Board Members Present:
John McCamus (Chair); Aly Alibhai; Nancy Cooper; John Liston; James McNee; James Yakimovich; Robert W. Ward, CEO/Ex Officio

Staff:
David Field; David McKillop; Sue McCaffrey; Stephanie Mealing; Michelle Séguin

Regrets:
Tim Murphy

Opening Items

1. Meeting Agenda
   The agenda was approved.

2. Conflict of Interest
   Board member, John Liston, disclosed that his nephew is currently a student involved in one of the Student Legal Aid Services Societies. The Board is of the view that there is no conflict.

Retreat Discussion

3. Environmental Scan
   The Director General, Strategic Planning and Compliance, reviewed the Environmental Scan. He noted the importance of understanding the overall trends that will affect government and legal aid services over the next few years. He highlighted the changing demographics and he noted that economic uncertainty will affect Law Foundation revenue and the Province’s ability to provide funding. He noted that LAO is dependant upon a limited number of lawyers and that this has implications for modernization strategies such as block fees. He added that a risk mitigation strategy will be incorporated into all decision-making and that the use of technology, particularly mobile technology, will provide increased service delivery opportunities. He noted that LAO needs to develop succession plans and a renewal strategy. He reported that because LAO’s financial health is directly tied to Law Foundation of Ontario (LFO) revenues, should interest rates go up, LAO could be in a surplus position as early as 2011/12 and any resulting surplus could be
used for direct client service and stakeholder pressure. He referenced changes in the management of caseloads in tribunals and non-court hearings, where LAO could possibly provide service in an entirely different way.

Board Discussion
The Board discussed the population shift and expressed a need for greater integration with other community agencies and centres in urban areas. The Board discussed potential adjustments to budget allocations in rural areas where criminal activity is declining but family problems are increasing. A Board member suggested encouraging lawyers from larger firms to participate in the legal aid program. The President and CEO noted the importance of relationship-building with the private bar and listed possible proposals to attract competent lawyers to serve on legal aid panels. The Board discussed LAO’s financial eligibility criteria and the potential of broadening the continuum of services and the range of service providers, including paralegals. The Board discussed the lack of services available to persons with mental health issues. The Chair noted that the Board Advisory Committee on Mental Health Law suggested the formation of a specialty clinic specifically to serve clients with mental health issues. Committee members suggested possible venues as “centres” for multiple services, i.e. schools, churches, community centres, libraries, etc. The Board noted that connecting with other agencies could permit LAO’s regional and district infrastructure to assist in channelling people out of the criminal justice system at an early stage.

4. Comparative Perspectives
The Vice-President, Policy and Research, presented the Report on Cross-Jurisdictional Analysis: Canada and International. He noted that many legal aid plans the world over are going through similar types of reviews and change processes. He reported that it is widely recognized that full representation is not always necessary and that alternative and less costly methods of providing effective access to justice are under review. He compared funding rates and sources of revenue throughout the provinces and territories. He noted that four Canadian legal aid plans have recently undergone reviews and process changes. He presented an international overview and compared programs and services provided by legal aid plans in the UK, Scotland, Australia, New Zealand and the US.

5. “Good to Great”
The President and CEO reported that while the majority of management books speak about similar strategies, Good to Great emphasizes some helpful aspects on running a public sector organization. The message it conveys is that the greatest challenge is building good leadership skills and applying them in the recruitment of the right people. He reviewed the five levels of leadership hierarchy. He noted that there is often a diffuse power structure in the public sector such that change is difficult to achieve quickly; however, by keeping the main objective in sight, public sector organizations can move consistently towards that objective. He noted that LAO’s values are those of the public sector and its mandate is client service. He added that LAO can best serve its mandate by being very good managers, understanding risk, applying good human rights practices...
and engaging in compliance and oversight. He noted that stakeholder relations and communications are areas that could be improved, but on the whole, LAO is well ahead of many other public service agencies in modernization initiatives.

Board Discussion
A Board member commented on LAO’s excellent leadership and the professionalism of its senior staff. The President and CEO will circulate a list of recommended management books to Board members. The Board discussed possible methods to communicate LAO’s many positive changes that affect stakeholders and the people of Ontario. The Chair noted that he, the President and the General Counsel will reflect on the discussion and report back to the Board.

Opening Items (Continued)

6. Minutes of Meetings
November 19, 2010
MOTION: A motion was made and carried to adopt the minutes of the Board meeting held November 19, 2010.

December 4, 2010 (teleconference)
MOTION: A motion was made and carried to adopt the minutes of the Board teleconference meeting held December 4, 2010.

7. Chair’s Report
Policy on Board Compensation
➢ The Chair presented a Policy on Board Compensation pursuant to their Orders in Council, to be incorporated into the Board Governance Manual.

Board Advisory Committees Report
➢ The Chair presented the Report on LAO Board Advisory Committees Fall 2010 Meetings and Draft Meeting Notes. He highlighted some of the Committee discussions including: the decrease in certificates, the increased use of Duty Counsel, diversion programs and the declining crime rate, the need to prioritize child protection issues, concern about the unbundling of legal services contemplated by the Law Society and the prospect of legislative changes in refugee law. He noted that every Committee had a discussion about the Client Service Centre.

MOTION: A motion was made and carried that the Board receive the Chair’s Report.

8. President and CEO’s Report (receive)
The President and CEO presented the President’s Report, and highlighted the following:
➢ Simplified Financial Eligibility Test (SFET)
SFET will roll out on February 1, 2011. The test is designed to make the application process easier for clients to understand and easier to administer. Communication to all stakeholders has been extensive.
➢ Financial Update
LAO’s financial situation is much improved from the beginning of the year. Certificate numbers are down, but payments to lawyers are up
due to the tariff increase.

- **MAG/LAO/CLA Memorandum of Understanding (MOU)**
  There is excellent progress with the programs established under the MOU, i.e. block fees, Complex Case Rate, etc.

- **Value for Money Audit**
  General Counsel reported that the Auditor General has requested access to documents at LAO which are subject to solicitor/client privilege.

**MOTION:** A motion was made and carried that the Board receive the President and CEO Report.

### Committee Reports

#### 9. Minutes of Audit and Finance Committee Meeting

**December 9, 2010**

**MOTION:** A motion was made and carried to adopt the Minutes of the Audit and Finance Committee meeting held December 9, 2010.

### Board Reports

#### 10. Principles for the Allocation of New Investment Funding for Poverty Law in 2011/12 and 2012/13 (confirm direction)

The President and CEO presented the Report on the Principles for the Allocation of New Investment Funding for Poverty Law in 2011/12 and 2012/13. He advised that the items identified in the Discussion Paper on Addressing Clinic Administrative Costs will form the basis for the consultation with the clinics in the coming year. He noted that a further consultation paper will be developed to provide the framework for Regional Vice-Presidents to work with clinics on their Business Plans and reduce their administrative costs. LAO will also undertake consultations with the Ministry of the Attorney General (MAG) and other stakeholders. He discussed options on who should oversee clinic complaints.

**MOTION:** A motion was made and carried that the Board confirm the direction of the Principles for Allocation of New Investment Funding for Poverty Law in 2011 and 2012/13.

#### 11. Clinic Administrative Savings Paper – ACLCO Submission (receive)

The Vice-President, Policy and Research presented the report on the Submission from the Association of Community Legal Clinics of Ontario (ACLCO) to LAO’s Discussion Paper on Addressing Clinic Administrative Costs. The Submission focuses on:

- how the clinics are currently managing their resources,
- ways in which clinics on a systemic level can realize savings, and
- how changes at LAO have had, or could have, a negative impact on clinics.

The Vice-President noted that, in his opinion, the clinic system’s continued vitality may be contingent upon its transformation. He advised that meetings with clinics will be arranged, either individually or regionally, to begin to develop plans to improve services and maximize savings. The
Board agreed that a response should be sent to the ACLCO acknowledging that Board members have received the Submission and reaffirming that staff have the Board’s full support to proceed to implement clinic modernization as outlined in the Discussion Paper. The Board discussed the status of training programs for LAO and clinic lawyers in light of the new mandatory Law Society of Upper Canada mandatory Continuing Professional Development requirements.

MOTION: A motion was made and carried that the Board receive the ACLCO Submissions in Response to the Discussion Paper on Addressing Clinic Administrative Costs.

12. Block Fee Project Report (receive)
The Vice-President, Policy and Research presented the Report on Phase Two Block Fees, Update and Overview. He advised that the issue of block fees was emphasized in the MAG/LAO/CLA Memorandum of Understanding. He noted that there was extensive consultation with the Criminal Lawyers’ Association (CLA) and that in 2010 a block fee project was piloted, closely monitored, and adjusted appropriately. He reported that the MOU called for introduction of Phase Two Block fees on December 1, 2010 and that, by mutual agreement, the project is delayed to ensure that data from the pilot project is properly analyzed and that the program development is complete. He also noted that IT programming is still being developed. The Director, Strategic Research, presented the New British Columbia Block Fee schedule as an example. He reviewed the preferred Draft Fee Structure. The Vice-President advised that in the spring, the next tariff increase will come into effect and LAO will introduce Phase Two Block Fees for in excess of 50% of criminal charges. The President noted that ultimately the goal is that over the summer of 2011, 90% of criminal charges will move into the Block Fee Program (excluding Big Case Management cases). The Board discussed the benefits, including simplicity, timely payment of lawyer accounts, administrative savings and risk management benefits. The Board commended staff for the thinking that has gone into this complicated issue, the analysis undertaken and the rigour brought to the process.

MOTION: A motion was made and carried that the Board receive the Block Fee Project Report.

13. Complex Case Rate Recommendations
The Vice-President, Policy and Research presented the Report on Complex Case Rates. He noted that the Code/Lesage Report recommended an enhanced rate for high quality lawyers defending serious criminal cases and that pursuant to the MOU between MAG, CLA and LAO the Complex Case Rate (CCR) was established. He reported that LAO staff have been in consultation with the CLA, to develop policies and criteria for the CCR and the current Draft Complex Case Rate Policy was approved by the CLA Board of Directors. He highlighted aspects of the policy, including case and lawyer eligibility criteria, and he reviewed the draft CCR Panel Standards. He noted that membership on the CCR panel is time-limited and members must reapply every four years. The
Committee discussed the plan for younger lawyers to gain access to the CCR panel through mentoring and appointment of junior counsel.

MOTION: A motion was made and carried that the Board adopt the Complex Case Rate Recommendations.

MOTION: A motion was made and carried to adjourn the meeting.