

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

PROVISION FOR THE DELIVERY OF
LEGAL SERVICES COMMITTEE

Sunday, September 14, 2003

10:32 a.m.

The Melrose Hotel
2430 Pennsylvania Avenue, N.W.
Washington, D.C.

COMMITTEE MEMBERS PRESENT:

David Hall, Chairman
Michael D. McKay
Maria Luisa Mercado
Florentino A. Subia
Frank B. Strickland, ex officio

BOARD MEMBERS PRESENT:

Robert J. Dieter
Herbert S. Garten
Thomas R. Meites

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STAFF AND PUBLIC PRESENT:

John N. Erlenborn, LSC President
Victor M. Fortuno, Vice President for Legal Affairs,
General Counsel & Corporate Secretary
Randi Youells, Vice President for Programs
Mauricio Vivero, Vice President for Government
Relations & Public Affairs
John Eidleman, Acting Vice President for Compliance
and Administration
Leonard Koczur, Acting Inspector General
Laurie Tarantowicz, Assistant Inspector General and
Legal Counsel
David Maddox, Assistant Inspector General for Resource
Management
Mattie C. Condray, Senior Assistant General Counsel
Michael Genz, Director, Office of Program Performance
Patricia Hanrahan, Special Counsel to the Vice
President of Programs
Christopher Sundseth, Office of Information Management
Cynthia Schneider, Senior Program Counsel, Office of
Program Performance
Elizabeth Cushing, Board Liaison
Lisa Rosenberg, Congressional Liaison
Julie Clark, Vice President for Government Relations,
National Legal Aid and Defenders Association
Don Saunders, Director for Civil Legal Services,
National Legal Aid and Defenders Association
Elizabeth Arledge, Communications Director, National
Legal Aid and Defenders Association
Linda Perle, Senior Attorney/Legal Services, Center for
Law and Social Policy
Alan Houseman, Director, Center for Law and Social
Policy
Melville D. Miller, Executive Director, Legal Services
of New Jersey
Lisa Oshiro, Native American Indian Legal Services
Wayne Moore, American Association of Retired Persons
Susan Patnode, Rural Network
Sarah Singleton, American Bar Association's Standing
Committee on Legal Aid and Indigent Defendants
Lillian Johnson, African American Project Directors
Association
Wilhelm Joseph, African American Project Directors
Association
Luis Jaramillo, Farm Worker Project Group
Richard Zorza, Zorza Associates
Brian Logan, National Association of IOLTA Providers

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P R O C E E D I N G S

1
2 CHAIRMAN HALL: Good morning. My name is
3 David Hall and I am honored to chair this meeting of
4 the Provisions Committee. And I would like to now
5 officially call to order this committee meeting and to
6 thank all of the committee members for being present
7 here, and to thank all of those who are here to
8 participate in this meeting.

9 We would first like to start out by having an
10 approval of the agenda that is set before the committee
11 members.

M O T I O N

12
13 MS. MERCADO: So move.

14 CHAIRMAN HALL: Second?

15 MR. MCKAY: Second.

16 CHAIRMAN HALL: All in favor?

17 (A chorus of ayes.)

18 CHAIRMAN HALL: The agenda is approved.

19 Our last meeting of the committee was on
20 June 27, 2003. And contained in our materials are the
21 minutes from that last meeting.

22 I would like to now seek approval of those
23 minutes.

M O T I O N

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MS. MERCADO: So move.

CHAIRMAN HALL: Is there a second?

MR. MCKAY: Second.

CHAIRMAN HALL: All in favor?

(A chorus of ayes.)

CHAIRMAN HALL: The minutes are now approved.

The focus of this meeting of the Provisions Committee is to hear from various individuals representing different organizations that are very critical to the work of the Corporation. We are honored to have all of them come before us.

We have quite a distinguished group of individuals, and we will be proceeding according to the list. We would ask each of the presenters to try as best they can to respect the time limits that we have created.

There will be an opportunity for questions from the members of the committee after each presentation. And we will try to stay on time as best we can.

We will start out by having presentations from Alan Houseman from the Center of Law and Social Policy,

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1 and from Don Saunders and Teresa Cosby from the Legal
2 Aid and Defenders Association. We are honored to have
3 you here with us, and I will turn the committee over to
4 you.

5 MR. SAUNDERS: Thank you, Mr. Chairman. My
6 name is Don Saunders. I'm the director of the civil
7 legal services division of the National Legal Aid and
8 Defenders Association.

9 And on behalf of all of my colleagues, I think
10 or president and CEO, Clint Lyons, had the chance to
11 congratulate the other board members upon their
12 confirmation, but I think I would like to take the
13 opportunity to congratulate you on behalf of all of our
14 colleagues and express how much we look forward to
15 working with you and this committee.

16 CHAIRMAN HALL: Thank you.

17 MR. SAUNDERS: Unfortunately, this morning
18 Teresa Cosby, the chair of NLADA's civil policy group,
19 cannot join us. Teresa is the director of the South
20 Carolina Center of Equal Justice, and due to the really
21 unexpected and tragic death last week of her board
22 chair, Joseph Shine, Teresa is unable to be with us
23 today.

1 Mr. Shine represents the epitome, I think, of what
2 is strong and great about the legal services community.
3 Mr. Shine was the second African American graduate of
4 the Citadel University, a leading lawyer, corporate
5 counsel, in South Carolina. Led the board of that
6 state through a very difficult and successful merger
7 process.

8 Mr. Shine again was a committed, dedicated,
9 leader in the legal services community, both in South
10 Carolina and nationally, and he will indeed be missed.

11 Teresa regrets not being able to welcome you
12 and share your views on behalf of NLADA at this point,
13 but she very much asks me to express her interest in
14 having a chance to speak with you at a future time.

15 I'm going to very briefly begin and summarize
16 some of the issues that we think at NLADA are critical
17 to the future of delivery of legal services in this
18 country. I want to begin by sharing with this
19 committee, because we will probably interact on a
20 number of issues over the next few years, for the
21 makeup and structure of NLADA and how we make decisions
22 on the positions that we will bring to you on these
23 critical delivery issues.

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1 The current NLADA is the product of a merger
2 between the project advisory group and the former NLADA
3 several years back. We have elected from across the
4 country both a civil policy group, which is the organ
5 within our community that develops and recommends
6 policies to you and other key players and stakeholders.

7 That policy group is the group that Teresa
8 Cosby chairs. It consists of representatives from
9 legal aid programs in every region of the country. It
10 also has representatives from the migrant community --
11 Luis Jaramillo, who you'll hear from later, is our
12 representatives, the Native American community, the
13 training technical support community, as well as
14 clients from across the country.

15 We have a number of committees, particularly
16 with regard to LSC policies. We have a resources
17 committee which is a very representatives group,
18 including representatives from the policy group, the
19 ABA, the IOLTA and other funder communities.

20 We have very strong and good representation
21 from across the country on issues affecting LSC
22 funding, issues like state planning. Those are debated
23 very vigorously, and I think we really try to bring you

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1 consensus positions whenever possible.

2 We also have a regulations and restrictions
3 committee that is generally staffed by Linda Perle and
4 Alan Houseman. When you hear from them either here or
5 in Operations and Regulations, you will be hearing the
6 product of a broad-based group from across the country,
7 very experienced in these issues. And we again try to
8 bring as much of a consensus within the community as
9 possible.

10 Just this week we really had a good example of
11 how tough issues, funding issues that really created
12 differences within the community, were considered and a
13 consensus was developed in which some programs did not
14 even consider their short-term gain.

15 We have for over 25 years benefitted as a
16 community from sticking together at the national level
17 on these issues, and NLADA makes every effort we can to
18 bring those positions to you and try to speak for both
19 your grantees and the larger legal aid community in
20 general.

21 Very briefly, in terms of the issues that we
22 are concerned about that we think this committee should
23 have high on its agenda, we really are, as always in

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1 this community, in need of funding. And I guess I
2 would begin and almost end by saying this committee and
3 the board needs to recognize that general operating
4 funding, particularly LSC funding, has been stagnant in
5 this community for quite a long time now.

6 Programs from across the country are really
7 seeing the impact of no increases in funding,
8 particularly at the federal level. In some states --
9 Mississippi, Alabama -- you're 95 percent of the
10 funding that's available.

11 Now, a lot of progress has been made in
12 looking at other funding sources. But I have to stress
13 to you that there still is a tremendous need in the
14 field for additional resources.

15 This is exacerbated by a downturn in IOLTA
16 interest rates, and certainly Mr. Garten is familiar,
17 and many of you are, as well as increasing pressure on
18 state budgets.

19 We also are familiar with a number of problems
20 within the community that are generated by the
21 restrictions on your funding. We do think the
22 community has complied to the letter of the law very
23 strictly, and have developed ways in which most of the

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1 work that's going on in the field is still very
2 effective, addresses the critical needs, the core
3 needs, of our client community.

4 And I'm not suggesting to you that your
5 programs cannot be effective advocates because of them.
6 I am saying, however, that restrictions such as the
7 class action restriction, the alien restriction, the --
8 particularly the restrictions placed on other funding.

9 Those are problems in terms of the ability to
10 maximize service to the client community. We do
11 understand, obviously, that there's a political
12 component to this. There's a regulatory component to
13 this. And the Corporation has to be very cautious.

14 But this committee, at a minimum, should be
15 aware of those restrictions and should consider the
16 impact that they are having both on your grantees and
17 the clients that they serve.

18 The final area that I'm going to touch on
19 briefly, and obviously there will be many discussions
20 over the coming months and years on this, is really
21 where we are in the transition of a delivery system
22 from what had been a basically locally-based system to
23 a system of state justice communities.

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1 I want to be clear that NLADA shares the
2 vision of the state justice community design for the
3 civil delivery system in this country. We have shared
4 it from at least 1995, when the restrictions and the
5 funding cutbacks were first put upon us. We are your
6 partners in trying to maximize the effectiveness of
7 those communities. And we think this should be of the
8 highest priority for this committee.

9 I will point out to you that a whole lot of
10 energy and emphasis has been obviously placed on the
11 last few years on the planning part of it. And in many
12 states, that's resulted in restructuring the delivery
13 system.

14 We have half as many programs as we had five
15 or six years ago. That's enormous organizational
16 change. In some states that's been a very disruptive
17 process. There's not been the real buy-in among the
18 stakeholders. And you have a number of states where
19 the baseline maturity level is not reached.

20 As you move from a planning criteria to an
21 implementation and quality criteria -- I hope you move
22 there -- I think it would be helpful to signal to the
23 community that for the most part, except for one or two

1 instances, possibly, you have moved on from the
2 restructuring and consolidation phase to a phase where
3 we're going to maximize the quality of the state
4 justice communities that have resulted.

5 In many states, issues like technology,
6 training, and support, private bar involvement,
7 expanded resources at the state level, they've taken a
8 back seat and a lot of the energy has been focused on
9 consolidation.

10 We think, and we're happy to say, that in most
11 parts of the country -- and I think your staff will
12 agree -- we're beyond that phase. We think this
13 committee should be the advocate for the field, should
14 be the place where you bring to the board in its
15 broader collaborations and considerations the need of
16 your grantees and the clients they serve.

17 You should balance the issues of quality and
18 delivery against your other fiduciary responsibilities
19 of monitoring and compliance. But you should keep your
20 eyes focused on quality and the needs of your grantees
21 as an overall guiding vision for the committee.

22 We're working on some other issues that I'll
23 just mention. Some I'll talk about more in the Finance

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1 Committee. But we're also very interested in quality
2 in evaluation, which Alan will speak to.

3 We're very much concerned about leadership,
4 diversity, and the generational change, and
5 particularly as it relates to student debt, law student
6 debt, and the barriers that it's bringing to getting
7 and keeping a new generation of legal services
8 advocates. We'll be talking with you much more about
9 that.

10 And we're very supportive of an initiative in
11 working in partnership with your staff to look at the
12 problems in serving rural and remote communities.
13 Susan Patnode will be speaking with you later. We are
14 a real partner in that endeavor. There's such a need
15 for new strategies about reaching out to our rural
16 communities that we hope to work with you in the future
17 on that agenda as well. Thank you.

18 CHAIRMAN HALL: Thank you. Any questions of
19 Mr. Saunders?

20 (No response.)

21 CHAIRMAN HALL: Okay. Thank you, Don.

22 Alan?

23 MR. HOUSEMAN: Hi. My name is Alan Houseman.
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1 I'm the director of the Center for Law and Social
2 Policy. CLASP, as it's known by its acronym, is a
3 public policy organization. In the materials that are
4 at the back of the room, there's an annual report of
5 CLASP which describes our operation, most of which does
6 not focus on civil legal assistance.

7 But my colleague, Linda Perle, who you will
8 hear from in the regulations -- Operations Committee
9 and other colleagues work in conjunction with NLADA on
10 regulatory issues and on other issues, particularly
11 issues around quality, which is what I want to talk
12 about.

13 Let me first say just a word of background
14 about myself. I grew up in Colorado Springs, Colorado,
15 where in Colorado I still have a house that I venture
16 to now and then, including later this week. I consider
17 myself a Coloradoan.

18 I went to school in the East, attended NYU law
19 school, and became involved there as a fellow in social
20 welfare law in legal aid beginning in 1966. And I've
21 directed a statewide program called Michigan Legal
22 Services, which I founded in 1969.

23 I came to the Legal Services Corporation in
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1 1976, where I established an entity that no longer
2 exists called the Research Institute, which I ran until
3 1981. And I've been director of CLASP since 1982.

4 I want to focus our attention here today on
5 what we call a quality agenda. And we -- that is,
6 NLADA and CLASP -- urge this committee to build on the
7 ongoing work of the Office of Program Performance and
8 give high priority to a program quality agenda.

9 Now, what do I mean by that? What I mean is
10 that LSC should help LSC recipients provide high
11 quality representation,; engage in innovation and
12 experimentation in the delivery of legal services;
13 improve local program planning so that recipients focus
14 on what they are trying to achieve and how to measure
15 the results; and finally, to incorporate evaluation as
16 a critical component of each recipient's work.

17 Under guidance from this committee, I think
18 LSC can formulate a comprehensive quality agenda that,
19 first, takes into account state justice communities and
20 the new statewide systems that are developing and that
21 Don discussed; that, second, fits within our highly
22 decentralized civil legal aid system, which, as I think
23 you know, requires each program to set its own

1 substantive and functional priorities; and third,
2 provides sufficient flexibility for programs to meet
3 the requirements of other funders, such as IOLTA or
4 United Way.

5 We believe -- that is, CLASP and NLADA -- that
6 it's possible to develop an agenda that would enable
7 LSC, IOLTA, and other funders to obtain information
8 about what the programs are doing, how well they are
9 doing it, and provides the legal services community
10 with the laboratory to learn about what works and does
11 not work to improve program quality and effectiveness.

12 As I think you know and Don alluded to, LSC is
13 not the only funder of civil legal aid. Indeed, in 36
14 states, LSC is not even the largest funder of civil
15 legal assistance.

16 In the materials at the back, in the packet
17 put together by NLADA, you will see a map that I have
18 developed which shows the funding levels of various
19 states. Thus, in formulating this quality agenda, the
20 committee and the LSC staff must be willing to work
21 with other key funders, particularly state IOLTA
22 programs, in addition to working in collaboration with
23 LSC grantees and the national organizations

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1 representing them.

2 Let me speak a bit more about this agenda. By
3 the way, I have a copy of what I'm saying here
4 available if you'd like it. What would be the goals of
5 such an agenda? Well, it should be designed to enable
6 recipients to improve their own program management and
7 to increase program quality and effectiveness.

8 It should encourage recipients to raise
9 evaluation as a key component of effective management
10 in order to improve their own performance, and to tell
11 their stories better to the funders and to the public.

12 It should encourage programs to plan and be
13 deliberate about what they are trying to achieve, as
14 well as to develop systems to measure whether they are
15 achieving what they set out to do.

16 A quality agenda should encourage innovation
17 and experimentation about programs. And it should help
18 to insure that recipients have the capacity to develop
19 and implement their own program improvement systems
20 even without encouragement or direction from LSC and
21 other funders.

22 That is, we should work to put into effect a
23 system in each program that lives beyond whatever is

1 happening at the state or national level to the key
2 funders of civil legal aid.

3 There are some concerns about some of the
4 approaches that might be suggested to this committee.
5 Many members of NLADA, and many members of our civil
6 policy group, have raised concerns that LSC might be
7 tempted to take what I would call the easy road and
8 impose new national evaluation systems with burdensome
9 reporting requirements in a one-size-fits-all approach
10 to measuring quality.

11 We urge you to take a different route. As a
12 national funder, LSC has the capacity to develop model
13 approaches that would stimulate and not stifle,
14 creating local program efforts to develop ways to
15 improve program management, and to increase program
16 quality and effectiveness.

17 By encouraging local programs to adopt their
18 own approaches to measuring quality, LSC will avoid the
19 necessity of creating detailed, time-consuming, and
20 burdensome national record-keeping and documentation
21 requirements.

22 Quality can be developed -- quality
23 initiatives can be developed that create reporting

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1 systems that are tailored to the needs of local
2 programs and are easy for programs to use and compare
3 by.

4 You have the statutory responsibility to carry
5 out this quality agenda, and the written summary of
6 these remarks mentions the various provisions of the
7 Act which require the Corporation to insure the
8 maintenance of the highest quality of service, which
9 requires the Corporation to monitor and evaluate and
10 provide for independent evaluations of the programs
11 supported in whole or part.

12 I know that the Office of Program Performance
13 is beginning to explore a variety of approaches to
14 improving program quality and effectiveness. There are
15 other things going on in the Corporation. But let me
16 set out what I think are the components of this system
17 before I end.

18 I would suggest that this committee explore
19 three specific components. One beginning point would
20 be to reconsider the performance criteria that were
21 originally developed by LSC in collaboration with
22 representatives of LSC-funded programs in 1991 and
23 1992. By the way, the main author of those criteria,

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1 De Miller, is sitting in this room.

2 In my view, these need to be revised to take
3 into account state justice communities and the changes
4 in delivery that have evolved, such as hotlines,
5 websites, kiosks, and others that use new technologies,
6 and to take into account the changes in the
7 demographics of our client community.

8 One component would be to reevaluate the
9 performance criteria. The second would be to explore
10 the peer review evaluation system in systematic reviews
11 of the overall work of each program over a three- to
12 five-year cycle.

13 Taking account that LSC is not the only
14 funder, it would seem to me that any such peer review
15 system should be designed and developed in coordination
16 with other funders so that it is owned by other
17 stakeholders in addition to LSC.

18 Third, and by far the hardest, would be to
19 explore how LSC could help recipients to achieve the
20 goals of achieving program management, engaging in
21 innovation and experimentation, and achieving
22 effective, high-quality representations.

23 Such efforts could include the development by
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1 LSC of templates and models, tools and options to
2 assist recipients to set their own goals, measure the
3 results of specific program efforts, undertake
4 program-owned evaluations, and constantly improve
5 quality and effectiveness.

6 LSC could provide training and arrange for
7 onsite technical assistance. This board, it seems to
8 me, would leave a legacy to the legal services
9 community by developing a comprehensive quality agenda
10 that insures continued improvement and innovation by
11 each recipient so that legal services programs have the
12 capacity to deliver the highest-quality and most
13 effective civil legal assistance to the clients they
14 serve. Thank you very much.

15 CHAIRMAN HALL: Thank you very much.

16 Any questions for Mr. Houseman?

17 (No response.)

18 CHAIRMAN HALL: Hearing none, I thank you
19 both. We would like a copy of your remarks. If you
20 could leave them with one of the staff persons, we'll
21 make sure that all the board members get them. Thank
22 you very much.

23 Our next presenter will be Lisa Oshiro from
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1 the Native American Indian Legal Services. Please
2 begin.

3 MS. OSHIRO: Thank you. Sorry for the
4 technical delay. (Gives Indian greeting.) Good
5 morning to all of us.

6 The National Association of Indian Legal
7 Services thanks LSC for this opportunity to present to
8 you on the challenges and issues that we face in
9 delivering legal services to the Native American
10 community, as well as the challenges that the Native
11 American communities face in accessing legal services
12 and equal justice.

13 The National Association of Indian Legal
14 Services is comprised of 25 programs that are funded by
15 the Legal Services Corporation. As you will see from
16 the listing, many of them are located throughout the
17 western United States.

18 And from this graphic, you can see that that's
19 due to the major concentrations of the American Indian,
20 Alaska Native, and Native Hawaiian populations
21 throughout the west, although we also have Pine Tree
22 Legal Assistance serving the states of Maine and
23 Connecticut. We also have the Legal Aid of North

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1 Carolina and Southeast Mississippi Legal Services
2 serving Mississippi where the Choctaw reservation is
3 located.

4 I am an attorney with California Indian Legal
5 Services. There are many factors contributing to -- or
6 we have grouped various factors into four different
7 categories.

8 There are the socioeconomic and geographic
9 factors, cultural factors, political factors, as well
10 as legal factors that all contribute to very
11 challenging situations, though we meet those challenges
12 every day. But these factors also contribute to the
13 very high cost of delivering legal services to the
14 Native American community.

15 One of the socioeconomic factors is poverty.
16 And though the census statistics still do not provide
17 us with accurate poverty rates throughout the Native
18 American community, the 1999 to 2001 three-year average
19 was 24.5 percent, approximately 800,000 people. And
20 the poverty rates ranged from 11.43 percent in Maryland
21 to 45.93 percent in South Dakota, with poverty rates
22 sometimes as high as in the 80 to 90 percentile range
23 on many reservations.

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1 In addition, Native Hawaiians are counted
2 separately, and the Native Hawaiian Legal Corporation
3 serves the Native Hawaiians living in the state of
4 Hawaii. And their poverty rate is about 16.0 percent,
5 accounting for approximately 38,000 people.

6 In addition to the poverty among the
7 individuals that we serve, there is also a lack of
8 resources and lack of infrastructure in their
9 communities where they live, whether it's on or near a
10 reservation or also in the urban settings where they
11 are located.

12 This graphic shows the location of
13 reservations distributed throughout the country.
14 You'll see that there are some large dark areas where
15 there are larger reservations. However, you will also
16 see a distribution of a lot of little reservations
17 throughout the various states.

18 And this graphic does not include the state of
19 Alaska, although the land in Alaska is -- because of
20 their unique history, is not classified and categorized
21 as reservations, though much of Alaska is held in trust
22 for the Alaska natives.

23 This graphic shows the distribution and
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1 concentration of the Alaska native community in Alaska.
2 And that distribution makes it difficult not only
3 for -- as far as the distribution across a wide area,
4 but those familiar with Alaska also know that the
5 geography itself in Alaska contributes to the need to
6 have more offices distributed so that you may serve
7 your clients and so that your clients can access your
8 services.

9 In California, California Indian Legal
10 Services serves the Native American community that is
11 spread throughout all 58 counties throughout
12 California. And we also serve 107 federally recognized
13 tribes whose reservations and rancherias are
14 distributed throughout the state.

15 And in order to do so, we've divided the state
16 into four service territories. And there are -- within
17 each service territory, there are reservations and
18 Native American communities to which it requires about
19 sometimes five to eight hours drive one way. And the
20 average is about three hours to get to your nearest
21 reservation and their surrounding communities.

22 There are many cultural factors involved in
23 serving the Native American population. There are over

1 570 federally recognized tribes throughout the country,
2 approximately 229 throughout Alaska, as I mentioned,
3 107 throughout California. And they are very distinct
4 in many ways, though they have some things that they
5 share in common.

6 But it is very important for advocates working
7 with these communities to become familiar with them, to
8 share experiences with them, to really work and live
9 close to and among them to understand the historical
10 and cultural context in which they relate their stories
11 and in which they experience various events.

12 Another cultural factor is language. There
13 are various language barriers where native communities
14 have either retained their own native language or,
15 through historical reasons, have adopted a language.

16 For instance, when I clerked at DNA Peoples
17 Legal Services in Ship Rock on the Navajo Nation, when
18 I sat down with a client, she started to speak to me in
19 Navajo. And I had to stop her politely and apologize
20 that I did not speak Navajo. And she first started to
21 scold me and say, "You young people, you need to learn
22 our language." When I explained to her that I wasn't
23 Navajo but I would really like to learn the language,

1 she said, well -- we then found a translator in the
2 office.

3 And at the Navajo Nation they do have many
4 people who speak the language who may serve as
5 translators. As well, they also have Navajo members
6 who serve as translators in the federal district court
7 in Albuquerque.

8 But also, in other communities, like in
9 Southern California where many of the tribes had
10 learned to speak the Spanish language because of the
11 Spanish mission period as well as because they had
12 learned that they could hide behind the Spanish
13 surnames that were given to them through the Spanish
14 missions and also speak the language, they often found
15 that they were treated better if they could distinguish
16 themselves from the Indian community.

17 And so these are just some of the historical
18 factors that have contributed. We are saddened by the
19 loss of many native languages in other areas, and some
20 of their programs, the tribal programs, are aimed at
21 bringing them back.

22 And these various factors also contribute to
23 what is termed under-subscription, where also through

1 historical events and an accumulation of these cultural
2 factors, many Indian people are not accessing the
3 various services that are available to them unless it's
4 provided by an organization that they are comfortable
5 with.

6 There are political factors, with over 570
7 tribes having different forms and styles of governance;
8 also, needing to represent them in their dealings with
9 the federal government in their government-to-
10 government relationships, as well as working on
11 developing and strengthening tribal-state relations.

12 The various legal factors include the range
13 and diversity of legal issues as well as the lack of a
14 private bar. For instance, here we have the
15 distribution of Native Americans in Oklahoma. And
16 there are 39 tribes, 391,000 Indians.

17 In addition to serving these individuals and
18 tribal governments, there are tribal courts and various
19 divisions of the tribes themselves. And with 67
20 percent of the state being defined as Indian country,
21 that implicates both federal Indian law and, in the
22 unique history of Oklahoma, state Indian law.

23 These are the many practice areas in which
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1 Native American legal services providers are providing
2 services. And in serving tribal governments, as I
3 mentioned, we serve the various divisions, but we also
4 serve in various capacities.

5 Oftentimes we're serving as counsel to the
6 tribal councils or the administrations. We also serve
7 as legislative counsel, attorneys general, as well as
8 providing public defender services in the tribal
9 courts; again, providing those services to these Native
10 American communities throughout the United States.

11 And with a lack of a private bar, there are
12 very limited resources to provide these services.
13 There are only seven law schools throughout the country
14 providing an extensive selection of classes as well as
15 an Indian law clinic or other practical program.

16 Three of them -- University of New Mexico,
17 Arizona State University, and University of Tulsa --
18 offer an Indian law specialty cert approved by the ABA.
19 And one of them, the University of Tulsa, offers an
20 LLM. And we compete with the private bar, with the
21 federal government, with tribal governments, and tribal
22 organizations for this very limited pool of graduates.

23 In Oklahoma, we have the statistic of a
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1 hollow. Very little attorneys practice Indian law
2 despite that 67 percent Indian country, really
3 implicating Indian law. And in trying to encourage
4 more people to study in this area, the New Mexico bar
5 has included Indian law for the first time to appear on
6 its bar exam in 2002.

7 Despite all those challenges, Native American
8 legal services programs have risen up to the challenges
9 and are meeting them. But though we're the best model
10 out there, we strive to continue to improve. There's
11 still a lot of unmet need.

12 There are underserved as well as unserved
13 communities to which we wish to continue to reach out
14 to. And we look forward to continuing to work with the
15 Legal Services Corporation in meeting these challenges.
16 Thank you.

17 CHAIRMAN HALL: Thank you very much. Any
18 questions?

19 MS. MERCADO: I just had a question. I know
20 that you had -- one of the big problems is all these
21 different languages, especially in some states where
22 you have different tribes and different languages.

23 I know DNA is fairly extensive in having a lot
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1 of personnel. The other programs around the country,
2 how do they fare as far as having staff on board that
3 can actually translate the different communities that
4 they serve?

5 MS. OSHIRO: Some of the programs, as part of
6 their recruiting efforts, are also looking for the
7 recruitment of tribal members who bring with them the
8 language skills so that they can relate to the
9 community.

10 And in addition to language, I also wanted to
11 point out that language does not stand alone by itself.
12 It's always in context. So also working with the
13 Native American communities, you have to know the
14 culture even if you don't know the language so that you
15 can put everything into context for both the people
16 that are relating stories to you as well as relating
17 back to them the assistance that you can provide.

18 But each community, we're trying to recruit
19 people from the local tribes. But we're also competing
20 with those tribal governments for those same people, as
21 well as the federal government and its very many
22 branches that have a trust relationship and obligation
23 to serve those communities. They're looking for people

1 from those communities who can also go back and relate
2 back to their people.

3 CHAIRMAN HALL: Any other questions?

4 MR. DIETER: I had one question. On page 16
5 of the -- they provided a report. I was just curious,
6 what's the difference between the column that's marked
7 B and then that first sort of sub-column --

8 MS. OSHIRO: I'm sorry. Would you mind
9 showing me which page --

10 MR. DIETER: It's the sort of funding chart.

11 MS. OSHIRO: Okay. Yes. On that funding
12 chart -- I'm sorry. Which columns were you --

13 MR. DIETER: Well, B I understand is the total
14 of American Indian and Alaska Native alone or in
15 combination. And then total AI/AN alone, you know, the
16 difference in those two figures, what does that mean
17 for the --

18 MS. OSHIRO: Yes. There's -- actually, we
19 have the total of American Indian and Alaska Native
20 alone or in combination. For the first time in the
21 2000 census, they collected that information, where
22 prior to that they only had the information for those
23 who identified as American Indian/Alaska Native only.

1 So they didn't have the multi-ethnic category.

2 And so our information that we had for the
3 1999 poverty level was focused on American Indian/
4 Alaska Native alone because that's the only statistic
5 they had collected at that time. So that explains the
6 difference.

7 And in our charting, we tried to extrapolate
8 and apply what the percentages might be. We are still
9 looking for those statistics and studying the various
10 factors that have contributed to differences in the
11 accounts, going from the category of American Indian/
12 Alaska Natives alone versus those who are identifying
13 as multi-ethnic.

14 MR. DIETER: And was that part of the reason
15 the census figures were reported late or --

16 MS. OSHIRO: Yes.

17 MR. DIETER: -- was it much more complicated?

18 MS. OSHIRO: That is why a lot of the census
19 statistics for the -- and the poverty statistics for
20 the Native American community have come out late. And
21 in the September 2002 report on poverty in the United
22 States, they also disclaim that we still do not have
23 accurate numbers. And thus they were using the 1991 to

1 2001 average poverty rate for the Native American
2 community.

3 MR. DIETER: Okay. Thanks. Thank you very
4 much.

5 MS. OSHIRO: Thank you.

6 CHAIRMAN HALL: Our next presenter will be
7 Wayne Moore from the American Association of Retired
8 Persons. Welcome.

9 MR. MOORE: Thank you. It seems to me I was
10 just on the phone with you a few minutes ago.

11 Well, I want to thank you for inviting me. I
12 believe I was asked to testify before you to answer the
13 question how could the Legal Services Corporation
14 better serve older people. And actually, the answer I
15 have for that is probably the same as all the other
16 presenters can state about their clients. I think what
17 the Legal Services Corporation could do is to serve
18 more older people than they are today.

19 And of course, I would guess that your next
20 question would be: How do we serve more people with
21 the same funding from year to year? And five years
22 ago, I probably couldn't have answered this question.
23 But today we can.

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1 And what my recommendation is to you today is
2 that you require all the LSC grantees to convert to
3 technology-based delivery systems for providing advice
4 and brief services cases.

5 Now, why do I say that? My testimony mostly
6 refers to hotlines, but I want to point out that
7 there's a lot of new delivery systems that are coming
8 online that seem to be almost as productive, if not
9 more productive, than hotlines.

10 By that I mean court-based and program-based
11 self-help client centers, the I-CAN! model, for
12 instance, and of course hotlines. And that's what I'll
13 mostly address, is hotlines.

14 Now, this requirement wouldn't be as hard as
15 you might think. Hotlines are now really reached the
16 tipping point in legal services. We maintain a
17 database of all the programs in the country that run
18 hotlines, and there's about 153 now. And that's data
19 that's two years old. So bringing the rest of the
20 programs on line wouldn't be as difficult as you might
21 think.

22 Now, why do I recommend this? In my
23 testimony, which I hope you have written copies of, I

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1 did a pretty straightforward analysis. It shows that
2 if you converted the rest of the program grantees to a
3 hotline delivery system or an equivalent efficient
4 delivery system like the others I mentioned, it would
5 free up 800 staff nationwide who are now dedicated only
6 to advice and brief services cases.

7 So what I'm saying essentially is that the
8 programs that are not using these new technology-based
9 efficient delivery systems are mis-allocating their
10 staff to the tune of 800 nationwide that you're
11 funding.

12 I was asked recently to do a similar analysis
13 for a state. And I came into the state and they gave
14 me all the case data, the same data that you collect on
15 all your grantees, for each of the programs. And I did
16 a similar analysis for the whole state.

17 And I found that they could free up 19 staff
18 who were now dedicated to advice and brief services
19 cases, that could be freed up for other purposes if
20 their delivery of these services was made more
21 efficient, more efficient by the delivery systems that
22 are now proven and in place.

23 Then I did a separate analysis. I separated
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1 out -- the state was covered -- about 50 percent of the
2 state was covered by programs that had hotlines and
3 50 percent were not.

4 So I subdivided the analysis. I looked at
5 those programs that had hotlines. And it turned out
6 that they had properly allocated their staff. There
7 would be no freed-up staff in those programs based on
8 my analysis.

9 The 19 staff all came from programs that did
10 not have hotlines. So there is a case in point of a
11 state where these programs, by not using the modern,
12 proven delivery systems are, in my mind, mis-using and
13 mis-allocating the staff.

14 Now, to give you an idea of the scope of what
15 we're talking about, if you freed up 800 staff
16 nationwide and you devoted them to hotlines, which I'm
17 not suggesting you do, you could nearly double the
18 services that are now provided today. I think I point
19 that out in my analysis.

20 Now, I would not use the freed-up services for
21 only advice and brief services cases. I would not. In
22 fact, I would use them more for extended services
23 cases.

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1 So that's -- let me talk a little bit about
2 some of the objections that are raised to my kind of
3 suggestion. The first is the idea of local and state
4 control. You know, wouldn't you, by requiring this,
5 interfere with the legitimate jurisdiction of state and
6 local leaders.

7 And my answer is I don't think you would
8 because the state and local leaders still would have
9 total authority to decide what clients were served with
10 that money, what cases were handled, and how those
11 freed-up resources would be allocated.

12 So they could decide, for instance, that the
13 800 nationwide staff that were freed up would be
14 devoted only to extended services cases, or they would
15 be devoted to community education, or outreach, or
16 whatever it is. They would make those decisions.

17 But I don't think they have the right to
18 decide to use inefficient delivery systems that
19 mis-allocate staff and cause us to serve dramatically
20 less clients than we're capable of serving with the
21 existing resources.

22 The second thing that's often raised is that
23 by doing this, you would turn all the programs into

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1 brief services mills, you know, advice and brief
2 services mills. Just to the contrary. The 800 staff
3 that are freed up are staff who are now doing advice
4 and brief services cases. And in freeing them up, you
5 could devote those to extended services cases, so you
6 could increase extended services cases dramatically in
7 this country if you did that.

8 Now, why do people say that it turns programs
9 into advice and brief services mills? Well, there's a
10 good reason. What happens is when you institute a
11 hotline or another client-friendly delivery system like
12 a self-help center, what happens is that the number of
13 clients who come to you suddenly double or triple
14 overnight. That's what happened to us. When we
15 implemented the hotline, our call volume tripled and we
16 never publicized it. We still haven't publicized it to
17 this day.

18 What happens is our current intake systems and
19 those programs that don't have ones that are client-
20 friendly are keeping clients from calling because they
21 know it's no use.

22 So what happens then, if you implement a
23 hotline, is you suddenly get this surge in calls.

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1 Well, the most natural reaction to that is to take the
2 resources that are freed up and rush them forward to
3 handle all these calls. Thus, it has a reputation that
4 it turns your program into an advice mill.

5 But that's a strategic decision a program
6 could make. They could decide that when those
7 resources were freed up, that they wouldn't rush them
8 forward on calls, that essentially they would continue
9 to say no just like they did before with those clients,
10 and devote those freed-up resources to other things
11 that the local and state leaders believe are more
12 important.

13 Finally, the question of quality often comes
14 up. And there was a recent study -- one thing I should
15 tell you is the hotlines are the most studied delivery
16 system in the history of legal services. There's no
17 delivery system I know of that's been as thoroughly
18 studied as hotlines.

19 There was a quality control -- there was a
20 quality study recently that showed that hotlines were
21 basically helping clients to successfully resolve about
22 50 percent of the cases, and 50 percent were not.

23 And unfortunately, this has been deemed to be
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1 a product of hotlines. Well, there's no evidence that
2 it's necessarily a product of hotlines. What it is is
3 that for the first time we've looked at the
4 effectiveness of legal advice to our clients. You
5 know, what we found essentially is that it only works
6 in about half the cases.

7 Now, this isn't necessarily only hotlines have
8 this problem. Any kind of face-to-face advice has a
9 similar kind of problem. In fact, if you looked at the
10 quality study and the reasons why people were not able
11 to successfully resolve their problems with the advice
12 given, you'll find that the reasons would apply to
13 face-to-face advice as much as telephone advice.

14 And really what we're talking about between
15 hotlines and the old-fashioned way of delivering legal
16 services is the difference between telephone advice and
17 face-to-face advice. And I suggest to you that there
18 is no evidence that going from face-to-face advice to
19 telephone advice is so inferior as to justify the use
20 of an additional 800 staff nationwide for that purpose.

21 So what I'm recommending, really -- and, you
22 know, in some ways the Legal Services Corporation has
23 been a leader in this movement to hotlines. And

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1 without your suggestions and support, that wouldn't
2 have happened.

3 And the TIG program particularly, I think, has
4 been the catalyst of a lot of these new delivery
5 systems -- not just hotlines, as I said, but other
6 delivery systems are coming online as a result of the
7 TIG program. So I would suggest that that money be
8 increased and used to convert the programs that are
9 using the old-fashioned methods to the modern methods.

10 Secondly, I really applaud you for your
11 leadership on state planning. There's evidence that
12 those programs that have good state planning mechanisms
13 in place have the highest funding per poor person of
14 any states in the country.

15 And so that state planning idea has really
16 worked. And what I would suggest, there I just applaud
17 you and suggest you continue on to evaluate these state
18 planning programs.

19 But the second thing is when you find
20 deficiencies in state programs, state planning
21 programs, to fund those programs to make improvements,
22 a lot of times improvements or transitions to new
23 systems require one-time funding.

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1 And that leads actually to my last
2 recommendation, which is that instead of going to
3 Congress with the messages that we've traditionally had
4 for increasing legal services funding, go to them with
5 this idea, that we can really transform the delivery
6 system and free up 800 people if we could give one-time
7 funding to make that transition, and ask Congress for
8 that funding.

9 Similarly, show the success of the state
10 planning process and say, we need to allocate special
11 funds to continue this process, to continue to evaluate
12 the process, and to help these people improve their
13 state planning processes. Thank you.

14 CHAIRMAN HALL: Thank you very much.
15 Appreciate it.

16 Question?

17 MS. MERCADO: Yes. My question was actually
18 geared to that particular point. In trying to get
19 everyone up to par to have the technology available for
20 a hotline intake system, what is the cost that that
21 would take? I mean, I know you're saying that it's a
22 one-time cost. But what is that cost, or have you
23 averaged that in looking at the --

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1 MR. MOORE: Well, most hotlines that have made
2 the transition have not used more staff. What they've
3 essentially done is reassign the existing staff to
4 hotline duties. It's not necessarily the ideal
5 staffing, but it does work, and that's the traditional
6 way.

7 So what typically a program has to do to
8 convert is to upgrade its technology, maybe its phone
9 systems to have a more modern phone system. Those
10 phone systems are a lot cheaper, maybe \$25,000, I don't
11 know, that kind of nature of expense. Similarly, they
12 have to have computer systems and so on. But I guess
13 most programs now are up to par on that.

14 So it's not an enormous price tag we're
15 talking about. I mean, I would be happy to help work
16 out the numbers for you because we have a lot of data
17 on the cost of conversion.

18 MS. MERCADO: Well, and the additional cost
19 that I was interested in was in freeing up this 800
20 people, which I guess averages to about three or four
21 people per program, maybe, I guess, in doing the more
22 extensive case work which would assume more court
23 practice or more actually active advocacy on behalf of

1 them, did you figure out what the cost of that would be
2 as far as the services that we're actually providing to
3 the client? Is the cost going to be higher for doing
4 litigation more than just doing telephone advice or
5 face-to-face advice?

6 MR. MOORE: Well, the only difference between
7 the costs of extended -- the primary difference between
8 the cost of extended services case and an advice and
9 brief services case is really in the staff time. And
10 what I'm saying is that that would be freed up. So
11 that's not an additional cost.

12 I guess there might be a slight additional
13 cost for litigation expenses that are not incurred now
14 because they're doing advice and brief services cases.
15 But I think we're talking about a fairly nominal
16 amount.

17 When you said three or four staff freed up per
18 program, remember that the ones with hotlines aren't
19 going to free up staff. The 800 are going to come from
20 those who don't have them. So we're talking that those
21 programs are maybe going to increase eight or nine
22 staff, on average.

23 CHAIRMAN HALL: Other questions? Oh, sorry.
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1 MR. GARTEN: Wayne, I was just particularly
2 gratified in what comments you had to make about the
3 success Maryland has reached in keeping full access, a
4 high level of full access.

5 MR. MOORE: Because of the excellent state
6 literature.

7 MR. GARTEN: I'm afraid that was a coached
8 response.

9 MR. MOORE: He didn't make me say it.

10 MR. GARTEN: Well, thank you for your kind
11 comments.

12 MR. MCKAY: Can we make sure that's placed in
13 the minutes?

14 CHAIRMAN HALL: We will. An orchestrated act
15 if there's ever been one.

16 Any other? Thank you very much for your
17 presentation.

18 Our next presentation before we take a break
19 will be by Susan Patnode on rural networks. Please
20 begin.

21 MS. PATNODE: Good morning. My name is Susan
22 Patnode. I'm the executive director of the Rural Law
23 Center of New York. This is a non-LSC program that

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1 serves 44 rural counties in New York.

2 And as you can see, I brought you some party
3 favors to take home to talk to you a little bit, give
4 you a little bit more background about our program and
5 also the delivery of rural legal services and the
6 status of it in the country.

7 Also included in the package is a letter from
8 Chuck Fluharty, who is the director of the rural policy
9 institute -- RUPRI, it's called -- and I'm using his
10 letter because he knew that I was coming here today and
11 he wanted to extend some comments to you also.

12 So thank you for all the support that the
13 Legal Services Corporation has given to rural programs.
14 And I want to take a minute to thank Randi Youells in
15 particular because under her vision and leadership,
16 there was a conference last year held in Nebraska and
17 where I met Maria and we got to share smoked salmon
18 from Alaska.

19 And we had a great time. There were 25 of us
20 who were invited. And from that program -- and I see
21 some other folks up here in the audience who were there
22 today -- we had folks from Legal Services Corporation,
23 from non-Legal Services offices, the court systems, the

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1 private bar, funders, policy folks, clients.

2 And the one thing that we all had in common
3 was, you know, what are the issues facing rural low
4 income Americans, and how can we improve the delivery
5 of services to them? The other thing we found we had
6 in common was that out of the 25 people, three people
7 had sled dogs and race sled dogs. So it was kind of an
8 unusual group.

9 But in any case, out of that conference came
10 this report. And I know some folks are new to the
11 Legal Services board. And this is a report from that
12 conference that I think, if it's not here, would be
13 available to you. And I would just urge you, as
14 Mr. Fluharty does, to read that report because it
15 really summarizes a lot of what happened at the
16 conference.

17 But I just want to talk to you a little bit
18 about what the issues are about -- in the country and
19 also what some of the things I think that the Legal
20 Services Corporation could do to address those issues.

21 If you look at Mr. Fluharty's letter, you'll
22 see that 244 of our nation's poorest 250 counties are
23 rural, and 95 percent of the nation's persistently poor

1 counties are rural. And the rural poverty rate is
2 21 percent higher than the urban poverty rate. And
3 40 percent of all rural populations have no public
4 transportation, and 50 percent of all rural poor don't
5 own a car. So these are systemic problems that face
6 rural areas.

7 And what can the Legal Services Corporation do
8 about that? One thing they could do about that is what
9 they're doing, which is to recognize that this is an
10 issue. By sponsoring that conference -- and you're
11 also co-sponsoring a conference with NLADA and there's
12 another group -- there's a pre-conference to a Seattle
13 conference that's national, and it's going to be in
14 November. And that's going to be another way that all
15 of us can come together.

16 And out of that conference you had in
17 Nebraska, just so you know where your money is going
18 and what good work it does, we came up with the idea
19 that what we really needed to do was get an aggregate
20 voice. Because it was one of the first times that I've
21 ever had to meet with folks who share common problems
22 because a lot of us are in isolated areas.

23 My programs serves -- there's four of us, two
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1 attorneys. We serve 44 counties. I'm 18 miles from
2 the Canadian border. I grocery shop in Montreal. You
3 know, we are very isolated. And so to be able to meet
4 and find out common issues and common solutions, really
5 was helpful.

6 So we were trying to develop a national voice
7 and a national group. And you'll see in your packet
8 that there's a proposal for that, and that we've been
9 meeting all year since the Nebraska conference to try
10 to develop this aggregate voice where we can share best
11 practices, have a website, develop national funding
12 streams, and also share in what we have used for
13 funding and how we provide resources to communities.
14 We can share with each other so that other areas can do
15 that. So I ask that you continue in your support.

16 But the second most important thing that I'd
17 like to say -- that's why I made the comment about the
18 800 extra attorneys -- is that what's really unique
19 about rural areas is that, you know, I would say rural
20 America is maybe predominately Republican. But when
21 you car is stuck in the snow, people don't care what
22 political party you belong to. They care if you're a
23 good neighbor and if you help out and if you

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1 collaborate.

2 And I would really urge the Legal Services
3 Corporation to consider stressing that legal services
4 offices join in their communities, bring their legal
5 and lawyering skills to collaborative efforts to work
6 on systemic problems.

7 Those systemic problems are things like
8 transportation, domestic violence, homelessness,
9 housing, access to the legal system. And I'll just
10 give you a couple of examples of what that can do to
11 really make systemic change.

12 I see Cynthia Schneider, who's a staff person
13 for LSC, in the audience. And she called me once and
14 told me that the ABA had some mini-grants to develop
15 pro bono programs.

16 I applied for one of those mini-grants, and it
17 was to try to increase -- the ABA and the New York Bar
18 Association had done a study that said that rural
19 attorneys, rural private attorneys, weren't doing their
20 pro bono share.

21 So I came up with this idea called Judge's
22 Best Practices, in which we asked the judges in each
23 county to close down their courts for a day and give a

1 session in what's best practices in my court. You
2 know, what I want to see in a circuit court matter,
3 what I want to see in a family court custody matter.

4 The judges joined into this really willingly.
5 We got a \$5,000 grant to do this, so that's not a lot
6 of money. Since we got that grant, we've done this in
7 26 counties. We've had over a thousand rural attorneys
8 sign on to take a pro bono case because, of course,
9 when a judge invites you to come to his session on
10 what's best practices in my court, you're not going to
11 tell him that you're not interested.

12 So out of all the county, private attorneys
13 come. They sign on to take a case. We give that list
14 of names to the local legal services office. And we've
15 had over a million dollars in commitments to do pro
16 bono work.

17 So that's a private bar, court system, legal
18 services, and non-LSC partnership that's really paid
19 off. And it's a collaboration. And those kinds of
20 things really make a difference.

21 In terms of transportation, I met with a local
22 church, local DSS office, and a CAP agency, one of
23 those community action programs. Because we saw that

1 people really couldn't get to work. There was no
2 system for people to get to work.

3 So we had a goal of a charitable car donation
4 program. Our goal was to give away ten cars in one
5 year, to take in ten cars and give away those ten cars.
6 We did that, and the next year we wrote a proposal and
7 I wrote a little grant for \$9,000 for that.

8 We got \$457,000 the next year. We've given
9 over a hundred cars away. All those people are now off
10 public assistance, and they are -- and now it's spread
11 to three other counties. And so there's four counties
12 about the size of Connecticut who all now have this
13 program. This is a collaborative effort that makes a
14 systemic change.

15 These things are happening in New York. You
16 know, in our county, the legal services director is
17 head of the private bar. I really think you should
18 stress the collaborative programs in your rural areas
19 because that's really what's going to bring systemic
20 change.

21 So I thank you, and if you have any questions
22 I'd be glad to answer them.

23 **CHAIRMAN HALL: Questions?**
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1 MR. MEITES: I have one question. I notice in
2 the materials that our funds are, in general,
3 distributed on the per capita --

4 MS. PATNODE: I'm just a little --

5 MR. MEITES: Our funds are distributed
6 generally on a per capita basis with no regard to how
7 thinly those caps are spread. And you seem to suggest
8 that the cost to serve a rural county with a thousand
9 people is going to be greater than the cost to serve an
10 urban county with a thousand people. Why is that so?

11 MS. PATNODE: Well, you know, I think that the
12 costs to serve a rural county -- everything in rural
13 counties -- and I have something in there,
14 relationships, resources, and the respect that you have
15 in the community. Okay? If you don't have the people
16 there -- in the county where I live, if someone calls
17 me with a problem, I can solve that problem with a --
18 almost every time by just calling a couple people that
19 I know in that community and making those connections.

20 But if you don't have those connections in
21 those rural areas, if you don't have at least one legal
22 services attorney -- this is my view, and I know it's
23 idealistic -- but in every county -- I mean, I'm

1 talking about like North Country Legal Services, which
2 serves northern New York, I am not part of that, but I
3 live in that area. You know, that's the size of
4 Connecticut and I think they have four or five
5 attorneys.

6 But it's the relationships that those people
7 have, and it takes time and it takes effort. But if I
8 call -- and I think hotlines are great. But if I
9 call -- if you call me with a problem and I say,
10 "You've got a landlord/tenant problem and here are four
11 things you can do about it," or I'll say, "Let me put
12 you on hold," and I call up the landlord because I know
13 him, and the judge with the town court and the other
14 attorney, I can solve that problem in probably 45
15 seconds more effectively.

16 But you need people in those areas. And it's
17 a very -- I understand the constraints that you're
18 under and I understand how all the measuring devices
19 are there. But the practical reality is, in rural
20 areas it's relationships, relationships, relationships.

21 MR. MEITES: Thank you.

22 CHAIRMAN HALL: I guess one other question
23 that relates to the prior presentation. There has been

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1 this argument that the answer to the rural --

2 MS. PATNODE: I'm so sorry. I can't hear.

3 CHAIRMAN HALL: I'm sorry. There has been
4 this argument that the answer to the rural dilemma has
5 been or is technology, and that if we really want to
6 deal with an area that is vast and you have very few
7 individuals, that technology provides an answer to it.
8 And it's not just hotlines; it's a whole lot of other
9 stuff.

10 Do you concur with that? I mean, what you
11 just said about relationships seems to go against that.
12 Where do you come out on that particular issue?

13 MS. PATNODE: Well, I think that there's a
14 place for technology. I think it helps in urban/rural
15 resource sharing. I don't think that -- you know, you
16 can check off boxes to say you served this many people.
17 But what is service if you're not solving systemic
18 problems?

19 When I went to law school, I remember a dean
20 of the law school saying the first day, you know, the
21 usual stuff. And then he said, you know, "And prepare
22 for your place as community leaders."

23 Well, lawyering is more than getting somebody

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1 who didn't get their food stamps last month back on
2 food stamps. Leadership is bringing lawyers into these
3 communities who can really connect up with bigger
4 resources.

5 And you know what? You make a lot of friends.
6 You're not the neighbors on the outside of town who
7 are, you know, the legal services advocates. You're
8 the friends. You bring -- my program has brought over
9 a million dollars into my county in the last two years.

10 So when I talk to folks, that makes a
11 difference. And when I have a problem that somebody's
12 not getting their food stamps, it makes a difference.
13 I think it's a blending.

14 And I think that, you know, if Mr. Moore can
15 free up 800 attorneys, those attorneys need to be used
16 in new ways, not just one little pothole problem at a
17 time, you know. You take people out of the pothole and
18 put them on the road and they're back in the pothole
19 again.

20 We need systemic change. And attorneys in
21 legal services can really be the leaders in your
22 communities to do that. And I think it's critical. I
23 think there should be training about it, training on

1 community economic development. It's critical.

2 CHAIRMAN HALL: Thank you. Any others?

3 (No response.)

4 CHAIRMAN HALL: Thank you very much.

5 We're going to take about a ten-minute break
6 now. And if my clock is right, we'll start up at noon.
7 Thank you.

8 (A brief recess was taken.)

9 CHAIRMAN HALL: We're going to go ahead and
10 reconvene the operations of the Provisions Committee
11 and continue with our final set of presentations.

12 And our next presenter will be Sarah Singleton
13 from the ABA Standing Committee on Legal Aid and
14 Indigent Defendants. And glad to have you here. And
15 again, on behalf of the board, want to thank you for
16 hosting us earlier. And we really enjoyed that during
17 our visit your way. So please begin.

18 MS. SINGLETON: Thank you, Mr. Chairman. It's
19 nice to see you again and to meet those of you who
20 weren't able to make it to Santa Fe.

21 SCLAID, the acronym for the ABA's Committee on
22 Legal Aid and Indigent Defendants, is very grateful for
23 this opportunity to address the board. I'm a member of

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1 that committee, and I'm honored to be speaking on
2 behalf of its new chair, Bill Whitehurst, who is out of
3 the country and was unable to make the meeting today.

4 The ABA has long been active in trying to
5 improve the delivery of legal services for the poor.
6 In fact, SCLAID is the oldest standing committee of the
7 ABA. It was formed in 1920.

8 Through SCLAID, the ABA, as the principle
9 national bar other than, has continued to support the
10 Legal Services Corporation in its attempts to garner
11 adequate resources for the delivery system and in
12 nurturing an efficient and effective use of those
13 resources.

14 The ABA sponsors a number of programs which are
15 active in this area. We have a commission on IOLTA
16 that I know Mr. Garten is very familiar with which has
17 worked with others to defend the interest on lawyers
18 trust account programs, and has gone to the Supreme
19 Court in that defense, and has helped to preserve IOLTA
20 as an important source of funding for the delivery
21 service system.

22 SCLAID also has been active in providing free
23 assistance to state and local bar associations and

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1 legal services providers through our project to expand
2 resources for legal services, what we call PERLS,
3 because the ABA has to have an acronym for everything.
4 And that PERLS project has helped local and statewide
5 entities to raise other funds besides LSC funds to
6 improve the delivery of legal services. SCLAID has
7 also worked with private bar members in the process of
8 fundraising and in improving the delivery system.

9 And we have a grassroots lobbying campaign
10 which enables the organized bar to communicate with key
11 federal legislators about things like the LSC budget.
12 So we bring all of that background to us today when we
13 talk to you about what we see as impediments to the
14 delivery of efficient and effective legal services.

15 The first thing that we see as the single
16 biggest impediment is the lack of adequate funding for
17 legal services. Studies show that we are meeting maybe
18 20 percent of the legal needs of poor people. Many
19 people who are living in poverty could be productive
20 members of society if the legal problems that they are
21 suffering under could be removed. And we need to
22 develop more resources to that effort.

23 There is a greater need for federal funding or
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1 to maintain the basic services that are being provided
2 to people who come in contact with the civil justice
3 system if in fact it is to be a just system.

4 There will be more detail in SCLAID's budget
5 presentation tomorrow, but we believe that at a
6 minimum, federal funding for the Legal Services
7 Corporation should be restored to the 1995 level as
8 adjusted for inflation.

9 In this regard, we also think that it is time
10 to consider revisiting some of the restrictions that
11 have been imposed on LSC and its grantees since 1996.
12 We recognize that there are political realities
13 regarding these restrictions. But we do think that on
14 a selective basis, some of them could be revisited.

15 In particular, we believe that the restriction
16 that limits the use of non-federal money creates
17 serious delivery system problems. Philosophically,
18 this concept of federalizing local, even private, money
19 is antithetical to our system of federalism.

20 Local control over local money should be the
21 preferred policy. This lack of -- or this
22 federalization of local funds has created
23 inefficiencies. It has led to the bifurcation of

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1 service providers, which results in the very kinds of
2 ineffective service delivery that state planning sought
3 to eliminate.

4 There are other impediments besides the lack
5 of funding. We know that there are distance barriers
6 that face our rural poor. We know that there are
7 language barriers that face many of our minority
8 populations, and other similar obstacles. But the
9 people who represent those who work in the field can
10 better speak to those kinds of impediments. So we will
11 defer to them in our presentation today.

12 There is one thing, though, we do want to
13 address, and that is the ability of local providers to
14 attract and retain qualified lawyers. People who want
15 to work in legal services are motivated not by a desire
16 for a particular salary or a big salary, but rather by
17 a sense of commitment to public service.

18 But it is getting increasingly difficult for
19 people to act on this sense of commitment. The average
20 new lawyer's educational debt is in the range of 80- to
21 \$90,000. The monthly loan payments can consume up to
22 43 percent of a legal services lawyer's disposable
23 income. Even if one could start out with that kind of

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1 a debt burden, it becomes almost impossible once one
2 has family and other obligations that you have to meet.

3 Now, one solution to this problem is loan
4 repayment assistance programs or LRAPs, as they're
5 known in the ABA. And we have -- I have attached to my
6 remarks the most recent work that the ABA has done on
7 this because the ABA, with other national groups,
8 facilitated in the development of LRAP programs. And
9 we urge you at LSC to devote meaningful resources to
10 your grantees to create and maintain LRAP programs for
11 their lawyer employees.

12 The last area I want to discuss is what I call
13 nurturing an effective delivery system. There has been
14 a very important development in the last few years, and
15 that's the creation of the state justice communities
16 that others have addressed here today.

17 In 1996, the ABA, along with the NLADA,
18 established a project called SPAN to support
19 partnerships which would work to expand access to
20 justice. These partnerships included the bar, the
21 judiciary, legal aid providers, law schools, and
22 others.

23 Through the work of these groups, LSC and
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1 others, they have created access to justice commissions
2 in more than 40 states. There is a growing cadre of
3 people concerned with assuring that poor people obtain
4 effective legal assistance.

5 We recently held a meeting of -- and it's an
6 annual event -- for state access to justice chairs, as
7 well as other people involved in the access to justice
8 movement. And we had 70 people there. And our next
9 meeting will be in Atlanta in April.

10 And the written version of my remarks contains
11 a report on the last meeting that we had, and also a
12 paper on lessons that we've learned about state access
13 to justice efforts.

14 But our approach to this, to developing these
15 communities, has been one of leadership and
16 facilitation. It's been one of offering them examples
17 of best practices. SCLAID does not favor one approach
18 over another, nor has it insisted on a single idealized
19 model.

20 This is because we believe that the local
21 community is in the best position to evaluate its own
22 needs and priorities. Local programs should have the
23 ability to tailor their services, their priorities, and

1 other matters to local conditions. In other words,
2 they should get to set their own goals and make their
3 own definitions of success.

4 The strength of the system that we have, both
5 in the access to justice community as in the legal
6 services community, is the diversity, the people, the
7 structures, and the programmatic responses to client
8 needs.

9 LSC can continue and should continue to bring
10 to these communities the vision and the leadership. It
11 should offer them inspiration rather than insisting on
12 uniformity, structures, and rules.

13 Legal services and bar leaders, these people
14 are all hungry for concepts that will energize and
15 excite them. And they want to know about new things
16 that suggest that it's possible to deal with the kind
17 of systemic problems that other speakers have spoken
18 about.

19 The new configurations are nearly complete.
20 We now need to give reconfiguration an opportunity to
21 provide more efficient and effective services. Many
22 more stakeholders are now involved than just the LSC-
23 funded providers. But these newly formed coalitions

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1 need to be given the opportunity to figure out what
2 system works best for their community.

3 LSC now should focus on improving the ability
4 of programs to serve clients. Its emphasis should be
5 on supporting the programs and the state justice
6 communities that it helped to create. LSC should
7 communicate its visions and its expectations clearly
8 and consistently.

9 Clients are going to be best served if we
10 permit the changes that have come about on account of
11 state planning to take effect and to allow those
12 changes to lead to strong new programs and systems.
13 Give grantees the tools and the freedom to succeed.

14 The ABA and SCLAID will work with LSC to
15 overcome the barriers to an effective delivery system
16 and to build a better and stronger system. Thank you.

17 CHAIRMAN HALL: Thank you. Questions?

18 MR. MEITES: Yes, sir. I note on page 12 of
19 this very dense report -- I didn't get past the
20 executive summary, so I can only speak to the first
21 12 pages -- the last bullet on the first half of page
22 12 says, "The Legal Services Corporation should make
23 loan repayment assistance and forgiveness a priority by

1 such means as promoting these programs to its grantees
2 and/or exploring the creation of a loan repayment
3 assistance program for its grantees."

4 Now, I know from the experience in our office
5 where we have two young associates how substantially a
6 legal career is either shaped or distorted by these
7 loan burdens.

8 But does the ABA or has the ABA worked out any
9 specifics as to what the corporation should do to
10 promote these programs or create our own program? And
11 if you have not worked out specifics, could I ask your
12 committee, if it's still in existence, or an
13 appropriate committee, that if they have any nuts and
14 bolts proposals, I think it would help us a lot.

15 MS. SINGLETON: I don't know if it's enough of
16 nuts and bolts for you. But on page 46 there's a
17 little bit longer discussion of what the Legal Services
18 Corporation should do. I think there's some suggestion
19 that there should be money specifically made available
20 to your grantees for these kinds of programs, and so
21 forth.

22 And I'm sure within SCLAID we house the people
23 who work on the loan repayment assistance programs.

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1 And if LSC is interested in coming up with a detailed
2 program, I know we would be glad to work with them on
3 that.

4 MR. MEITES: All right. Thank you.

5 CHAIRMAN HALL: Any other questions?

6 MS. MERCADO: No, just a comment. In the last
7 couple of years, the result of this ABA study actually
8 was promulgated by the LSC board, NLADA, and the ABA,
9 in looking at ways to attract young lawyers that are
10 coming in out of school that have these tremendous
11 debts.

12 And part of our package requesting funding
13 from Congress that we would look at is to set aside
14 some amount that would go to pay on a yearly basis
15 lawyers that were recruited to come in out of law
16 school to legal services programs, to do that loan
17 forgiveness program.

18 I don't know that we've ever actually looked
19 at a particular figure. But we tried to work in some
20 form or fashion to at least begin that program. I know
21 that there's no way we're going to get full funding for
22 it. But that's something that the LSC board, and in
23 particular the LSC finance committee, would be looking

1 when they're doing their budget mark for the coming
2 fiscal year, to request that as a part of the package
3 for funding.

4 MR. MEITES: Well, I was thinking of something
5 more modest. Because I'm in Chicago and close to the
6 ABA's offices, I actually talked with some of the
7 staffers who you I'm sure were referring to.

8 And from the conversation with me and my total
9 incomprehension of the twelve programs they were
10 explaining to me, I have the suspicion that our
11 grantees around the country do not have a firm grasp on
12 the options.

13 And without a great deal of cost, I think we
14 could work with the ABA to educate our grantees as to
15 what they can tell their young lawyers. It is a very
16 complicated field, and I think that it might make some
17 sense for us, or the staff here, to pull the
18 information together in a more usable form than even
19 this report and make it available to the grantees so
20 when they're counseling their young lawyers, they can
21 give very specific suggestions how you can turn a
22 \$40,000-a-year salary into repaying \$120,000 in loans.

23 So I really think more of a no-cost, staff-
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1 driven, help our grantees just to understand what they
2 can tell their young lawyers as to their options.

3 MS. SINGLETON: And I'm certain we'd be glad
4 to work with you on that.

5 CHAIRMAN HALL: Any other comments or
6 questions?

7 (No response.)

8 CHAIRMAN HALL: Thank you very much.

9 MS. SINGLETON: Thank you.

10 CHAIRMAN HALL: Our next two presenters will
11 be Lillian Johnson and Wilhelm Joseph from the African
12 American Project Directors Association.

13 MS. JOHNSON: Good afternoon.

14 CHAIRMAN HALL: Good afternoon. Welcome.

15 MS. JOHNSON: Thank you. We are very honored
16 and privileged to have the opportunity to speak to you
17 this morning. As the program indicates, I am Lillian
18 Johnson. I'm the executive director of Community Legal
19 Services in Phoenix, Arizona. And I also serve as
20 chair of the African American Project Directors
21 Association.

22 It is an association of directors and deputy
23 directors of Legal Services-funded programs that are

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1 dedicated to the proposition that we should increase,
2 enhance, improve the development of minority leaders in
3 the legal services community. And we should direct our
4 attention to making sure that effective representation
5 and delivery of services is provided to the many multi-
6 cultural, multi-lingual, diverse communities that we
7 serve.

8 And our association has been in existence now
9 for about eleven years, and we're very pleased to have
10 had the opportunity during those eleven years to work
11 with different leaders in the LSC community, and in
12 particular with the leadership of the Legal Services
13 Corporation.

14 Among the things that we are most interested
15 in encouraging this particular committee to deal with,
16 to continue to deal with, is the issue of diversity,
17 particularly as it applies to the recruitment and
18 retention of members of the minority community in the
19 delivery of legal services, and in the development and
20 promotion and support for minority leaders in the
21 community, and in addition, dealing with the very
22 diverse and increasingly multi-cultural, multi-lingual
23 client community that we serve as part of the legal

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1 services community.

2 MR. JOSEPH: Good morning.

3 CHAIRMAN HALL: Good morning.

4 MR. JOSEPH: I'm here filling in, and my voice
5 is not too good. Actually, I just came out of my bed.
6 When Lillian said I had to come, I had to come.

7 I wanted to first acknowledge the commitment
8 of members of the board sitting around the table before
9 us. At least two of them are mentors of mine. One is
10 older and one is young -- very young. Maybe soon. I
11 know you are guessing who they are. One is a great
12 dancer. The other one is -- he's written many reviews.
13 And I believe that also you can figure out who is
14 smiling.

15 I think it is also appropriate to acknowledge
16 the work of your predecessors, Mercado and company, who
17 left the last board, the longest standing board in the
18 history of Legal Services. It is also appropriate to
19 acknowledge the work of the current staff of the Legal
20 Services Corporation, particularly on issues that are
21 important to the African-American project directors. I
22 think of Randi Youells and Arthur Heywood and Pat
23 Hanrahan in particular.

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1 Of course, they are assisted by a very able
2 group of people at the Corporation, two of them who
3 actually came from the program and are running it. I
4 speak of Mike Genz and John Eidleman.

5 I think it also appropriate to acknowledge the
6 commitment by the outgoing past president, John McKay,
7 whose brother sits on this board right now, who made a
8 very concrete commitment to deal with issues of concern
9 to our association.

10 And lastly, I want to acknowledge the work and
11 commitment of all the justice workers throughout the
12 country, who for many years have been toiling to make
13 this ideal, this goal of equal justice under law, a
14 reality.

15 And I think that is what brings us here, this
16 commitment to justice. I think we work from a very
17 simple proposition that says in a democracy, the rule
18 of law is at the foundation. And the rule of law must
19 simply assure that everyone, irrespective of station,
20 receives equal justice -- rich or poor, plantation
21 owner or peasant, or whatever.

22 Our particular mandate in legal services is to
23 assure that the poor gets a fair share and justice

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1 before the system. We know that any issue that affects
2 ordinary people, if it causes a sneeze among the rich,
3 among the poor you can bet it will cause pneumonia. In
4 other words, every issue is exacerbated, whether it's
5 dealing with a landlord, a gang war, or an over-zealous
6 government entity, the impact on the poor is obviously
7 more telling.

8 We do this work within a contradiction, much
9 of which you heard, I guess, from the earlier speakers.
10 We have inadequate resources. We are subjected
11 annually to what I call a demoralizing debate at the
12 national level, with leading members of Congress
13 calling for people who work for the good of all and
14 justice to be limited.

15 We work as second class citizens. Both our
16 clients and our workers are considered second class
17 citizens in the system. And then we have a whole
18 string of statutory restrictions which inhibit our
19 effective representation.

20 Similarly, problems affecting blacks,
21 Hispanics, and other marginalized and unrepresented and
22 under-represented minority groups, which I don't think
23 is relieved by the fact of those premises, the recent

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1 Supreme Court case in Michigan on the affirmative
2 action issue affirms the existence of problems. We
3 still have difficulty figuring out how to resolve them.

4 We of the African-American project directors
5 believe we need to consider zealous organized action.
6 And we have some goals and some priorities. I'll share
7 a few with you, some that you've heard before.

8 First and foremost is the provision of legal
9 services to clients that is of the highest quality. We
10 mean by that by well-prepared advocates with sufficient
11 resources. That service should be relevant. It should
12 be responsive to locally determined needs. That
13 service should also be appropriately rendered, that is,
14 with zeal, with sensitivity, and within a compatible,
15 effective structure.

16 Our second goal and priority I want to mention
17 is the preservation and strengthening of service to
18 marginalized individuals, particularly Native
19 Americans, migrants, and others.

20 Third, what I want to mention is the
21 maintenance and expansion of opportunities for members
22 of marginalized and under-represented groups to
23 participate in the delivery of legal services on the

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1 front lines, within middle and upper management and
2 governance at all levels.

3 Strategies for these, we believe in truth and
4 for which we press your support, a minority recruitment
5 and training. Leadership development, loan
6 forgiveness, and a national pension scheme. And most
7 fundamentally, client involvement in all aspects of
8 legal services.

9 I conclude by simply saying the benefits that
10 will come from these actions will contribute to a more
11 just society, a more peaceful society, and a more
12 stable society.

13 I want to say in every state which I have
14 worked -- Mississippi, New York, and now in Maryland --
15 I believe the less we invest in civil justice and
16 order, the more we risk civil and criminal disorder.
17 Thank you.

18 CHAIRMAN HALL: Thank you both.

19 Questions? Comments? What is the number of
20 African-American directors of legal services programs,
21 and has that number increased, say, over the last five
22 years? Stayed the same? What direction are we moving
23 in? Do you have any --

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1 MR. JOSEPH: I couldn't give that number. I
2 think it has decreased. I believe we've lost several
3 directors through the consolidation process that
4 occurred throughout the country. And the number is
5 probably in the 20s.

6 CHAIRMAN HALL: Okay. All right. Thank you.

7 MS. JOHNSON: But of course, the overall
8 number of directors have decreased as state planning
9 has been either helpful or not so helpful in merging
10 programs and creating statewide programs. And the
11 persons who are chosen to lead are often not the
12 minority that was directing one of the programs in the
13 state.

14 One of the things that I might add that the
15 Legal Services Corporation has already begun to do to
16 help in this particular area is the -- and you probably
17 have received a report about the success of it -- was
18 the creation and development of a training program that
19 helps to educate the boards of directors of legal
20 services programs in the various communities about the
21 value of diversity, and the need for them to have some
22 concentrated attention given to that in all that they
23 do in terms of choosing a leader as well as allocating

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1 very scarce and valuable resources of the program.

2 We've been very fortunate because the
3 Corporation having taken the leadership, it has
4 resulted in at least ten programs having identified the
5 issue of diversity as a priority in their state
6 planning and strategic planning.

7 And I might add that Community Legal Services
8 was one of the first programs out of Phoenix, Arizona
9 to be exposed to this new training for our board of
10 directors. We actually had the training on a Saturday.
11 And I have a 27-member board. We had 25 of our
12 27-member board to actually participate.

13 And the amount of intensity in terms of their
14 participation proved to be extremely valuable. We were
15 often given the benefit of some of the things that
16 members of our boards of directors are already involved
17 in related specifically to diversity. And they were
18 very pleased to hear that the Legal Services
19 Corporation itself was actually playing a leadership
20 role in encouraging programs to deal with diversity
21 from the very top to the very bottom.

22 And it certainly has increased the involvement
23 of our legal services program board of directors in

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1 strategic planning and in interest in making sure that
2 diversity is taken into account in strategic planning
3 and allocating of our resources.

4 So that's something that's already been done.
5 Another issue that the Legal Services Corporation has
6 shown some specific leadership that has been very
7 successful, and we invite you to continue, is that you
8 have established a diversity committee to essentially
9 provide some advice regarding various issues,
10 regulations, potential instructions that may be
11 directed to legal services programs, and in particular,
12 the very important evolving issue related to language
13 proficiency.

14 That's something that the diversity committee
15 was already interested in playing some role in helping
16 to gather best practices, but also to provide some
17 advice and counsel from a practical level -- that is,
18 the community, the directors and deputy directors of
19 legal services programs -- about how to best deal with
20 that issue and to demonstrate the Corporation's
21 continued interest and support for diversity; but also
22 the practical implications for legal services programs
23 on how to implement a program and a policy that would

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1 make sure that we were engaged in making our resources
2 accessible to a number of different communities who
3 have language barriers, but also recognizing we have
4 scarce resources to do so.

5 CHAIRMAN HALL: Thank you.

6 MR. JOSEPH: I wanted to make one point in
7 response to your question. And it's an area in which
8 the Corporation has taken the leadership and an early
9 commitment, set forth by John McKay: the question of
10 leadership training.

11 The task of running a legal aid program is
12 awesome. I already know the kind of atmosphere in
13 which it must operate. You are serving the interests
14 of the poor. Today, that is a community without
15 support.

16 You are challenged to raise resources from
17 third parties. Whether or not your client is satisfied
18 with the service, he or she does not pay. He must go
19 to a third party, whether it's government at the
20 national, local, or state level, and individuals who do
21 not benefit directly from those services. In fact,
22 sometimes their own interests are opposed to the
23 interests of your clients. And you have to seek

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1 resources and support from them.

2 You have to go out and recruit the best staff,
3 and you won't pay the best salaries or benefit
4 packages. That's an awesome challenge. If you are a
5 woman or a minority, you are further challenged because
6 in our natural, everyday lives, we don't run in the
7 same circles with those who have the power. That's a
8 reality.

9 So you must be able to bridge the gaps from
10 where you come from, where you are coming, and
11 integrate your services with everybody everywhere to be
12 effective. That's an awesome challenge.

13 So we ask the Corporation to commit to having
14 programs to prepare all of us, all directors in charge
15 of trying to manage a multi-racial staff with an issue
16 as potent as race in this country requires more than
17 just a law degree.

18 And we have asked, and the Corporation has
19 agreed, to be involved with the NLADA in trying to
20 prepare us and our successors to do a very good job of
21 managing those resources.

22 CHAIRMAN HALL: Thank you both very much.

23 Our next presenter will be Brian Logan from
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1 the National Association of IOLTA providers.

2 MR. LOGAN: Thank you very much. Good day.
3 I'm the chief administrative officer and corporate
4 secretary of the District of Columbia Bar Foundation
5 here in Washington, D.C. In that capacity, I also
6 serve as the IOLTA program director.

7 I join you today by representing the National
8 Association of IOLTA Programs on behalf of Faith
9 Rivers, the president of that organization. And she
10 also serves as the executive director of the South
11 Carolina Bar Foundation. She regrets that she's not
12 able to join you today. She's attending services
13 associated with Joseph Shine's passing in South
14 Carolina.

15 IOLTA trust account programs operate in all 50
16 states and the District of Columbia. And the majority
17 of the funds raised through the IOLTA programs go back
18 to organizations that provide direct legal services for
19 the poor.

20 The programs work diligently with financial
21 institutions to increase revenues by negotiating higher
22 interest rates and lower service fees to provide a
23 higher yield to back into the legal services system.

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1 Nationally, IOLTA is second only to Legal
2 Services Corporation in the number of dollars provided
3 to support legal services. Recent figures estimate
4 \$126 million.

5 The National Association of IOLTA Programs
6 membership includes those programs in all 50 states and
7 associate members in Canada, which also has a trust
8 interest on line trust account program.

9 NAIP works very closely with the American Bar
10 Association's Commission on IOLTA, and jointly they
11 provide training, consultation, research, and policy
12 development to all state IOLTA programs.

13 IOLTA programs play a really important role in
14 the legal services communities in their localities in
15 each state. IOLTA also shares an extreme commitment
16 with the Legal Services Corporation to the goal of
17 providing legal services to the poor. It's partnered
18 with LSC on many initiatives in the past and hopes to
19 do so in the future.

20 IOLTA programs bridge the gap between the
21 private bar and public interest organizations, the
22 legal services providers. Because in a lot of cases,
23 IOLTA programs don't have any conflicts of interest,

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1 IOLTA board members who govern these organizations
2 across the country are dedicated to legal services.
3 And they also become ambassadors to their colleagues
4 out in the private bar community to generate better
5 support for access to justice.

6 IOLTA has also participated in public
7 relations campaigns across the country that have public
8 support for legal services, and is also able to -- I'm
9 just reading from rough notes, sorry -- IOLTA is also
10 available to LSC to help broaden its reach into the
11 state justice communities in planning around the
12 country.

13 IOLTA programs are extremely committed to
14 expanding resources. New initiatives across the
15 country over the past few years have included filing
16 fees, dues checkoffs, and other alternative sources.
17 These also have included state appropriations. In many
18 cases, IOLTA programs have been asked to administer
19 these filing fees and other monies generated.

20 IOLTA programs have also been very important
21 to the legal services providers in helping with grant
22 development, technical assistance with writing and
23 reviewing grants proposed to private foundations,

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1 corporations, and to coordinate with other funders as a
2 model.

3 IOLTA programs are also -- in their grant-
4 making have also been very innovative in recent years
5 providing support for IOLTA -- excuse me, for legal
6 services programs that Legal Services Corporation has
7 not been able to in regards to restricted work, such as
8 state support centers.

9 Initiatives include student loan repayment
10 programs that have become a new support system;
11 providing money for fellowships and for cross-cutting
12 innovations that provide support to not just one legal
13 services provider in the community but all legal
14 services providers in a city or state, including
15 centralized intake, many technology initiatives, and
16 especially development of web-based technologies.

17 IOLTA programs look to partner with LSC -- to
18 continue to partner with LSC in regards to -- IOLTA
19 programs are locally based and reach out to the
20 community and know their communities.

21 They don't work with just LSC grantees. They
22 work with all legal services providers in bringing
23 everyone together in the past, and in the future would

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1 like to offer its services where appropriate and timely
2 to -- if there are concerns from LSC of certain
3 providers or legal services issues within a community,
4 to be available to help bridge the gap.

5 Some of the roles and challenges that have
6 been -- have come up recently in the legal services
7 community include a very important topic that we were
8 discussing just recently in our meetings, at the ABA
9 meetings in San Francisco, our program evaluation.

10 Program evaluation is such an important
11 component now. It not only helps the organization in
12 its self-development, but it also -- it provides a tool
13 for the funders. It's an important marketing tool
14 going out to raise funds.

15 It has been found, however, that evaluation --
16 a lot of programs have given guidance on what
17 evaluation should include. But some of the IOLTA
18 programs around the country have found that self-
19 created programs internally within the organization
20 helps them to develop their initiatives and also a
21 sense of ownership, and provides more meaningful data
22 back to the funders, and have found also that using the
23 evaluations as a tool for -- you know, using it as a

1 community tool is not always necessarily productive.

2 And also, we've also found, in sharing
3 information amongst IOLTA programs across the country,
4 that the benchmarking levels are different by each
5 jurisdiction, and so not all jurisdictions can be
6 measured equally. They need to be taken into
7 consideration on an individual basis.

8 Another very difficult area recently was --
9 excuse me. IOLTA programs participated very
10 extensively across the country in the state planning
11 process, providing financial support, staff support, et
12 cetera. And given IOLTA's role as a partner in the
13 state planning effort, we hope to continue to provide
14 input on the direction and oversight of state planning
15 activities. And the LSC IOLTA programs will be able to
16 report in the future on these.

17 One of the more difficult outcomes of state
18 planning was, of course, the mergers process that
19 recently took place over the last few years. LSC --
20 excuse me, IOLTA programs really urge LSC to develop
21 technical assistance programs to help the grantees with
22 management and governance issues.

23 One of the governance issues may be the
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1 presence of more diversity. And, of course, diversity
2 is not necessarily -- it comes in many forms, whether
3 it be through a type of community that the person
4 represents; race, of course; and also their experience
5 in their job, whether it be an accountant or someone
6 else from within another type of social service agency,
7 et cetera.

8 In conclusion, IOLTA programs across the
9 country are available to LSC to further access justice
10 for everyone. I apologize that I'm not feeling very
11 well today.

12 CHAIRMAN HALL: That's okay. Any questions
13 from any of the board members or comments?

14 MR. GARTEN: I might comment that the
15 relationship between the National Association of IOLTA
16 Programs and ABA is probably the most successful
17 outreach program that exists. This annual three-day
18 session that precedes every midyear and annual meeting
19 of the American Bar Association is a very exciting
20 forum, producing many new ideas.

21 And these individual leaders from the state
22 level are able to accomplish a great deal -- for
23 example, getting together and putting pressure on banks

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1 to increase interest rates on the attorney trust
2 accounts. They've been very successful and have come
3 up with some very innovative ideas and they have some
4 very exciting leaders.

5 So that I would highly recommend that if
6 members of the board are in a position to attend any of
7 these sessions, that they'll find it very worthwhile.
8 And thank you for your presentation.

9 MR. LOGAN: Thank you.

10 CHAIRMAN HALL: Just one question. There was
11 a Supreme Court case a few months back which certainly
12 was a tremendous victory for IOLTA.

13 MR. LOGAN: Yes.

14 CHAIRMAN HALL: >From the standpoint of the
15 association, did that case kind of secure the future
16 for you? Are there some doors left open? You see some
17 legal challenges in the future to the system?

18 MR. LOGAN: This was the greatest hurdle.
19 There are some minor sets of rules being bantered
20 about. But yes, it did do that. The Brown vs.
21 Washington State decision was extremely important and
22 did codify the concept of IOLTA, where we are very
23 confident that IOLTA programs are not -- are no longer

1 in jeopardy as a whole.

2 CHAIRMAN HALL: Thank you very much.

3 MR. LOGAN: Thank you.

4 CHAIRMAN HALL: Our last presenter will be
5 Luis Jaramillo from the farmworkers project group.

6 MR. JARAMILLO: Good afternoon. My name is
7 Luis Jaramillo, deputy director of California Rural
8 Legal Assistance. And I'm here representing the
9 farmworker -- let's see, FPG, farmworker project group.

10 The farmworker project group is a
11 collaborative about most of the migrant legal services
12 providers throughout the United States. We are a
13 collaborative that includes not only migrant legal
14 services offices that deliver direct services, but also
15 academics who participate in some of the research and
16 activity.

17 This presentation is going to be a little bit
18 differently because the substance of our presentation
19 is found in the written document. And what I will be
20 presenting to you is a graphic of what the needs are of
21 our client community.

22 So we can begin by thanking you for accepting
23 your position, your appointment to this board, and to

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1 let you know that your decisions will impact directly
2 on these individuals, many of these individuals who are
3 represented by these pictures.

4 Second is we thank you for inviting us because
5 that means that you're interested in who we are and
6 what we do and how we do it.

7 Farmworkers are described as the poorest of
8 the working poor. Underline "working." They are
9 working individuals who are often described as
10 invisible people in an underground economy.

11 They are different individuals who come from
12 different -- work in different parts of the country and
13 compete for minimum wage or lower than minimum wage
14 employment. The current federal minimum wage, as you
15 know, is \$5.15 an hour. And at 40 hours, it leads to
16 \$206 per week. Those are the kinds of jobs for which
17 they are competing.

18 They are young. They are old. Mostly they
19 are under the age of 45, but we have numerous older
20 individuals, many of whom, in order to compete, color
21 their hair so that they will look younger.

22 There are also individuals speaking many
23 different languages, including Hmong, Southeastern

1 Asian languages, and indigenous languages. One thing
2 I'd like to point out in this particular picture that's
3 taken of individuals in a van is you notice it's a law
4 chair and there are no seatbelts for this individual.

5 Although they're different, although they're
6 multi-racial, although they're diverse, they all have
7 one thing in common, and that is pride in their work.
8 And so the unbruised and unblemished strawberries that
9 we eat at our tables are largely a product of their
10 work.

11 When we say that these individuals live in an
12 underground or invisible economy, what we essentially
13 mean is that most of the work that we do as legal
14 services lawyers has to do with getting compensation
15 for them because they've not been paid or they've been
16 underpaid.

17 And how is it that folks are able to get away
18 with doing something like that? Well, the fact of the
19 matter is they're invisible. And this is a beautiful
20 orchard that we typically can see from a highway as
21 we're cruising down the road. But only when we go into
22 the orchard or only when we go into the fields do we
23 begin to see the encampments. And this particular

1 encampment is one for 300 individuals.

2 We know that they did not set it up illegally
3 and that they are -- because they are provided services
4 by the grower. In this particular case, you see the
5 water. You see the portable toilets. And then you
6 also see the dumpster.

7 So the 300 individuals who are living there
8 have to make do as far as their own cooking
9 arrangements are concerned. And when we see the
10 cooking arrangements, their food stays out all day.
11 There's no refrigeration. The eggs. The cooking oil.
12 all that they have to do is then done by themselves in
13 individual groups. Not all use the same fireplaces.

14 We all know that we need showers for personal
15 health reasons, but these farmworkers need them
16 particularly for the toxics that are sprayed in the
17 fields -- the pesticides, the fungicides, the
18 rodenticides, the fertilizers.

19 And this is their shower system, what they
20 have. They carry the water that has been provided.
21 They shower in the same place. And all those toxics go
22 down into one particular spot.

23 Not all of them have tents, but all of them do

1 their laundry. And that's how they do their laundry.

2 As I indicated, it's not always in the
3 orchards. Some find a place to stay in the marshes.
4 Some find places along the river beds that are cleared
5 by the water that is going down. And so we have these
6 kinds of conditions for these individuals.

7 Now, those who want a little bit more
8 independent life and who are going to look for
9 apartments often find landlords that are unwilling to
10 rent their apartments to them for a period of three
11 weeks to three months, which is the period that they're
12 usually in the area. And so they exact a high price.

13 These are usually the landlords that are less
14 scrupulous than others in the way that they maintain
15 their apartments. And those who do rent apartments are
16 usually -- or motel rooms usually fill them up with
17 wall-to-wall mattresses so that they can take care of
18 themselves and their families.

19 What do we learn from this? Well, what we
20 learn from this is that migrants are there to work.
21 These individuals can't call in sick in the morning.
22 The employer knows exactly where they are. They're
23 entirely dependent on their employer. And thirdly,

1 they're very vulnerable to that employer.

2 So when we often see them, it's because
3 they've been dumped or they're no longer participating
4 in a migrancy, and so they come to us looking for
5 payment of wages.

6 Another one of the invisible issues that they
7 need addressed has to do with pesticides in the fields.
8 As you know, many of the pesticides are odorless, and
9 so the only way that the government has of making sure
10 that individuals are not exposed to these toxics is by
11 passing statutes that obligating a posting sign. And
12 there is a sign on methyl bromide on the easel as well
13 right next to the screen.

14 But as we approached this particular crew, the
15 farm labor contractor came out and said, yes, all the
16 individuals are working, and yes, it is posted. But
17 are you saying to me that they can work if it's not
18 posted? And the answer was yes. And he said, well,
19 here's my response.

20 When we look at the fields, there are a lot of
21 dangers in the fields. Among them are invisible
22 drivers. There is no driver on this tractor that is
23 pulling these women. Those happen to be seedlings that

1 the women reach up for, stick in the planter, and the
2 planter puts into the field. They're rambling along at
3 about anywhere from 2 to 5 miles per hour.

4 There are numerous tractors that are working
5 in tandem. As you notice, none of them have drivers.
6 And the workers in the back -- because the women are
7 unable to keep up with the planting machines, there are
8 workers behind that put the shoots in to compensate.

9 That's at the beginning. This is at the end.
10 And a similar problem exists at the end as well with
11 driverless tractors that you notice. At the far right,
12 we no longer have the three women. We have six women
13 who are standing that are packing this field of
14 broccoli that is harvested, put on conveyor belts, and
15 then the platforms behind the tractors include a
16 platform for the stitcher that puts boxes together that
17 hands them to the women and then picks them up and
18 loads them up and stacks them up. So we see that
19 there's dangers in the machinery.

20 The unsafe conditions also extend to tools.
21 In 1975, the California Supreme Court ruled that the
22 short-handled hoe was illegal to use in the fields of
23 California. The short-handled hoe is called "el brazo

1 de diablo" in Spanish, which is the arm of the devil,
2 the devil's arm, because it forces you to bend down,
3 forces you to bow down in your work.

4 It's demeaning. The farm labor contractors
5 often say, all I want are assholes and elbows. And so
6 it's demeaning not only to these individuals but it's
7 also particularly demeaning to women workers.

8 When we see this particular parsley field --
9 it's Chinese parsley, cilantro -- we find one
10 individual who proudly displays the tool that he
11 developed so that there is no need for a short-handled
12 hoe.

13 When we go back to the first picture, all of a
14 sudden now that we've gone through these other pictures
15 we see a striking -- we begin to see a little bit more.
16 And one of the first things that strikes us is that
17 these women are using long hoes. That means that these
18 particular women are not going to be subjected to the
19 demeaning statements about the use of the short-handled
20 hoe.

21 These fields also need to have toilets, need
22 to have soap and water, and need to have drinking
23 water. Obvious things. We don't see them in this

1 particular picture, but it's something that we would
2 look for.

3 Two of these women -- well, indeed, all three
4 women are in their late twenties. Two of them have
5 children. The question we would ask is: Where are
6 their invisible children? Are their children attending
7 schools? And do their children, competing with my
8 children, have computers and parents to tutor them at
9 their school?

10 When these women go home, their children will
11 certainly want hugs and kisses and dinner. And these
12 women will not be able to immediately give them hugs,
13 kisses, and dinner because they must remove all their
14 clothing that is used in the fields because children
15 are so much more susceptible to the toxics that are
16 used in the fields than adults are.

17 One other thing we don't see is if they are
18 getting paid and how much they are getting paid.

19 And then, finally, two of those women are
20 color-coordinated. That reflects the looking and
21 wanting to feel dignified and respected in the work
22 that they do, and that is something that we see on our
23 tables, that pride.

1 Those unblemished strawberries, those
2 bountiful fruits and vegetables that we have on our
3 table, that are on the cooking shows that we see, that
4 is their pride and that is their contribution to
5 society and that is something that gives them the
6 dignity as human individuals, working human individuals
7 serving our country.

8 What we're here to do is ask you to continue
9 the support for the specialized legal services programs
10 that migrant legal services undertakes. And I would
11 quote to you from John McKay's letter where he asks,
12 "The nature of migrant work and the specialized legal
13 needs of migrants requires specialized units, staffed
14 by advocates with the skills necessary to represent
15 this special population."

16 He asks that we undertake this responsibility.
17 And we hope that we will, and we ask you to advocate on
18 our behalf, knowing that your decisions directly impact
19 on their lives.

20 CHAIRMAN HALL: Thank you. Questions?

21 (No response.)

22 MR. JARAMILLO: Thank you very much.

23 CHAIRMAN HALL: Thank you very much.

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1 MS. MERCADO: Do we -- I'm sorry. On the
2 1007-H study, did we have a copy of that that was
3 provided with this, or just the summary? Luis, I'm
4 sorry. The 1007-H study?

5 MR. JARAMILLO: Yes.

6 MS. MERCADO: Do you have copies of that, or
7 was it just the summary that's included in your
8 summary? I mean, I know I've seen it before several
9 years ago.

10 MR. JARAMILLO: Right. We only referred to
11 it, but we can certainly make a copy available to you.

12 MS. MERCADO: It probably would be helpful,
13 especially for the new board.

14 MR. JARAMILLO: Certainly.

15 CHAIRMAN HALL: Thank you. Any other comments
16 or questions?

17 (No response.)

18 MR. JARAMILLO: Thank you.

19 CHAIRMAN HALL: Thank you.

20 That concludes our presentations. And on
21 behalf of the committee and the entire board, I'd like
22 to thank all of those who have presented to us your
23 analysis, and your advocacy is deeply appreciated and

1 will certainly influence what we do.

2 I think all of the issues that have been
3 raised and the information that has been presented are
4 issues that this committee and ultimately this board, I
5 believe, need to look at and address.

6 Certainly we cannot get to all of them
7 immediately, but I feel that those are certainly the
8 types of issues that should inform the agenda, the
9 future agenda, for this committee. And therefore, I
10 definitely thank each one of you for coming and
11 presenting it, for the work that has gone into all of
12 those presentations, and more importantly, for the
13 advocacy and the hard work that you give to the
14 community that this board is created or that this
15 corporation is created to serve.

16 And I think I can speak on behalf of every
17 member of this board, that we deeply appreciate the
18 work that you give day in and day out. And just by the
19 presentations alone, it is clear that that work comes
20 not just from your head but from your hearts as well.
21 And I think we are deeply indebted to you for that
22 work. So thanks to all of our presenters.

23 At this time, the committee would consider any
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1 other acts or business to come before the committee, if
2 any of the other members of the committee or other
3 board members would like to raise a matter.

4 (No response.)

5 CHAIRMAN HALL: Hearing none, we will have
6 time for public comment. If there is someone in the
7 audience who wants to make a comment.

8 MR. ZORZA: Mr. Chairman, I realize you're
9 probably waiting for your lunch. But if I could just
10 have two minutes to add a couple of points to this?

11 CHAIRMAN HALL: Sure. If you could introduce
12 yourself.

13 MR. ZORZA: My name is Richard Zorza. I have
14 been involved in this community for over 20 years. I
15 act as a consultant to a variety of access to justice
16 institutions.

17 Let me suggest that you must be somewhat
18 overwhelmed by all the different demands and requests
19 and suggestions being made to you because I would be in
20 your role. Let me suggest a slightly more perhaps
21 positive or energizing perspective.

22 It seems to me that you've taken over
23 stewardship of this community at a moment of enormous

1 opportunity. The fact is that as a result of former
2 President McKay's leadership, as a result of changes
3 that have been happening in Congress, in the state
4 courts around the country, I really believe that the
5 parallel transformations that have been occurring --
6 the transformation of the legal services community into
7 an access to justice community in which all our
8 organizations ask of ourselves not how many lawyers do
9 we have in the field and are they doing a cost-
10 effective job, important though those questions are,
11 but ask ourselves, are we providing access to justice
12 to 100 percent of the people who need it -- that that
13 is being paralleled by our court systems asking exactly
14 the same parallel question: Are our courts providing
15 the openness and access to 100 percent of the people
16 who need it?

17 And that what we are seeing state after
18 state -- I think particularly of Justice Bell in
19 Maryland exercising leadership, Judge George in
20 California, Judge Kaye in New York -- what we are
21 seeing in state after state is the emerging of
22 collaborations, in which courts, bar, legal aid
23 organizations are together setting out institutions,

1 together deploying technology, together doing research
2 and evaluation -- but the research and evaluation has
3 to be effective for that 100 percent perspective -- and
4 that you as a board, with the perspective of everything
5 you've heard today, are at a moment of enormous
6 opportunity to really break through and to create a
7 society in which we actually are fulfilling the promise
8 of access to justice rather than just having those
9 words in a statute.

10 Thank you very much.

11 CHAIRMAN HALL: Thank you very much.

12 Appreciate that. Any other public comment?

13 (No response.)

14 CHAIRMAN HALL: If not, I'll entertain a
15 motion to adjourn the meeting of the provisions
16 committee.

17 M O T I O N

18 MR. MCKAY: So move.

19 CHAIRMAN HALL: Second?

20 MS. MERCADO: Second.

21 CHAIRMAN HALL: Okay. We are adjourned.

22 (Whereupon, at 1:10 p.m., the meeting was
23 concluded.)