

LEGAL SERVICES CORPORATION  
BOARD OF DIRECTORS

MEETING OF THE  
FINANCE COMMITTEE

OPEN SESSION

Monday, September 21, 2009

10:08 a.m.

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

FINANCE COMMITTEE PRESENT:

Michael D. McKay  
Thomas A. Fuentes  
Sarah Singleton  
Laurie Mikva  
Frank B. Strickland, ex officio

OTHER BOARD MEMBERS PRESENT:

Herbert S. Garten  
Jonann C. Chiles  
Bernice Phillips-Jackson

ALSO PRESENT:

Helaine M. Barnett, President

## STAFF AND PUBLIC PRESENT:

Steve Barr, Government Relations and Public Affairs  
Office

Terry Brooks, American Bar Association

Julie Clark, NLADA, National Legal Aid and Defenders  
Association

Mattie Cohan, Senior Assistant General Counsel, Office  
of Legal Assistance

Kathleen Connors, Executive Assistant, Government  
Relations and Public Affairs Office

John Constance, Office of Government Relations and  
Public Affairs

David de la Tour, Office of Compliance and Enforcement

Alice Dickerson, Office of Human Resources

Sean Driscoll, Office of Government Relations and  
Public Affairs

Karen M. Dozier, Executive Assistant to the President

Victor M. Fortuno, Vice President for Legal Affairs,  
General Counsel, and Corporate Secretary

Charles Jeffress, Chief Administrative Officer

## STAFF AND PUBLIC PRESENT: (Continued)

David Maddox, Assistant Inspector General for  
Management and Evaluation, Office of Inspector General

Ronald "Dutch" Merryman, Assistant Inspector General

Linda Perle, CLASP

Julie Reiskin, Executive Director, Colorado Cross-  
Disability Coalition

David L. Richardson, Treasurer and Comptroller, Office  
of Financial and Administrative Services

Don Saunders, NLADA, National Legal Aid and Defenders  
Association

Cynthia Schneider, Deputy Director, Office of Program  
Performance

Jeffrey E. Schanz, Inspector General

Bob Stein, SCLAID

Julie Strandlie, American Bar Association

Laurie Tarantowicz, Office of Inspector General

Evora A. Thomas, Program Counsel III, Office of Program  
Performance

Katherine Ward, Office of Legal Affairs

David Weldon, Office of Inspector General

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Motions: 5, 5, 75, 77

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

2 MR. McKAY: Let' call to order the Finance  
3 Committee.

4 M O T I O N

5 MR. McKAY: The first item on the agenda is  
6 approval of the agenda. Do I hear a motion?

7 MR. FUENTES: So moved.

8 MS. SINGLETON: Second.

9 MR. McKAY: All those in favor, say aye.

10 (Chorus of ayes.)

11 MR. McKAY: Opposed?

12 (No response.)

13 MR. McKAY: The motion passes.

14 M O T I O N

15 MR. McKAY: The next item on the agenda is  
16 approval of the minutes for our meeting on July 24,  
17 2009.

18 MR. FUENTES: Move to approve as presented.

19 MR. McKAY: Second?

20 MS. SINGLETON: Second.

21 MR. McKAY: Any comments?

22 (No response.)

1 MR. McKAY: All those in favor, say aye.

2 (Chorus of ayes.)

3 MR. McKAY: Opposed?

4 (No response.)

5 MR. McKAY: The motion passes.

6 The next item and really the main item on our  
7 agenda is the beginning of our discussion for the  
8 recommendation concerning LSC's fiscal year 2011  
9 budget.

10 We will first hear from management, if  
11 representatives will come to the table. Mr. Constance.

12 I cannot say that Mr. Schanz is from management. Are  
13 you going to come up to the table now or come up later?

14 MR. SCHANZ: I'll come to the table.

15 MR. McKAY: Very good. Thank you. Who is  
16 going to open? Charles?

17 MR. JEFFRESS: Yes.

18 MR. McKAY: You have the floor.

19 MR. JEFFRESS: Thank you, Mr. Chairman. This  
20 is Charles Jeffress, Chief Administrative Officer.

21 The request for fiscal 2011 was mailed --  
22 management's recommendation for the request was e-

1 mailed to you earlier. I see you have a hard copy in  
2 front of you. For people in the back of the room,  
3 there is a public book with the request in that book,  
4 if you want to turn to that and follow along.

5 Management's recommendation is based on Board  
6 Resolution 2008-015 from last year when the Board  
7 adopted a four year plan for closing the justice gap.  
8 That plan was based on data from 2005. One difference  
9 in this year's recommendation is that we use the 2009  
10 data that was collected this Spring for the justice gap  
11 as a basis for the recommendation.

12 As discussed by the Board of Directors earlier  
13 this year, the 2009 data continues to show that LSC  
14 grantees turn away more than one person for every  
15 person that is served. Essentially, funding for LSC  
16 grantees would have to double in order for them to  
17 serve just the eligible people who reach their offices  
18 today.

19 As we all know from the poverty data published  
20 by the Census Bureau earlier this month, the number of  
21 people in poverty continues to climb. The number of  
22 people in need of and eligible for LSC services is

1 continuing to grow. The economic recession has created  
2 desperate times for many Americans, and legal aid  
3 programs are being called upon to assist those most in  
4 need.

5           You will hear more about this increase in need  
6 today, I'm sure, from other presenters.

7           LSC's assumption, Board endorsed, for the past  
8 five years has been that funding from all sources must  
9 double in order to close the justice gap, including  
10 funding from state, local and private sources.

11           While over the past five years, state and  
12 local funding has risen significantly, in 2009, that  
13 funding is expected to decline because of reduced IOLTA  
14 earnings and shortfall's in state government budgets.

15           Reduced state and local funding makes an  
16 increase in Federal funding even more urgent if we are  
17 to avoid falling further behind in our efforts to close  
18 the justice gap.

19           When the 2009 data was being collected for the  
20 Justice Gap report, grantees were operating on the  
21 fiscal year 2008 budget because of the Congressional  
22 delay in adopting the fiscal year 2009 budget.



1           Therefore, in making this recommendation,  
2 management used the fiscal year 2008 budget  
3 appropriation as a base for this 2011 recommendation.

4           The fiscal year 2008 basic field appropriation  
5 was \$332.4 million. Since the goal of the justice gap  
6 requires a doubling of that figure, management  
7 recommends that the goal for the basic field for the  
8 four year plan be set at \$664.8 million.

9           Fiscal year 2011 represents the second year of  
10 the four year plan which the Board adopted last year.  
11 The appropriation for the first year of the plan, 2010,  
12 is still being considered by Congress.

13           As you see on the chart on page one of the  
14 management recommendation, the House has adopted a  
15 proposed basic field appropriation of \$414.4 million  
16 and the Senate Committee has recommended a basic field  
17 appropriation of \$374.6 million.

18           For the purposes of the fiscal year 2011  
19 request, management has used the mid point between the  
20 House and the Senate amounts as a projected fiscal year  
21 2010 basic field appropriation amount. The mid point  
22 is \$395 million.

1           Subtracting the projected fiscal year 2010  
2 basic field appropriation of \$395 million from the goal  
3 of \$664.8 million, it yields a difference of \$269.8  
4 million to be achieved over the next three years of the  
5 Board's four year plan.

6           One-third of that amount, \$89.9 million, is  
7 what management has added to the projected fiscal year  
8 2010 appropriation to produce a recommended basic field  
9 request for 2011 of \$484.9 million.

10           For the other categories of the Board's  
11 request, management recommends \$6.8 million for TIG, \$1  
12 million for LRAP, \$19.5 million for management and  
13 grants' oversight or MGO.

14           The Inspector General recommends \$4.35 million  
15 for the Office of Inspector General.

16           With respect to TIG -- I'll go through each of  
17 these categories briefly. With respect to TIG, the  
18 technology grants have been hugely successful in  
19 creating websites and applications for delivering  
20 information and assistance to people over the web.  
21 This success has been recognized by Congress.

22           The report accompanying the fiscal year 2010

1 House appropriations bill takes the almost  
2 unprecedented step of asking us to request more  
3 significant increases for the TIG Program in 2011.

4           Based on that invitation from the House and  
5 the tremendous success of the TIG Program, management  
6 recommends that the Board double its fiscal year 2010  
7 request of \$3.4 million to \$6.8 million for fiscal year  
8 2011.

9           This increase will allow TIG to continue with  
10 innovative applications' development and also to  
11 provide for the first time some assistance for  
12 upgrading technology infrastructure to those grantees  
13 most in need of assistance.

14           The Herbert S. Garten LRAP Program was  
15 discussed at length by the Board at the last two Board  
16 meetings, and the conclusion of the Board was for now,  
17 we should continue the program at its current level.

18           Therefore, management recommends that we  
19 request \$1 million for LRAP for fiscal year 2011, the  
20 same amount that's been requested for the past two  
21 years.

22           For management and grants' oversight,

1 management recommends a request of \$19.5 million. The  
2 request represents a 3.8 percent administrative cost  
3 consistent with LSC's administrative cost over the  
4 years, and a very low administrative cost compared to  
5 other non-profit organizations.

6 MR. MCKAY: How did you come up with that  
7 percentage?

8 MR. JEFFRESS: The \$19.5 million compared to  
9 the LSC budget.

10 MR. MCKAY: Of the whole budget?

11 MR. JEFFRESS: Right.

12 David Richardson, our controller, has  
13 projected a need for a \$19 million --

14 MR. MCKAY: Excuse me. Can I follow up on  
15 that comment? How does that percentage then compare  
16 with the current percentage, the one that you're  
17 proposing as opposed to the current percentage?

18 MR. JEFFRESS: The current percentage was 3.9  
19 percent at \$16 million and at \$17 million for fiscal  
20 year 2010, which we hope to achieve, depending on the  
21 basic field number, it will be 3.8 or 3.9.

22 MR. MCKAY: About the same?

1 MR. JEFFRESS: About the same.

2 MR. McKAY: Thank you.

3 MR. JEFFRESS: Our controller, David  
4 Richardson --

5 MR. McKAY: I'm sorry. If the basic field  
6 increases, why should MGO's line item increase at the  
7 same percentage level? Just because the field has more  
8 money, why should MGO be receiving the same percentage  
9 increase? Aren't they supervising the same programs  
10 who are just spending more money?

11 MR. JEFFRESS: There is no direct necessity  
12 that it increase. I will say the demand for oversight  
13 for grants management, as you all have seen from the  
14 GAO reports, indicates that in the past, we actually  
15 have not been doing enough. That's why the Board  
16 authorized additional positions for this year.

17 In addition to just playing catch up, if you  
18 will, and doing more grants oversight than what we have  
19 been doing, I do think the fact that there's more money  
20 out there means more scrutiny will be necessary.

21 I think the Inspector General will also talk  
22 about as is more money to look after, he needs more

1 staff to do that.

2 I think there is an expectation of greater  
3 oversight with the greater money out there.

4 MR. McKAY: Not to interrupt your  
5 presentation, but if you could make a mental note of  
6 that, Jeff, and address that, I'd appreciate hearing  
7 from you. I promise not to interrupt again.

8 MR. JEFFRESS: No, please do. I welcome  
9 questions. It's much more interesting if there are  
10 questions.

11 Of the \$19.5 million request for MGO, our  
12 controller has projected a need for a \$19 million  
13 budget in fiscal year 2011 to continue funding current  
14 operations.

15 As you recall, the Finance Committee and the  
16 Board authorized 15 additional positions in fiscal year  
17 2009 based on the increase which we will receive from  
18 Congress for this year for MGO and based on the demand  
19 for additional oversight of grantees as evidenced by  
20 the report from the Government Accountability Office.

21 We have filled nine of those 15 positions and  
22 expect to complete the remainder of the hiring this

1 Fall. Projecting these costs out two years to fiscal  
2 year 2011 along with inflationary increases and limited  
3 projected pay increases resulted in a \$19 million  
4 projection for the continuation of current operations.

5 MS. SINGLETON: Mr. Chairman?

6 MR. McKAY: Yes.

7 MS. SINGLETON: Can you refresh my  
8 recollection? You say the Board authorized LSC to  
9 establish 15 new positions?

10 MR. JEFFRESS: Yes.

11 MS. SINGLETON: How did we do that?

12 MR. JEFFRESS: In the Finance Committee  
13 consideration of the budget for fiscal year 2009, there  
14 was a great deal of thought given as to if MGO were to  
15 receive an increase, where that increase would go. The  
16 Chairman of the Finance Committee was very clear about  
17 the increase should be in the Office of Compliance and  
18 Enforcement and the Office of Program Performance  
19 because those were the two offices primarily  
20 responsible for grantee oversight.

21 David Richardson was there at the meeting and  
22 in the course of that meeting did calculations based on

1 different levels and produced a number for MGO that  
2 supported the 15 positions. Of those 15 positions,  
3 there was one in the Office of Legal Affairs and the  
4 other 14 were in the two program oversight offices.

5 In addition to continuing the MGO operations  
6 for fiscal year 2011, management also recommends that  
7 we develop an enhanced training component of the  
8 Corporation at a cost of \$500,000.

9 The details of this component are spelled out  
10 on page seven of the management recommendation in front  
11 of you.

12 Based on what the Board has heard this year  
13 about the need for better training on fiscal matters  
14 for grantee staff, better training for local Board  
15 members on Board responsibilities, increased attention  
16 to compliance issues, and more emphasis on private  
17 attorney involvement, management believes that the  
18 Corporation should undertake to develop training  
19 materials in all these areas and to offer web based  
20 training and more in person training.

21 While we will begin doing more of this in  
22 fiscal year 2010 with current resources, there is a



1 limit to what we can do with current resources. For a  
2 major new initiative in this area, additional  
3 appropriations will be needed. The \$500,000 is  
4 expected to support two new positions and the  
5 development of necessary materials, software and travel  
6 support for the delivery of the training.

7 I've given you highlights of the TIG, the  
8 LRAP, MGO and the basic field. The Inspector General  
9 will give you the presentation on the Inspector  
10 General's request, and after his presentation, John  
11 Constance will discuss the Congressional environment  
12 for this request, and all of us and David Richardson  
13 will be available to answer questions.

14 MR. MCKAY: Thank you. Mr. Schanz?

15 MR. SCHANZ: Mr. Chairman, this is Jeff  
16 Schanz, the Inspector General of Legal Services  
17 Corporation.

18 I'd like to first respond to your request as  
19 to whether increased field funding results in increased  
20 OIG oversight. It's not an one to one nexus. The OIG  
21 has a very sophisticated risk assessment program that  
22 we utilize to identify where we can best use our scarce

1 resources.

2           For 2011, we have recommended an increase of  
3 just two positions, recognizing that we do have a large  
4 carry over that we're going to be scaling down in the  
5 conduct of our normal audits and investigations and  
6 inspections.

7           We have not looked at that. That is certainly  
8 a factor to be considered in our budget increase and  
9 our budget presentation here today, but it's not the  
10 controlling factor, that an increase in field money  
11 means an increase in OIG oversight.

12           We are very comfortable with what we have now.

13           We had an additional increase, as you're aware of, in  
14 2009, that took our baseline to \$4.2 million. That to  
15 me indicated a very strong endorsement from our  
16 Congressional appropriators as to the work that we have  
17 been doing and they expect to see that work continue in  
18 the future.

19           Our increase for 2011 is about one percent of  
20 the total LSC budget. We are growing fiscally  
21 responsibly and I want to see -- that's pretty much my  
22 management style also. I want to project only based on

1 our results. Our results have been pretty significant,  
2 I think, in the last year.

3 I brought a couple of copies of our semi-  
4 annual report to refresh anyone's memory if that's  
5 necessary.

6 I'm growing the staff very slowly but it's  
7 based on a risk assessment based process.

8 MR. MCKAY: Thank you. Sarah?

9 MS. SINGLETON: May I ask a procedural  
10 question? As I understand it, you are to have autonomy  
11 over your budget.

12 MR. SCHANZ: That is correct.

13 MS. SINGLETON: I certainly understand that  
14 means you get to decide how the money once you get it  
15 is spent. What does it mean in terms of us sending  
16 this request as part of our budget? Do we just have to  
17 take what you say? Explain to me how this autonomous  
18 notion fits into this whole process we're going through  
19 today, if you would.

20 MR. SCHANZ: As you well know, the LSC is an  
21 unique quasi-Government. We spend Government dollars  
22 yet we're not a Government executive branch agency.

1           However, there is the IG Act and the IG Reform  
2 Act of 2008 that reaffirms the independence of the  
3 Inspector Generals, and the sanctity of their budget.

4           I have the authority by statute to go directly  
5 to Congress with an independent IG budget. Since I'm  
6 part and housed with the LSC and you have all heard my  
7 three C's notion of management style, I am included in  
8 the LSC budget as a component of the budget, but it  
9 needs to be recognized and Congress certainly knows  
10 this and the Council of Inspector Generals for  
11 Integrity and Efficiency has pushed this for years,  
12 it's a new Council, but the predecessor agencies have  
13 pushed independent budget authority for years.

14           I'm caught up, thankfully, I think, in the  
15 back wash of that.

16           MS. SINGLETON: Why do you even want to be  
17 part of this process where the Board reviews people's  
18 budgets? Why don't you just say I want \$4,350,000 and  
19 send that to Congress?

20           MR. SCHANZ: I could do that. As I mentioned  
21 just a moment ago, my collegial view of working with  
22 the Board and working with management is I believe the

1 Board should be advised of what I'm doing. I'm not a  
2 renegade IG. I want to be within the parameters of the  
3 Finance Committee and the Board of Directors so you  
4 know where I'm headed with this and the reasons there  
5 for.

6 MS. SINGLETON: What would happen if this  
7 Committee decided to recommend to the full Board that  
8 they put in \$4,200,000 for the IG?

9 MR. SCHANZ: Then I would consult with my  
10 senior staff and decide whether we want to go forward  
11 with our \$4.35 million budget or scale it down.

12 My predicate statements here were intended to  
13 let you know that I'm very fiscally responsible and  
14 growing incrementally. I've been here now for a year  
15 and a half. I've hired two people in 2009 and I'm  
16 planning on hiring two more for 2010 to continue what I  
17 consider to be the very good work of my staff.

18 MR. McKAY: Thank you. Any other comments?

19 (No response.)

20 MR. SCHANZ: I pretty much incorporated most  
21 of them. I do intend to continue from a work planning  
22 point of view, based on the risk assessment -- you have

1 seen some of the work produced based on our grant  
2 reviews, and also I'm doing work within the Corporation  
3 as an independent IG.

4 Our next audit is going to be of the TIG  
5 Program. That's not a surprise. Management has been  
6 advised of that. You have seen the results of our  
7 contracting audit. I'm still going to continue what I  
8 call in IG terms "internal reviews" of the Corporation,  
9 trying to get to economic and efficient operations  
10 within this building and within the organization of the  
11 LSC.

12 Also, as Mr Strickland, the Chairman of the  
13 Board, has finally said, follow the money to the  
14 grantees on systemic type issues.

15 MR. McKAY: Thank you. Mr. Constance, do you  
16 have anything to add?

17 MR. CONSTANCE: Just briefly, Mr. Chairman.  
18 For the record, I'm John Constance, Director of  
19 Government Relations and Public Affairs for Legal  
20 Services Corporation.

21 Thank you for the opportunity to comment. One  
22 of the duties of my office is to monitor press from

1 around the country regarding legal aid. I can say that  
2 the heart breaking stories of need continue to flood in  
3 every morning and virtually every afternoon as we  
4 monitor the wire in this particular economy.

5           It is not hyperbole to say that in the modern  
6 era, the need has never been greater, and as the  
7 stories fill our in-boxes, they are clearly filling the  
8 in-boxes on Capitol Hill.

9           As I've testified here before, there is a  
10 clear understanding up there of the need, a clear  
11 understanding of the Congressional intent in the LSC  
12 act of leadership role of the Corporation, and a clear  
13 understanding that the economy has taken its toll on  
14 other funding sources, including major law firms and  
15 bar associations.

16           There is more pressure than ever on the  
17 Federal dollar for civil legal assistance.

18           As to predicting House and Senate reaction to  
19 the levels that we are presenting to you today, I also  
20 know that the appropriators understand the principled  
21 approach that this Board has taken in past years,  
22 sending forward a request that reflects the needs of

1 our clients and trusting the process to arrive at a  
2 supportable bottom line, a figure that can enjoy  
3 bipartisan support.

4 I urge the Committee to recommend a similar  
5 course this year. I look forward to carrying the  
6 Board's final decision forward and doing my best to  
7 ensure a positive outcome.

8 Thank you.

9 MR. MCKAY: Thank you. Any questions or  
10 comments from the Committee?

11 MS. SINGLETON: Can I ask Mr. Constance to be  
12 a little bit more detailed about the TIG part of this?  
13 This is twofold jump in TIG.

14 MR. CONSTANCE: That's correct.

15 MS. SINGLETON: Maybe you could tell me how  
16 strongly you think -- it was the House appropriators --

17 MR. CONSTANCE: The House appropriators. I  
18 actually put in report language what you have in our  
19 letter that we have forwarded. We felt it was a very,  
20 very clear understanding that they find in terms of  
21 stretching the Federal dollar and technology being a  
22 part of that, it is actually in large urban practices



1 right now.

2           It's nice to have in rural practices  
3 throughout the country in legal aid, it's not even an  
4 option. They have to have it, as you have seen as the  
5 Board has traveled around the country and seen the  
6 applications.

7           I think the Committee staff, Congressman  
8 Mollahan and Congressman Wolf, all of whom supported  
9 the report language, understand that is certainly an  
10 important grants program and an important supplemental  
11 to what we do as a Corporation.

12           I would agree with Mr. Jeffress that I've  
13 never seen a Committee before in my experience suggest  
14 that you provide a higher number the next year than you  
15 provided this year.

16           They are certainly not constrained to give you  
17 a higher number at any point in time, but it's rather  
18 unusual for them to ask for a higher number.

19           MR. MCKAY: Ask and ye shall find. Charles?

20           MR. JEFFRESS: I would just add that TIG was  
21 the one place where the Committee fully funded  
22 everything the Board asked for. You asked for 3.4.

1 They gave 3.4 and said ask for more. I do think it's a  
2 pretty strong message.

3 MR. MCKAY: At the risk of being corrected  
4 soon by Mr. Fuentes, "ask and ye shall receive" I think  
5 is the proper quote.

6 MR. FUENTES: A little Latin.

7 MS. MIKVA: I have a question about money for  
8 training. The \$500,000 as part of this MGO, is that  
9 limited training money? I guess I would compare that  
10 to the request from NLADA, maybe a separate line item  
11 for training.

12 MR. JEFFRESS: I will let NLADA speak about  
13 their own request. This envisions that a training  
14 component will be established within LSC, that we would  
15 add limited positions but we would develop materials  
16 and produce training and offer the training ourselves.

17 If you go back 10 or 12 years ago, LSC had a  
18 significant training budget, and in fact, contracted a  
19 lot of it out. I suspect the NLADA proposal is  
20 suggesting a much more expansive training and perhaps  
21 contracting a lot of it out.

22 MS. MIKVA: Was it ever a separate line item

1 in the budget request?

2 MR. JEFFRESS: I've been here five years and  
3 can only speak to that. I'm going to have to defer.  
4 Let me refer to David on that.

5 David, the question was has training ever been  
6 a separate line item in the Congressional  
7 appropriation.

8 MR. RICHARDSON: And the answer to that  
9 question is it has been, a significant line, as I  
10 recall the last appropriation. It was somewhere in the  
11 neighborhood of \$750,000 for the training centers.

12 MS. SINGLETON: Can I ask David a question?  
13 In terms of the MGO, I go from \$17 million to \$19.5  
14 million. I take out the \$500,000 for training. That  
15 means I'm up \$2 million, and the rationale given is to  
16 support 15 new positions that the Board authorized.

17 Maybe my math is wrong. That works out to  
18 \$133,333 per position. Is that what we are averaging  
19 per position at LSC?

20 MR. RICHARDSON: No, ma'am. What you're  
21 looking at is the additional staff, the additional  
22 travel and training that would take place with that

1 staff, and the additional space requirements as far as  
2 logistics, as far as computers, desks and equipment  
3 that goes with it.

4 MS. SINGLETON: That is our cost per staff,  
5 average cost per staff person in those two departments  
6 then.

7 MR. RICHARDSON: I think what you're going to  
8 find is where currently the Compliance unit is making  
9 about 25 trips a year, they're hoping to go to the  
10 neighborhood of 40. With the additional staff, they  
11 have the additional travel, and it's not just the staff  
12 that would be going, but it would be the staff that is  
13 here also would be supplementing and going on those  
14 trips.

15 MS. SINGLETON: Presumably the staff we  
16 already have is going on trips now. Are they planning  
17 on going on more trips?

18 MR. RICHARDSON: That's correct; they are.

19 MS. SINGLETON: Then why haven't they been  
20 going on these more trips already?

21 MR. RICHARDSON: Money.

22 MS. SINGLETON: Because we don't have money to

1 pay their travel costs?

2 MR. RICHARDSON: That's correct.

3 MR. FUENTES: Mr. Chairman, along those same  
4 lines of Sarah's question, Charles, when you were  
5 speaking, you mentioned the \$500,000 funding for two  
6 positions and ancillary costs. Can you define that a  
7 little better for us?

8 MR. JEFFRESS: Yes. In terms of hosting the  
9 web based training, we anticipate there will be  
10 significant IT costs in developing the facilities and  
11 getting the software necessary to support the web based  
12 training that we are not now doing. We also anticipate  
13 developing training materials that we don't now do.

14 The \$500,000 is not to be divided between two  
15 employees. There are two employees but most of the  
16 cost is in the materials and the technology necessary  
17 to deliver that training.

18 MR. FUENTES: Would that be consultant  
19 provided?

20 MR. JEFFRESS: Not in the \$500,000. We do  
21 some training now through our Office of Compliance and  
22 Enforcement and some through our Office of Program

1 Performance. We expect to do more of that in 2010  
2 because we think there is demand and we need to do  
3 more. The demand is going to continue to grow for  
4 that. The evidence is pretty clear that we need to  
5 keep a consistent and constant effort out there to keep  
6 local boards up to date on their responsibilities and  
7 to keep them involved.

8 We need to keep fiscal staff for all the  
9 grantees up to date and current and reminded about  
10 responsibilities. We need to continue emphasis on  
11 private attorney involvement.

12 These are things we think we can best do with  
13 a consistent training effort. We don't produce now the  
14 materials for that. We don't know have the web  
15 capacity to deliver this training.

16 We believe that will be a good addition to the  
17 services that the Corporation offers.

18 MR. CONSTANCE: Mr. Chairman, if I could also  
19 add to that. This is, particularly on the Senate side,  
20 an area that we have heard a desire for, a desire to  
21 see more of. In the authorization bills on the Hill, I  
22 think you're going to see that. The rationale is it's

1 the natural balance to oversight. It is not telling  
2 someone what they should have done. It is telling  
3 someone what they should do in terms of training.

4           Whereas, one is going out and examining  
5 programs and auditing programs as to what's on the  
6 ground as reality, the training is thought to be that  
7 counter balance that explains really what the  
8 responsibilities and roles are out there.

9           MS. SINGLETON: I'm sorry to be dense on this,  
10 Charles and David. You say the Board authorized you to  
11 increase 15 positions based on our appropriation for  
12 2010. That is the \$17 million. In order to maintain  
13 those 15 positions, you need another \$2 million for  
14 fiscal year 2011.

15           I guess I'm just not getting -- to me, it  
16 sounds like you're double dipping, I guess is what I'm  
17 saying. We increase the number based on the increase  
18 up to \$17 million. Now we have to increase it another  
19 \$2 million to maintain the same staffing level?

20           MR. RICHARDSON: If you will recall, we got  
21 the appropriation this year extremely late.

22           MS. SINGLETON: Yes, I remember that.

1           MR. RICHARDSON: We projected these 15 people  
2 to be hired in June or July. We only had in that \$17  
3 million appropriation three or four months worth of  
4 funding for those salaries.

5           This year, we had to have the increase to  
6 accommodate the full annual cost of the salaries plus  
7 increases that go along with that, increased spending  
8 as far as travel and so forth.

9           We were anticipating carry over, carrying the  
10 bulk of the funding with this year's appropriation to  
11 be able to fund all those salaries.

12           Next year, if we get them all hired, there  
13 will be substantially less carry over. Therefore, we  
14 need more money for operations to be at a status quo  
15 level.

16           MR. JEFFRESS: If I could add one thing. If  
17 you will recall, when we prepared the budget and the  
18 Finance Committee recommended adoption of the budget,  
19 we held out \$1 million reserve that was not budgeted  
20 for fiscal year 2009 in anticipation of needing that  
21 money in fiscal year 2010 to support those positions.  
22 That \$1 million is there and will be in the budget that



1 is presented to you in October to support the 2010.

2 That reserve will be gone. If we are going to  
3 continue this in 2011, that's half, I guess, of what  
4 you're looking at there, Ms. Singleton, in terms of the  
5 \$2 million above \$17 million, \$1 million of that in  
6 2010 is being provided by the reserve we're carrying  
7 forward, but assuming then that we support all those  
8 positions and we spend that money in 2010, we will need  
9 to replace that as well as the \$1 million increase to  
10 continue current operations.

11 MR. RICHARDSON: Additionally, when we  
12 reviewed the budget in April and asked you to approve  
13 the budget that we currently have, I made you aware  
14 then that we would need \$18,800,000 in 2011 to continue  
15 funding these budgets, and after that because of  
16 increased costs, we'll need even additional money on  
17 top of that.

18 MS. SINGLETON: How did \$18.8 million get to  
19 \$19.5 million? I know we're only talking a few hundred  
20 thousand here.

21 MR. JEFFRESS: \$500,000 is the training, so  
22 18.8 got to 19.

1 MS. SINGLETON: Okay. Rounding errors; right?

2 MR. RICHARDSON: That's right.

3 MR. McKAY: Those are very helpful questions.

4 Those are exactly the concerns I had reading these  
5 materials, so I'm glad you took the time to ask those  
6 questions.

7 I have a follow up question to Sarah's  
8 questions. You indicated that this past year, we made  
9 25 visits, we hope to make 40 visits this next year; is  
10 that correct?

11 MR. RICHARDSON: In 2011. There will be some  
12 increase in 2010, but not the full 15.

13 MR. McKAY: When you talk about these visits,  
14 are these joint visits, OPP and OCE, or are they  
15 different visits?

16 MR. RICHARDSON: They are different visits.  
17 What I'm talking about is just the OCE visits.

18 MR. McKAY: It was 25 and hope to be up to 40  
19 by 2011?

20 MR. RICHARDSON: That's correct.

21 MR. McKAY: Very good. Thank you. Any other  
22 questions or comments for management?

1           MR. FUENTES:  Mr. Chairman, I'd like to  
2  reserve that privilege.  I see we actually have some  
3  public comment.  I'd like to hear that and then I'd like  
4  to get back to this dialogue.

5           MR. McKAY:  Absolutely.  Thank you.  Thanks so  
6  much for your good work.  I will open it up for public  
7  comment.  I know we are going to hear from SCLAID and  
8  NLADA, and if those representatives can come forward.  
9  We will hear from them first and then open it up for  
10 anyone else who wants to help us make some decisions  
11 this morning.

12           Could you please introduce yourselves for the  
13 record?

14           MR. STEIN:  Good morning.  My name is Bob  
15 Stein.  I'm the Chair of SCLAID from the American Bar  
16 Association.

17           MR. McKAY:  Welcome.

18           MR. SAUNDERS:  I'm Don Saunders.  I'm the  
19 Director of Civil Legal Services for the National Legal  
20 Aid and Defenders Association appearing on behalf of  
21 the Board of NLADA.

22           MR. McKAY:  Welcome to you as well.  Thanks so

1 much for coming. Mr. Stein, perhaps you could begin.

2 MR. STEIN: Thank you. Last year I appeared  
3 before you as a member of SCLAID and happy to be back  
4 in my new capacity and two people who are sitting in  
5 the back who really should be here. Terry Brooks who  
6 is the Director, Committee Counsel, of SCLAID is here,  
7 along with Julie Strandlie from the Government Affairs  
8 Office of the ABA, and as you know, they both have been  
9 real champions of LSC, both within the ABA and the work  
10 on the Hill.

11 Earlier this month, we submitted a memorandum,  
12 which is on page 36 of your materials, which set forth  
13 our views on the LSC budget request for fiscal year  
14 2011.

15 What I would like to do today is briefly  
16 mention what I consider to be the four most important  
17 elements from that memorandum.

18 First, SCLAID recommends that the LSC seek an  
19 appropriation for fiscal year 2011 of no less than \$530  
20 million. The figure is certainly less than we think  
21 justified for the work that must be done by the LSC and  
22 legal aid organizations in providing equal access to

1 justice for all, but we believe this increase to at  
2 least \$530 million is a reasonable and realistic stop  
3 towards reducing the justice gap in America.

4           It's quite clear there is a justice gap. In  
5 fact, we think it's a lot more than a gap. It's an  
6 ever widening chiasm. Your research continues to show  
7 that eligible applicants for legal services have less  
8 than a 50/50 chance of getting any kind of help from  
9 LSC funded offices because the offices lack adequate  
10 resources.

11           Approximately two million people who apply for  
12 service each year are just the tip of the iceberg.  
13 Many poor people with life altering legal problems  
14 either do not know that a network of LSC funded legal  
15 aid offices exist or they know the system is so grossly  
16 under funded that they are likely to be turned away.  
17 Based on that, they fail to seek any assistance at all.

18           Most poor people have nowhere else to turn for  
19 help. Earlier, Mr. Constance talked this morning about  
20 the needs as these were portrayed in the media. For  
21 those reasons and for the reasons I mentioned, we  
22 believe that an increase is especially needed for this

1 fiscal year.

2           The Census Bureau reported just two weeks ago  
3 that the poverty rate rose in 2008 to 13.2 percent,  
4 which is the highest level since 1997. For children,  
5 it's even higher. It's about 20 percent.

6           The number of people in poverty climbed to  
7 39.8 million, the highest level since 1960.

8           These results are from the Bureau's annual  
9 report on income poverty and health insurance. They  
10 are based on data collected in the Spring of 2008  
11 before the economy fully tanked, so I think we might  
12 even see worse figures in the future.

13           Past experience suggested that things are  
14 going to get worse before they get better. Federal  
15 Reserve Chair Ben Bernanke last week said that  
16 unemployment will continue to climb for the next year  
17 or two.

18           In the last two recessions, the unemployment  
19 rate continued to rise for 15 to 19 months after the  
20 recession ended. There will be more people in poverty  
21 seeking LSC services during the next two years.

22           Other resources to support the legal aid

1 system are shrinking. Federal funding available  
2 through LSC provides the foundation and the catalyst  
3 for development of other additional funding.

4 Most states now provide Government funding for  
5 legal aid programs and significant additional funding  
6 is provided by the organized Bar through IOLTA  
7 programs. However, due to the economic down turn,  
8 funding available from both these sources has decreased  
9 dramatically.

10 ABA research shows that IOLTA programs  
11 experienced a 23 percent decline in income for 2008 and  
12 those programs anticipate reporting an even larger  
13 reduction for 2009 and 2010.

14 Therefore, LSC's fiscal year 2011 budget  
15 request should make it clear that the \$530 million  
16 funding sought is far less than is truly warranted and  
17 that a higher number is a goal towards which LSC must  
18 move.

19 The second point with respect to the  
20 allocation of funds within the appropriation request,  
21 we urge that LSC continue its admirable record of  
22 administrative efficiency and that an excess of 95

1 percent of the budget request be allocated to the  
2 provision of field services.

3 Third, we remain particularly concerned about  
4 attracting and especially retaining high quality  
5 lawyers for legal service careers. Therefore, we urge  
6 that LSC continue to request additional funds for its  
7 program providing loan repayment assistance for  
8 selected lawyers in LSC funded programs.

9 Finally, we endorse the continuation of the  
10 TIG Program and urge the Board to include within the  
11 fiscal year 2011 budget request an amount sufficient to  
12 continue building a strong technological infrastructure  
13 within the legal services community.

14 As the LSC Board prepares its 2011 budget  
15 request to Congress, we urge the Corporation continue  
16 to send a strong message about the crushing effects of  
17 poverty in America and the need for increased Federal  
18 support for legal services for the poor.

19 The ABA will continue to vigorously advocate  
20 in the 111th Congress for increased funding for LSC.

21 The ABA will also continue a number of other  
22 efforts to help in addressing the problem. Our



1 Commission on IOLTA will continue to work closely with  
2 state IOLTA commissions and programs to find methods to  
3 enhance IOLTA revenues.

4 SCLAID will continue to work closely with fund  
5 writing advocates in each state to support efforts to  
6 expand funding for legal aid from state government and  
7 other sources.

8 The ABA Pro Bono Committee will continue to  
9 work closely with the network of over 1,000 pro bono  
10 programs to expand the contribution of private lawyers  
11 who volunteer their services to assist the poor with  
12 legal problems.

13 Personally as SCLAID's Chair, I look forward  
14 to working with the LSC and I thank you for giving us  
15 the opportunity to contribute our views as you consider  
16 the appropriate funding level to be sought by LSC for  
17 fiscal year 2011.

18 MR. MCKAY: Thanks so much.

19 MS. SINGLETON: Can we ask the commentators  
20 questions?

21 MR. MCKAY: You bet; absolutely.

22 MS. SINGLETON: Mr. Stein, 95 percent of \$530

1 million would be \$503.5 million, I think,  
2 mathematically speaking.

3 MR. STEIN: I think that's right.

4 MS. SINGLETON: Do you count -- I'm sure basic  
5 field goes in there. Do you count TIG as part of your  
6 95 percent?

7 MR. STEIN: What we are hoping is that the  
8 amount that will be used for administrative purposes  
9 will be as little as possible while permitting the  
10 administration of LSC to provide the appropriate  
11 oversight.

12 MS. SINGLETON: Do you have a number?

13 MR. STEIN: I don't have a number. I can get  
14 you one shortly. I can ask Terry if we have any  
15 others. Why don't I get that to you before the end of  
16 the day?

17 MS. SINGLETON: Okay. Thank you. Actually,  
18 before the end of the day, before we vote on anything,  
19 even better.

20 MR. STEIN: I will consult on that.

21 MS. SINGLETON: Otherwise, I'd be interested  
22 but it wouldn't be nearly as useful.

1 MR. STEIN: Okay.

2 MR. MCKAY: Any other questions for Mr. Stein?

3 MR. FUENTES: Mr. Stein, I'll have a little  
4 dialogue with you, if I may. I know Herb is going to  
5 tell me that I'm unappreciative of the good work of the  
6 ABA, and I'm not. I appreciate those lawyers who give  
7 of themselves.

8 How many lawyers are there in America?

9 MR. STEIN: My guess is there are somewhere  
10 around a million.

11 MR. FUENTES: Charles or Helaine, how many  
12 cases do our recipients handle a year? The agencies  
13 that we serve, how many cases?

14 MS. SINGLETON: Around 900,000.

15 MR. JEFFRESS: We close about a million cases  
16 a year.

17 MR. FUENTES: Mr. Stein, would you guess that  
18 every lawyer in America takes on a pro bono case a  
19 year?

20 MR. STEIN: I think the statistics are about  
21 73 percent of the private Bar do pro bono work.

22 MR. FUENTES: How about the Government

1 employee Bar?

2 MR. STEIN: I do not know the answer to that.

3 MR. FUENTES: What could we do to offer  
4 encouragement and leadership to lawyers, private  
5 lawyers, corporate lawyers, Wall Street lawyers,  
6 Government lawyers, court clerks, all the lawyers on  
7 the public payroll already, to do pro bono work in  
8 their spare time?

9 MR. STEIN: The idea of "spare time" is an  
10 interesting question, but I think one of the things  
11 that we are trying to do through a number of places  
12 within the ABA is to promote increased pro bono  
13 activity. Right now, as I said, they do about 73  
14 percent. The average as I understand it is about 40  
15 hours a year.

16 MR. FUENTES: I understand that some of those  
17 cases with the big firms where the lawyers do pro bono  
18 work that they are actually paid for it. It's part of  
19 the budget. They are compensated for it. That's not  
20 really pro bono.

21 MR. STEIN: I think if what they are doing is  
22 work in addition to the work they are getting paid for,

1 then it is pro bono, and that probably applies to a  
2 significant number.

3 I think your point is valid in that one wants  
4 to create an atmosphere where more people and more  
5 lawyers will do pro bono work, and I think a good way  
6 to do that is to have as strong a possible legal aid  
7 system, LSC system, so they coming in without having  
8 done this kind of work before can get the training and  
9 mentoring that they need from the existing LSC and  
10 other legal aid lawyers.

11 Also, I would suggest that at the current time  
12 with an increased number of cases of credit areas,  
13 foreclosures, there is an increased amount of work that  
14 can be done by lawyers in the private sector to work  
15 with the other organizations that are already doing it  
16 because the needs are far greater than even the lawyers  
17 can work on, the private lawyers can work on by  
18 themselves.

19 MR. FUENTES: Years ago in our community we  
20 had a lot of hungry people. My friends and I saw that  
21 need. We opened a food bank. We went to the private  
22 community and we fed our neighbors. We didn't look to

1 Government to do that. We didn't look to Government  
2 funded programs to do that. We went to our neighbors  
3 and did that.

4 Why doesn't that apply with the Bar?

5 MR. STEIN: Well, I think it does apply, but  
6 that's not going to be enough. Therefore, if you look  
7 at the food banks currently, most of their shelves are  
8 empty while their needs are greater this year. There  
9 were some pictures in yesterday's papers about that.

10 My view is the problem is greater than any of  
11 the parts, and we need as many different groups to work  
12 together to meet the needs, and we are nowhere near  
13 meeting them.

14 MR. FUENTES: Would you put the appropriate  
15 response -- I think we even have a list here within the  
16 text here that we commonly use, Federal, state, local,  
17 Bar Association effort, private lawyer effort.

18 Would you rank those as to how we ought to  
19 approach this issue, where the lead should come from?  
20 Where the first call should be?

21 MR. STEIN: I think it has to be a  
22 collaborative approach.

1 MR. FUENTES: Thank you.

2 MR. McKAY: Sarah?

3 MS. SINGLETON: Mr. Stein, does the ABA have  
4 any statistics that would show whether pro bono efforts  
5 by attorneys would be sufficient, to use our  
6 vernacular, fill the justice gap? Have they studied  
7 that?

8 MR. STEIN: They have studied, to my  
9 knowledge, the amount of work that lawyers have been  
10 doing, and it is not sufficient on its own.

11 MS. SINGLETON: Right now, the latest study  
12 showed 73 percent of the lawyers give an average of 40  
13 hours a year; correct?

14 MR. STEIN: Yes.

15 MS. SINGLETON: We still have the Justice Gap  
16 report?

17 MR. STEIN: That is correct.

18 MS. SINGLETON: Could you extrapolate from  
19 that that if either 100 percent of the lawyers gave an  
20 additional 40 hours per lawyer, that would be 27  
21 percent times 40 hours, that mathematically could not  
22 be enough to fill the justice gap; right?

1           MR. STEIN: Yes, that's correct.

2           MS. SINGLETON: If we got every lawyer to give  
3 80 hours, let's say, how would that do? Would we be  
4 getting closer?

5           MR. STEIN: I do not have my calculator with  
6 me. I think we'd be getting closer but we still would  
7 not be there. It has taken a while to get up to the 40  
8 hours per year level. To get up to the 80 hours a year  
9 level, I'm not sure whether that would be possible or  
10 how long it would take.

11           We are working to try to increase it, as are  
12 other organizations.

13           MS. MIKVA: Is there a number of how many pro  
14 bono hours are sort of run through the SCLAID Program?

15           MR. STEIN: Don might have that. I'm sure  
16 there are records that the Corporation probably --

17           MR. SAUNDERS: We close ten percent of the  
18 cases.

19           MR. STEIN: The PAI Program, Don informs me,  
20 closes ten percent of the LSC case docket.

21           MS. SINGLETON: We spend 12.5 percent of the  
22 money to do that. It doesn't sound efficient.



1 MR. MCKAY: Herb?

2 MR. GARTEN: If I may, I'm not a member of the  
3 Committee, but may I?

4 MR. MCKAY: We welcome the presence of the  
5 Chair of the Audit Committee.

6 MR. GARTEN: Mr. Stein, just to clarify,  
7 especially from my good friend, Tom Fuentes, of the  
8 million lawyers that you mentioned as being members of  
9 the Bar, a much smaller percentage are engaged in the  
10 practice of law.

11 MR. STEIN: That is correct.

12 MR. GARTEN: Do you have a pretty good idea of  
13 the percentage?

14 MR. STEIN: I don't. The ABA has over 400,000  
15 members, so there are still many who are working in  
16 other positions who are not members of the ABA.

17 MR. GARTEN: That million includes Government  
18 lawyers?

19 MR. STEIN: That's correct.

20 MR. GARTEN: And non-practicing lawyers,  
21 retired lawyers. I just want to point out that we  
22 don't have a million lawyers that are available for the

1 services.

2 I think it's generally known also that among  
3 the professionals, lawyers contribute substantially  
4 more time for pro bono and community activities than  
5 most other professionals. For example, comparing it to  
6 physicians.

7 I'm sure, Mr. Fuentes, that this community  
8 kitchen in Orange County, California had a small  
9 percentage of people engaged in that activity. It  
10 didn't have anywhere near 70 percent of it as residents  
11 of Orange County involved in that activity. Figures  
12 can be misleading.

13 I can tell you this, that in addition to all  
14 the pro bono activities, many states raise substantial  
15 funds from lawyers. I call it the "checkbook pro  
16 bono." In Maryland, for example, way over \$2 million  
17 is raised from the lawyers of that state, and it's  
18 documented.

19 It's documented by an annual report to the  
20 Chief Judge of the highest court, and this is true in  
21 other states, where lawyers are required to indicate  
22 how many hours they have provided in pro bono service

1 and also indicate how many dollars they have  
2 contributed to organizations that support pro bono  
3 services.

4 All I want to do is emphasize that as far as  
5 the profession is concerned from the grassroots, from  
6 the county level, the state level, Bar associations,  
7 minority Bar associations, especially Bar associations,  
8 all are engaged in pro bono activities to a greater  
9 extent than any other profession or endeavor.

10 MR. McKAY: Anything further?

11 (No response.)

12 MR. McKAY: Mr. Saunders?

13 MR. SAUNDERS: Thank you, Mr. Chairman. Thank  
14 you for inviting NLADA to speak before this important  
15 Committee, and it is certainly my pleasure to be here  
16 with Bob and our partners at the ABA.

17 I will try not to deliver many prepared  
18 remarks and try to support the dialogue you're  
19 obviously beginning.

20 I would say, as you can tell from our  
21 submission, we come to you today seeking \$639.5  
22 million. We are walking the halls with the ABA and

1 certainly in support of your request, and I understand  
2 that is a significant figure and one that would make  
3 certain eyes rise, but I do want to briefly suggest  
4 where it comes from.

5           It is in keeping with the consistent strategy  
6 around the first Justice Gap report, which was 2007,  
7 this would be the equivalent figure for year four. We  
8 did not seek to continue on that trail last year. We  
9 froze the request. This would actually be the fifth  
10 year. I know the Board took a different approach, Ms.  
11 Singleton's approach, last year.

12           We felt and the field feels it's important to  
13 send a very strong signal to the Congress and to the  
14 community that depends so much on the support of LSC in  
15 the current moment, that moment reflects a brutal  
16 recession, a recession that as you've heard from others  
17 is really hitting poor people and low income  
18 communities very, very hard.

19           The numbers of cases that are coming from  
20 folks that are newly poor are very, very significant.  
21 The obvious issues you've heard about and your staff is  
22 working very diligently toward, foreclosures, the

1 unemployment issues, the sad state of domestic violence  
2 as financial matters put pressure on families.

3           These are all very, very significant issues,  
4 and at least anecdotally, I hear every day of some of  
5 the stories that John Constance was referring to with  
6 regard to really what's happening in your offices, and  
7 several of them have had to limit or almost cut off in-  
8 take because of the demand.

9           The point I want to make as part of the  
10 dialogue you were having is it's been our position and  
11 I think the broad position of the ABA and other stake  
12 holders that the responsibility for justice in this  
13 country, as Bob said, should be a collaboration among  
14 the public Bar, the private Bar, stake holders within  
15 the community, the volunteers.

16           This year in particular, I think, it's  
17 important to send a very strong message because the  
18 world of legal aid as I've been involved for a number  
19 of years is a bit upside down because of the statistics  
20 that Bob said.

21           The cut back's in IOLTA, the cut back's that  
22 are potentially upon us in terms of state funding and

1 other sources, we've had a steady growth in the country  
2 for over a decade now of other resources. That trend  
3 has gone the other way.

4 In many other sectors of the economy right  
5 now, the attention has been placed upon Washington to  
6 meet what are really significant shortfall's, and I  
7 would suggest to you this morning that the legal aid  
8 system is also experiencing such a shortfall.

9 The challenges that programs face, the  
10 layoff's that I hear about across the country, these  
11 are issues that require a strong Federal response,  
12 particularly given the nature of the economic crisis  
13 that we face.

14 The Bar itself is in an economic crisis in  
15 terms of its own capacity. There are thousands and  
16 thousands of lawyers who are also suffering from the  
17 economic down turn.

18 The whole system as we have worked so  
19 diligently to develop over the years is really in a  
20 significant strain right now, and the one thing that  
21 I'm convinced of is it is your funding and it is the  
22 support of the Legal Services Corporation that is the

1 foundation of the collaboration that Bob is talking  
2 about.

3           We present that number to you in keeping with  
4 the strategy, but I also commend management for its  
5 request. That is a strong signal in what is a  
6 difficult political environment, certainly the support  
7 of the ABA toward that end is very, very important.

8           I would urge you to be as bold as you can and  
9 recognize and specifically congratulate this Committee  
10 and this Board over the years for its willingness to be  
11 bold and to be aggressive in making the case for  
12 justice before the Congress.

13           I want to spend just a few minutes in  
14 particular on some of the specifics of the request and  
15 address a few of the questions.

16           As the ABA has suggested to you, as we  
17 presented in Kansas, we certainly support the  
18 continuation of the Herb Garten Loan Repayment Program  
19 for an additional year. I don't need to go into the  
20 reasons for that. I think they are pretty clear.

21           With regard to the TIG Program, the Technology  
22 Initiatives Grant Program, it is one of the few areas

1 where the field has felt consistently that it was  
2 appropriate to earmark at the national level funding  
3 for a particular purpose.

4           In the past, it has been very much the view of  
5 the field that for the most part, issues should be  
6 decided at the local level. However, for a few, loan  
7 repayment and student debt being one and technology  
8 initiatives being another, it was such an overwhelming  
9 need, it was something that the leadership of LSC and  
10 the coordination of the staff that Helaine brings to  
11 this issue has been very important.

12           We, too, strongly support that. I don't know  
13 exactly how to describe this at the stage you are in  
14 the process, but the figure that you have, \$6.8  
15 million, we would certainly support that figure were  
16 you to be successful with your request.

17           Were that request to be less than fully  
18 funded, we would not want to see basic field cut by \$3  
19 million as you get down to negotiating with the  
20 Congress.

21           I guess what I'm trying to say is we would  
22 like to see the TIG amount increase with increased



1 appropriations, and we're not suggesting that we think  
2 TIG should be \$6.8 million at any level of funding.  
3 That's what we tried to explain in our letter. At this  
4 point, you can only put in what you have here, and we  
5 would support that.

6           Once you get down to the realities of the  
7 budget process, we would like to see obviously some  
8 flexibility there.

9           With respect to one other issue, we have  
10 discussed with this Committee for a number of years now  
11 our support for a proposal for additional funding to  
12 support an improved Native American delivery, and we  
13 again present that request to you, understanding fully  
14 and being a part of the ongoing conversations that you  
15 and your staff have had with the National Association  
16 of Indian Legal Services, we support the continuation  
17 of that process.

18           We did want to go on record still recognizing  
19 there is a need subject to the ongoing deliberations of  
20 this Board and your staff.

21           The final issue, we certainly applaud the  
22 training initiative of LSC, recognizing, too, this is

1 another area that we have been seeking attention at the  
2 national level for a number of years.

3           The brief history -- I certainly would never  
4 challenge David Richardson's numbers. There was a time  
5 when LSC was very involved in professional development  
6 of staff across the country. There were regional  
7 training centers in every part of the country.  
8 Therefore, the opportunities that might exist in New  
9 York or Boston were also potentially made available in  
10 the Southwest or the Mountain West.

11           All of those efforts were completely  
12 eliminated in 1996. Since that time, we have been  
13 really coming back to the Board and seeking some focus  
14 at the Federal level, some commitment of funding to  
15 issues that go beyond what is presented here.

16           Certainly, I like the way it was described,  
17 that training should be made available before the fact  
18 in terms of compliance and oversight and things of that  
19 sort, but we also think the professional development  
20 and training of legal aid advocates is important, and  
21 frankly, in many parts of the country, that system is  
22 really lacking.

1           There are examples, New England being probably  
2 the best, and California, where good solid professional  
3 development is made available for legal aid attorneys.

4           That's not the case in many parts of the  
5 country. With tight budgets, training is one of the  
6 first things to go, the infrastructure to support  
7 training. Certainly, law schools put out very well  
8 trained graduates, but law school curriculums for the  
9 most part don't prepare attorneys to do legal aid work.

10           The Bar Association training's are sometimes  
11 very helpful, some of the trial advocacy training's are  
12 important, and the Corporation worked with the  
13 litigation section to make those available.

14           There is a real need in our view of an  
15 infrastructure to support training. We continue to  
16 seek attention and appropriations for that purpose.

17           We have really not moved very far forward.  
18 Our request is probably way beyond the capacity to  
19 spend that effectively in the first year. We continue  
20 to raise it because we think training is an issue the  
21 Corporation should be looking at like technology.

22           We're not saying we need a national training

1 system, but the ability to use new technologies, the  
2 ability to make sure an advocate in rural New Mexico  
3 has an opportunity to be trained, to be effective, is  
4 an important matter.

5           The final point I would make, and don't really  
6 have any way to tell positions from your request in  
7 terms of what they play out to be, but we certainly  
8 have been your partner and I hope Jeff's partner in  
9 trying to make it very clear to the field the critical  
10 importance of compliance, the critical importance at  
11 every level of avoiding some of the pitfalls that have  
12 led to so much unfortunate attention over the last  
13 number of years.

14           We do recognize and certainly support your  
15 efforts to tie that issue up in a knot, but as you add  
16 positions in both OCE, OPP and OIG, I just urge you to  
17 recognize as you plan the cost involved in that  
18 heightened oversight to make sure that the efforts of  
19 management as well as the OIG are coordinated and cost  
20 effective and balanced.

21           I really am not commenting about the levels of  
22 the request but just suggesting from the perspective of

1 the field that these events are very time consuming,  
2 they are very stressful, and it's just important that  
3 not only you ensure at every level compliance, but you  
4 also do it in a way that is the least intrusive as  
5 possible.

6 Thank you very much.

7 MR. McKAY: Thank you. Questions or comments  
8 for Mr. Saunders?

9 MS. MIKVA: Do you have a number of what you  
10 think sort of a bare minimum would be to have the  
11 training program re-established on a national level?

12 MR. SAUNDERS: I don't have a model so it's  
13 hard to have a number. The reason I thought David's  
14 number may have been a little low is because back when  
15 there were training centers, there were like six. He's  
16 probably correct.

17 I don't think there should be a lot of money  
18 taken off the top at a national level, but right now,  
19 we don't have a system to invest. Our suggestion was  
20 to give the Corporation some flexibility to make grants  
21 and contracts.

22 We don't have up to date materials. Somebody

1 needs to be working with regard to that.

2           To be honest with you, the figure we came up  
3 with is sort of a starting place and a discussion  
4 point. There certainly is a need that would more than  
5 subsume that, but what the most important need is at  
6 this point and what you are starting to do by this  
7 budget is to begin to look at training needs, and we  
8 would just urge that as you do that, for compliance and  
9 Board development and things of that sort, you also  
10 consider the substantive needs of your advocates.

11           MR. MCKAY: Mr. Saunders indicated that he had  
12 been invited to attend, and indeed, he had, as had Mr.  
13 Stein and his organization. I do want the record to  
14 reflect that we have as a practice over the last couple  
15 of years extended invitations to several organizations,  
16 and I would ask that the record reflect that we invited  
17 the American Farm Bureau, the AARP, Center on Budget  
18 and Policy Priorities, The Urban Institute, the  
19 Heritage Foundation, the Center for American Progress,  
20 the American Enterprise Institute, the CATO Institute,  
21 and the Brookings Institution to attend.

22           We just think it's important we hear from as

1 many people, as many organizations as possible. I hope  
2 that we continue to extend these invitations, but we  
3 are very pleased that the two of you came and made a  
4 presentation.

5 Are there any other questions for either of  
6 these two gentlemen?

7 (No response.)

8 MR. MCKAY: Thank you very much to the two of  
9 you.

10 Is there anyone else who wants to provide  
11 public comment on the discussion today?

12 (No response.)

13 MR. MCKAY: Thank you. Before we move to the  
14 next item, I propose we take a five minute break.

15 (A brief recess was taken.)

16 MR. MCKAY: Can we get back into session,  
17 please. Our five minute breaks are fast becoming  
18 similar to a Congressional five-minute break.

19 MR. MCKAY: The next item on the agenda is  
20 consider and acting on the Board Resolution, and that  
21 is considering our fiscal year 2011 budget request to  
22 Congress. I'll open it up for comments from the

1 Committee.

2 I'll begin by sharing with you some of my  
3 thoughts. I was really impressed with the written  
4 materials we received from management, from SCLAID,  
5 NLADA. It was very helpful for me to think through the  
6 implications.

7 I like Sarah had a series of questions about  
8 the MGO line item, but Sarah very successfully elicited  
9 the information that I was going to ask for, and she  
10 did it in a much better way.

11 Those concerns I had about the MGO line item  
12 have been eliminated and I feel much more confident  
13 with the number there.

14 While I've said this over and over again, I'm  
15 a firm believer in the collective wisdom of the  
16 Committee and the full Board that my initial thought is  
17 to accept the recommendation from management as  
18 proposed. You know in the past, I have been active in  
19 changing management's recommendation as recent as last  
20 year. That isn't the case for me this year. That's my  
21 current assessment. I'm anxious to hear the thoughts  
22 from the other members of the Committee.



1           MR. FUENTES: Mr. Chairman, in Charles'  
2 presentation to us, I believe it was Charles, he said  
3 or perhaps it was John's, they can take credit as they  
4 like, that we seek to meet the needs of those we serve  
5 and then we send it to Capitol Hill to let the process  
6 on Capitol Hill work it out.

7           Charles, that was your theme, was it?

8           MR. JEFFRESS: I have to give credit to John.

9           MR. FUENTES: John. Thank you.

10          MR. CONSTANCE: If you liked it, Tom, that was  
11 mine.

12          MR. FUENTES: Yes. And if you didn't, it  
13 belongs to him. I would do that myself. Thank you.

14          They were far more articulate. I think that  
15 was the message offered.

16          Turning to the figures before us, and we used  
17 as a base the \$390 million shown as the fiscal year  
18 2009 appropriation and then we come to this request of  
19 the \$516 million today, the ABA telling us they would  
20 like to see \$530 million and the NLADA, \$639.5 million.

21          We have had this discussion before. This  
22 discussion has centered around what is realistic and

1 appropriate to send to the Hill, and what is the image  
2 of the reality and the thoughtfulness of this Board  
3 when we send numbers that are not realistic to Capitol  
4 Hill. That concern has been raised. I have raised it  
5 in the past.

6           The fiscal year 2009 \$390 million was  
7 approved. 2010, House and Senate, the 400 to \$440  
8 million figures, a far cry from the \$516 million. Yet,  
9 maybe it is that we are going to do the same thing that  
10 we've done in the past, seek pie in the sky that is  
11 unrealistic and have the process on Capitol Hill sort  
12 it out.

13           I would prefer to deal with reality. I would  
14 prefer to deal with an understanding of input. We take  
15 input from the ABA every time we sit down. We take  
16 input from the NLADA because they have their  
17 spokespersons here all the time.

18           Well, the people of the United States are  
19 represented by the Senate and House who sit on Capitol  
20 Hill, and they give us input. They give us input by  
21 virtue of the fact that they send us their decision  
22 making each year.

1           When we put in numbers that are unrealistic to  
2 what messages are repeatedly sent to us by Capitol  
3 Hill, I don't think we're listening to all of our  
4 constituencies. I think a number that is less than  
5 that, more in keeping with the message that we get from  
6 the people, the representatives of the people of the  
7 United States, ought to be taken into consideration.

8           Yes, we have an independent job to do. Yes,  
9 we are the Board of the Legal Services Corporation.  
10 Yes, we have our independent responsibilities, but on  
11 the other hand, we have to be listening to political  
12 and public realities and insights that we obtain.

13           Therefore, I do not think that this number is  
14 acceptable and I would not be inclined to vote for the  
15 recommendation as presented.

16           MR. MCKAY: Sarah?

17           MS. SINGLETON: Mr. Chairman, I think you will  
18 recollect that my philosophy about this is we need to  
19 do what we can to try to close the justice gap by  
20 improving funding for the field over a four year time  
21 span.

22           I believe that management's request for the

1 basic field grant is in keeping with that. I support  
2 that request.

3           The TIG grant, I had hoped that on everything  
4 other than basic field grant, we would sort of hold the  
5 line in recognition of the economic times, but at the  
6 same time and consistent with what Mr. Fuentes said, if  
7 you have a program that Congress believes is  
8 particularly effective and they suggest to you that you  
9 should ask for more money for that program, I think it  
10 is not serving your constituency well to turn a deaf  
11 ear to that signal from Congress.

12           I would support management's request on the  
13 TIG grant.

14           On Herb's LRAP, I think it's good we're  
15 holding that steady. Herb, I'm glad to see that you  
16 alone are our sole source of fiscal restraint.

17           MGO bothered me a lot, but at the same time we  
18 are getting signs from Congress on TIG, we are also  
19 getting signs from them by these referrals to GAO.  
20 This is a real sign to me that they want us to be  
21 mindful of our role as overseer's of the grant making  
22 process and I'm convinced we cannot do that with our

1 current staff.

2           Therefore, although I would have preferred to  
3 hold the MGO portion of the budget much closer to the  
4 \$17 million, I am willing to go with management's  
5 figure for the \$19 million.

6           On the \$500,000, I think it would be penny  
7 wise and pound foolish not to give our grantees some  
8 training in compliance. We went to a program at NLADA,  
9 Helaine and I and some other members of our staff,  
10 where people from the field were there, and these  
11 aren't the high policy thinkers in the field. These  
12 are the people who have to actually apply all of these  
13 rules and do compliance.

14           They were so hungry for knowledge in this  
15 area, they wanted to know what do we have to do to  
16 comply with all of these sort of audit type  
17 requirements. They really would love to have this kind  
18 of training. I think we are going to get so much more  
19 compliance with use of that \$500,000 than we will with  
20 use of the \$2 million, frankly, because I think we are  
21 going to reach a lot more people who want to comply.

22           I would support that part, too.

1           On the IG, I think it's a rather modest  
2 request, but at this point, I don't see why we even  
3 bother with the IG because he can send in his own  
4 budget. I fully support what management has asked for,  
5 and I'll just be quiet about the IG's budget.

6           MR. MCKAY: Thank you very much. Any other  
7 members of the Committee? Laurie?

8           MS. MIKVA: Thank you. I think Ms. Singleton  
9 has said it very well, and I don't have much to add to  
10 that. I do think setting up a line item for national  
11 training centers is a good idea. They were in  
12 existence. I think beyond training, they are the only  
13 connection from one program to another. They allow the  
14 programs to share information, to share good practices,  
15 and to share substantive law.

16           I think it should be minimum, just enough to  
17 set it up. I'm not sure what that is. I guess I would  
18 like a bare bones' number, and I would like to consider  
19 adding a line item for that.

20           MR. MCKAY: Do I understand that you want to  
21 add a line item to add a number or take it out of MGO  
22 and put it into a separate line item?

1           MS. MIKVA: My understanding is that's  
2 different. That is for the Corporation to train the  
3 grantees. I'm talking about a number to set up  
4 national centers amongst the grantees.

5           MR. McKAY: Do you have a number to propose?

6           MS. MIKVA: I don't really. Out of the blue,  
7 I'd say \$500,000.

8           MR. McKAY: I think we need some guidance on  
9 that to facilitate this member of the Finance  
10 Committee. We have to be submitting something to OMB  
11 by October 1.

12           MS. SINGLETON: I have a legal question. When  
13 we did away with funding for those national centers,  
14 were we prohibited from having that kind of thing?  
15 Anybody who knows the answer.

16           MR. SAUNDERS: My understanding is there was  
17 no specific prohibition but there was a requirement  
18 that every dollar not otherwise allocated be expended  
19 to the field on a per capita basis. It's a year to  
20 year appropriation matter.

21           MS. SINGLETON: We could have a line item with  
22 that request in it and if Congress didn't want us to do

1 it, they just would axe that line item. Maybe "line  
2 item" is the wrong phrase. You know what I mean.

3 MR. SAUNDERS: It might be more appropriate to  
4 study before you created a line item.

5 MS. SINGLETON: Because you want \$10 million  
6 in your request. Laurie's \$500,000 is going to be a  
7 drop in the bucket.

8 MR. SAUNDERS: I thought we wouldn't  
9 characterize it as a national training center at that  
10 level, but something that's dedicated at the management  
11 level to get some study as to how professional  
12 development might be encouraged.

13 MR. STRICKLAND: Don, hold on a second. I  
14 want to ask you about the training centers. This  
15 Board, I don't think, is familiar, at least I'm not,  
16 familiar with the concept of the national training  
17 centers. Could you give us a brief explanation of how  
18 those work, where they were located, what was done  
19 there, et cetera?

20 MR. SAUNDERS: At one time going way back, LSC  
21 had an internal training division that did training  
22 across the United States. Some time, I believe in the



1 early 1990s, it was decided through a lot of  
2 experience, and probably you went through some of these  
3 experiences, that a regional approach to training would  
4 be more effective, more hands on.

5 My recollection is there were six centers that  
6 roughly coincided with the regions. I know there was  
7 one in Atlanta, one in Denver, Seattle, California, New  
8 England, and those centers were funded for a number of  
9 years.

10 There were also, as you know, additional lines  
11 for back-up and support. Those were more controversial  
12 frankly than the training components were.

13 In terms of the history of it, I think the  
14 last time there was any organized concerted effort  
15 around professional development and training was when  
16 the regional training centers existed.

17 MR. STRICKLAND: I could endorse a concept of  
18 training. I don't think I would be supportive of  
19 another administrative level between the national  
20 organization and the field. I agree with what you said  
21 a moment ago. I guess you were telling us the outcome,  
22 dollars not spent on administration were to be spent on

1 the field, which is the direction I'd like to see us go  
2 in, that is if we are going to do any training, I'd  
3 rather have people come to a CLE program or something  
4 of the sort than install another administrative level.

5           What would be your comment on that approach  
6 versus regional?

7           MR. SAUNDERS: I'm certainly not endorsing the  
8 regional approach. There's a lot of change.  
9 Technology is so much different than it was a decade  
10 ago. I would generally endorse it but I would suggest  
11 there is a matter of capacity that might require some  
12 sort of investment in terms of just to have enough of  
13 an infrastructure to support the kind of investment and  
14 training that really has an impact on professional  
15 development, that allows advocates to share in the way  
16 Ms. Mikva was suggesting.

17           There has been no investment in a training  
18 infrastructure for over a decade, and that's really the  
19 first step. Overall, I think encouraging this at the  
20 local area through CLEs or other means would be very  
21 effective.

22           MR. MCKAY: Thank you. I do think this is an

1 important item of discussion. I am uneasy about us  
2 pursuing this at the tail end of a Finance Committee  
3 meeting. We are already behind schedule.

4 I guess I'd like to suggest that this  
5 important topic maybe be sent to the Provisions  
6 Committee, ask that management do a little leg work and  
7 kind of come up with some thoughts about this topic and  
8 kind of go through the process that we really should be  
9 going through rather than trying to -- I recognize it  
10 is an important issue, but I recommend we do a little  
11 ground work on this before we pursue it further.

12 MS. MIKVA: I think that's a good idea.

13 MS. SINGLETON: I was going to make a motion.

14 MR. MCKAY: Okay; good.

15 M O T I O N

16 MS. SINGLETON: My motion is that we approve  
17 the fiscal year 2011 budget request that was submitted  
18 by management.

19 MR. MCKAY: Do I hear a second?

20 MS. MIKVA: Second.

21 MR. MCKAY: Any further discussion?

22 MR. FUENTES: Mr. Chairman, I'm going to vote

1 no on this. I wish to reflect for the record that I'm  
2 voting no on this because of my concern that I don't  
3 think it's the right priority. My priority and concern  
4 is that we educate and train and encourage lawyers in  
5 the private sector to meet this need as a first  
6 priority.

7 I think this budget funds so that we can  
8 continue nationally in letting Washington do it, and  
9 that, I don't think, is good for America.

10 I will vote no. Thank you.

11 MR. MCKAY: Thank you.

12 MS. SINGLETON: Was it clear my motion was to  
13 recommend to the Board they adopt this? If it wasn't,  
14 I'd like to amend the motion.

15 MR. MCKAY: So be it. Any other comments?

16 (No response.)

17 MR. MCKAY: All those in favor of the motion,  
18 say aye.

19 (Chorus of ayes.)

20 MR. MCKAY: Opposed?

21 (One no vote.)

22 MR. MCKAY: Ms. Mikva, McKay, Mr. Strickland,

1 Ms. Singleton all vote aye. Mr. Fuentes votes no.

2 Thank you very much for everyone, all their  
3 hard work in making the presentation. We now have a  
4 resolution to present to the Board.

5 MR. McKAY: The next item on the agenda is to  
6 consider and act on whether to conduct a closed  
7 session.

8 Do I hear a motion?

9 M O T I O N

10 MR. FUENTES: Move to approve the  
11 recommendation.

12 MR. McKAY: Second?

13 MS. SINGLETON: Second.

14 MR. McKAY: All those in favor, say aye.

15 (Chorus of ayes.)

16 MR. McKAY: Opposed?

17 (No response.)

18 MR. McKAY: The motion passes. Thank you very  
19 much.

20 We are going to go into closed session. If we  
21 could ask the room to be cleared, please.

22 MS. PHILLIPS-JACKSON: Good morning. This is

1 Bernice. Are we moving into closed session now?

2 MR. McKAY: We are, Bernice. Welcome. Thanks  
3 for joining us.

4 (Whereupon, at 11:51 a.m., the open session of  
5 the Finance Committee meeting was concluded.)

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