKSON: So moved.

10 MR. FUENTES: Second.

11 CHAIRMAN MIKVA: All in favor?

12 (A chorus of ayes.)

13 CHAIRMAN MIKVA: This meeting is adjourned.

14 (Whereupon, at 3:48 p.m., the committee was  
15 adjourned.)

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