

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

BOARD OF DIRECTORS
OPEN SESSION

Saturday, January 29, 2000

11:05 a.m.

Texas V Room
Hyatt Regency Austin on Town Lake
206 Barton Springs
Austin, Texas

BOARD MEMBERS PRESENT:

Douglas S. Eakeley, Chair	Edna Fairbanks-Williams
Hulett H. Askew	F. William McCalpin
John T. Broderick, Jr. (by tele.)	Maria Luisa Mercado
John N. Erlenborn	Thomas F. Smegal, Jr.
Ernestine P. Watlington	

STAFF AND PUBLIC PRESENT:

John McKay, President
Victor Fortuno, VP for Legal Affairs, General Counsel &
Corporation Secretary
James Hogan, VP for Administration
David Richardson, Treasurer & Comptroller
Mauricio Vivero, VP for Govt Relations & Public Affairs
Edouard Quatrevaux, Inspector General

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

2 CHAIR EAKELEY: Let me call the board back into
3 session. We had adopted a number of the agenda items
4 yesterday, and we're going to start the morning with a
5 presentation by field programs sitting at the table, and
6 perhaps to be interrupted, because when and if Chief Justice
7 Phillips arrives, I think we'll interrupt and continue.

8 But in any event, I want to just start by welcoming
9 Paul Furrh of East Texas Legal Services, and I think you're
10 going to invite somebody up to the rostrum with you.

11 MR. FURRH: If you'll permit me, I'd like to
12 introduce all of the legal services folks from Texas that are
13 here today. Probably the best person to start with today,
14 since we've got this good news, is Lisa Melton with the Texas
15 Equal Access to Justice Organization.

16 And next to her is Regina Rogoff of Central Texas
17 Legal Aid, which most of you met yesterday or before.

18 CHAIR EAKELEY: You should have seen the hat she
19 was wearing at the race this morning.

20 (Laughter.)

21 MR. FURRH: Brendan Gill, with accounting legal aid

1 here. Here in the back we've got Dwayne Biltons, the
2 director of Gulf Coast Legal Services, Jesse Gaines, director
3 of West Texas legal services, Randy Chapman, the director of
4 Texas Legal Services Center, Mike Stoddard, from Oklahoma,
5 with the Union Legal Services program, and David Hall, Texas
6 Real Legal Aid, and of course Julie Oliver, from Texas --

7 CHAIR EAKELEY: We can all rise as the chief
8 justice arrives.

9 (Laughter.)

10 MR. FURRH: I don't think I've left out anybody,
11 but I would be glad to take my seat back in the audience, so
12 that we may hear from the Chief Justice.

13 MR. EAKELEY: That would be wonderful. Thank you
14 very much. We'll get right back to you, Paul.

15 CHAIR EAKELEY: Good morning, your honor.

16 JUSTICE PHILLIPS: Good morning, good morning. The
17 configuration of the hotel, it changed since I was here last,
18 and I almost didn't get in. I finally read enough signs to
19 find the entrance.

20 CHAIR EAKELEY: This is a bit of a turnaround.
21 Thursday I had the great privilege of appearing before Chief

1 Justice Phillips in the part as -- as a small part of a day-
2 long marathon session of testimony and discussion about
3 access to justice in the context of pro bono.

4 And I'm really -- it was a privilege then to appear
5 before you, and it's a great honor to us that you would take
6 time out of your Saturday morning and come visit with us.

7 And we greatly appreciate your leadership and
8 focusing your court and your state's attention on an issue
9 that is central to this democracy. And we stand ready to
10 assist you in any way if we can in continuing the dialogue.
11 But just -- I wanted to say, again, thank you for letting me
12 appear and for your appearing here today.

13 So with that, the -- we have Justice John Broderick
14 of the New Hampshire Supreme Court on the speaker phone.

15 Justice Broderick, do you want to say hi to Chief
16 Justice Phillips?

17 JUSTICE BRODERICK: Mr. Chief Justice, how are you?

18 JUSTICE PHILLIPS: Good. How are you?

19 JUSTICE BRODERICK: It certainly sounds like you're
20 getting more respect from that crowd than I usually get.

21 (Laughter.)

1 JUSTICE PHILLIPS: Well, I think they have some
2 hope that we'll do something.

3 JUSTICE BRODERICK: I wished I were there with you
4 this morning, and I look forward to hearing your comments,
5 sir.

6 JUSTICE PHILLIPS: Well, thank you. I think Dave
7 Brock's coming in today or tomorrow.

8 JUSTICE BRODERICK: Yes, I understand he is.
9 Looking forward to it.

10 JUSTICE PHILLIPS: We're not too much warmer than
11 you are, but a little, I suppose.

12 CHAIR EAKELEY: Unfortunately, my Chief Justice,
13 Debbie Poritz, is unable to attend this week, and we have a
14 new Justice joining our court, and her swearing-in ceremony
15 is on Monday. But she wanted me to be sure to convey her
16 regrets as well.

17 JUSTICE PHILLIPS: Well, I'm sorry, too. She can
18 fly the open end.

19 We are, in Texas, honored that you have chosen to
20 have your 25th annual meeting here in our state.

21 And as I alluded to Judge Broderick, I'm sorry that

1 our 90 degree weather didn't hold just another week. But
2 it's supposed to return as soon as you leave, I think.

3 (Laughter.)

4 JUSTICE PHILLIPS: And I think it is helpful -- it
5 was very helpful for us to have our -- in fact, we
6 deliberately set this pro bono hearing at the time when you
7 would be here, so that we could have the -- your input
8 without a separate trip. And your testimony was very helpful
9 to us, along with all the other testimony we received at this
10 hearing.

11 Texas has, I think -- had a -- has had a pretty
12 good symbolic record on the legal services to the poor, and
13 civil matters issue. We were really the first state to go to
14 mandatory pro bono. Our legislature did enact a modest fee
15 add-on bill, and we've had a number of leaders nation-wide in
16 this effort, and played a large role in pleading back the
17 view of some in Congress that would have completely deprived
18 you of funding.

19 But our actual performance, what we've actually
20 accomplished is not so good, and probably was worse than you
21 thought, we're decided, by the end of the day's hearing.

1 And we are looking for, and received a number of
2 good ideas of ways to both get more attorneys involved and
3 interested in doing their part, and increasing the funds
4 available to pay those who, like your grantees, have decided
5 to devote their entire professional careers to this type of
6 practice.

7 And we were making some short-term and longer term
8 initiatives in that area. And what they are exactly, I don't
9 know, because when the hearing finished at 4:20 without any
10 lunch, we were not in a mood to meet and confer. But I know
11 in the weeks ahead -- not really the months, but in the weeks
12 ahead -- we will be talking and making an action plan.

13 Do you have any questions of me?

14 CHAIR EAKELEY: Any questions of the Chief Justice?
15 You're off -- this is not a hot bench this morning.

16 JUSTICE PHILLIPS: I see that.

17 CHAIR EAKELEY: We actually -- we followed in the
18 wake of Justice Gonzalez this morning. We had this 5K race
19 for justice, and they bussed us at 7:00 over to the National
20 Guard site for actually a wonderful event. We had over 400
21 registrants, and over 250 participants on a very cold

1 morning.

2 JUSTICE PHILLIPS: Guess they hadn't seen the
3 weather reports.

4 CHAIR EAKELEY: Justice Gonzalez got to the finish
5 point before I did, I'm somewhat chagrined to say.

6 JUSTICE PHILLIPS: He was just going to walk.

7 (Laughter.)

8 CHAIR EAKELEY: He did.

9 MR. SMEGAL: He was running at the end.

10 CHAIR EAKELEY: But it was good, and --

11 JUSTICE PHILLIPS: Well, he is an early
12 morning person, you know. I'll represent our court at -- at
13 midday I'm doing this instead of working on a science
14 project.

15 MR. SMEGAL: I do have a question, which has to do
16 with the decision, and I believe it was the District Court
17 yesterday. I believe you're the first named defendant in the
18 IOLTA litigation.

19 JUSTICE PHILLIPS: Yes, I was. I've been dropped.

20 MR. SMEGAL: You've been dropped now?

21 JUSTICE PHILLIPS: Yes. The trial court dismissed

1 the individual government actor defendants. So if it goes up
2 again, unless that gets reversed in appeal, my name won't be
3 in multiple cases.

4 MR. SMEGAL: I did see there was a decision
5 yesterday. It hasn't been -- at least I haven't seen the
6 written decision, but there was a decision --

7 MS. MELTON: We won.

8 CHAIR EAKELEY: That's good news.

9 JUSTICE PHILLIPS: We won?

10 CHAIR EAKELEY: You won in all counts. So maybe
11 you want to be back on the caption.

12 (Applause.)

13 JUSTICE PHILLIPS: It wasn't on the front page of
14 the paper, but I'm delighted to hear that. And I guess
15 that's another thing, it's symbolism, where this court has --
16 perhaps that was less than voluntary, before we did put our
17 name, our imprimatur on the program.

18 But I'm delighted to hear that. I know that this
19 is not the end.

20 CHAIR EAKELEY: No, that's true. But it's a
21 necessary first step in the right direction. And literally,

1 the eyes of the nation have been on this case, and for it to
2 have come out with a positive decision -- we were actually
3 convened at Central Texas Legal Aid when we -- when the call
4 came in.

5 So it was just a very -- it was great to be
6 together to hear the news in a wonderful setting. So again,
7 it was another -- any one of these incidents would have made
8 our trip to Austen worthwhile, but I think accumulatively,
9 it's been quite of number.

10 And we look forward to you know, coming back, maybe
11 not as soon as some of us would like to, but we look forward
12 to a continuing dialogue and any assistance we can provide,
13 we will do so.

14 JUSTICE PHILLIPS: Well, thank you. And do very
15 much appreciate your work, your service on this very
16 important board. And as we looked at the funding charts, of
17 course, your efforts, though they seem -- though the numbers
18 seem small to me, they so greatly dwarf everything else that
19 is being done on this. They're the lynch pin for this entire
20 effort, and we salute you.

21 CHAIR EAKELEY: An anchor and a foundation on which

1 we hope to build, but in order to build, we need the help of
2 our entire community. And we have been rebuilding, but
3 slower than most of us would prefer, slower than all of us
4 would prefer.

5 John McKay is our president, and I think he wanted
6 to say a few words.

7 MR. MCKAY: Mr. Chief Justice, thank you so much
8 for being here, and I also had the privilege of attending
9 part of the hearing on Thursday. And I'm greatly encouraged
10 by the obvious interest of the court in taking another look
11 at the access to justice issues here in Texas. And I think
12 one thing we've learned as we look around the United States
13 at various state systems is that the strongest responses we
14 see to the challenge of lack of access for low income people,
15 the strongest asset that we have is the involvement of the
16 supreme court of each of those states. So we are very
17 encouraged by the obvious interest and leadership of the
18 court.

19 And I'd like to say that, here today, we have
20 representing, I think, the real heroes in this work, which
21 are the directors of the legal services programs in Texas who

1 represent today the staff, the lawyers, and the volunteers
2 who do this as part of their career. And we're thrilled to
3 have you here to be able to acknowledge that great
4 contribution, and do so today.

5 I'm wondering if folks would stand who are our
6 directors and legal services programs here, in Texas.

7 (Applause.)

8 JUSTICE PHILLIPS: Well, it is indeed a very noble
9 calling that they've undertaken, and not an easy job to get.

10 I had a law clerk a few years ago who was determined not to
11 practice for a firm. And she was the last of our law clerks
12 to be hired, and it was just a very rigorous effort despite a
13 brilliant record, so I know.

14 Our society does not make it easy to do the noble
15 thing always. And one final word -- our meeting in Austin,
16 as you well know, and Wednesday morning from 9:00 until 2:00
17 we will discuss Supreme Court initiatives to assist pro bono.

18

19 So if you want to have a representative there, or
20 try to get a phone there, or get a copy of what is said
21 there, we of course we'd like you to do that.

1 CHAIR EAKELEY: Thank you. We will fully take
2 advantage. Let me introduce Maria Luisa Mercado, who is -- I
3 was going to say a Texan member of our board, is the Texas
4 representative on our board.

5 MS. MERCADO: Yes, and I apologize to report I had
6 30 minutes to shower and get over here. Unfortunately, it
7 takes a little bit longer to put on my mask.

8 But I was there for most of the testimony at the
9 Supreme Court hearing on pro bono, and I thought that one of
10 the more creative and easiest ways, I thought, dealing with
11 some of the shortfall in legal services is the occupational
12 tax that is done to attorneys. And if there was some way
13 that that could be earmarked for legal services, for people.

14 JUSTICE PHILLIPS: We have double-pledged that.
15 For several years we have, to get it into pro bono, and I've
16 also looked at putting that into a public funding for a
17 judicial elections fund.

18 And I know we have one vote for each of those
19 proposals in the legislature, but I'm not sure there's two
20 yet.

21 (Laughter.)

1 JUSTICE PHILLIPS: The legislatures are very
2 jealous of the general fund, but of course now is, as so many
3 presidential candidates say, now is the time to act, because
4 our state's in the surplus, like most every governmental
5 entity is.

6 And it would be a very easy way, you're right. But
7 there's a -- that doesn't mean it's going to happen.

8 MS. MERCADO: And we'd still do pro bono, because
9 most of the counties that I've been involved in pro bono, the
10 bulk of the work is done by sole practitioners or small
11 firms, like five and under. Great work, especially in the
12 rural areas. So we have to think --

13 JUSTICE PHILLIPS: Yes. I agree.

14 CHAIR EAKELEY: Any other questions or comments for
15 Justice Phillips?

16 JUSTICE PHILLIPS: Well, thank you.

17 CHAIR EAKELEY: Well, thank you so much, your
18 honor.

19 JUSTICE PHILLIPS: Thank you so much.

20 CHAIR EAKELEY: A pleasure. Good luck.

21 (Applause.)

1 CHAIR EAKELEY: While Paul is coming back up, let
2 me just recognize the Honorable Laura Livingston, who is
3 District Judge, and the director of Texas Equal Access to
4 Justice Foundation. Hello.

5 JUDGE LIVINGSTON: Hello. Good morning, and
6 welcome to Austin.

7 CHAIR EAKELEY: Thank you.

8 JUDGE LIVINGSTON: Welcome to Texas.

9 CHAIR EAKELEY: Did I steal your introduction,
10 Paul?

11 MR. FURRH: That's fine.

12 JUDGE LIVINGSTON: Do you want to say something
13 else?

14 MR. FURRH: Go right ahead.

15 JUDGE LIVINGSTON: Is it going to be nice?

16 MR. FURRH: Absolutely.

17 JUDGE LIVINGSTON: Will I like it?

18 MR. FURRH: Absolutely.

19 JUDGE LIVINGSTON: Then by all means, say it.
20 Somebody's recording this.

21 MR. FURRH: She took my tongue away.

1 JUDGE LIVINGSTON: Well, I do want to welcome you
2 sincerely to my home city, and to the land of the Legal Aid
3 Society of Central Texas. Yo to all those other project
4 directors, but they all know that the program here in Austin
5 is the best. I work there myself as a Reginald Heber Smith
6 community lawyer fellow, so -- I won't tell you how many
7 years ago --
8 and so I do want to make sure that everybody recognizes
9 Regina Rogoff and the fine work of that program.

10 I also want to take this opportunity to remind you
11 that we won yesterday, and we're very, very excited about
12 that. And most importantly, I want to thank the national
13 IOLTA community and all of those at the ABA and the National
14 Association of IOLTA Programs, NAIP, those of you at Legal
15 Services in Washington, you've been so helpful and supportive
16 in this effort.

17 I agree that it's probably not the end of the road
18 for this litigation, but I'd much rather be going up in the
19 position we're in than not. So thanks to all of you for all
20 of your support.

21 I was asked, on behalf of my board chair, Dick

1 Tate, who is very apologetic that he could not be here today,
2 but is away on family business, and I was asked by him and
3 our program director, Lisa Melton -- who's going to, by the
4 way, fill in if I miss something -- to report on a couple of
5 things that we're working on here in Texas at the IOLTA
6 program.

7 The Texas Equal Access to Justice Foundation is the
8 IOLTA administrator in Texas. We operate both the IOLTA
9 funds, as well as the filing fee, which we called the basic
10 legal services program. Last year we gave away approximately
11 \$5 million in IOLTA funds, and roughly \$4 million in filing
12 fee money through the basic legal services program. And
13 we're very, very proud of those numbers.

14 Two of the most sort of, I guess, pressing things
15 we're working on right now, one has to do with program
16 assessment, and so I want to just briefly report to you about
17 where we are, and where we're coming from in that respect.

18 We were probably the only state that had a program
19 assessment tool like ours. It traditionally has involved
20 sending a fiscal reports person out, and a grant administer
21 out to programs, it also included a self-assessment report by

1 the individual grantees that we look at to determine their
2 value and their worth, and determine whether or not they're
3 actually doing what they're supposed to do in serving the
4 clients that they're supposed to serve.

5 In the past year or so, we've put together a
6 committee, which includes representatives from TGAFJF
7 grantees, as well as a board member -- I serve on that
8 committee -- a representative of the State Bar of Texas, and
9 Foundation staff, of course. And we have hired Ken Smith,
10 who is, as you know, a former corporation employee, and now
11 president of IOLTA Information Services to help facilitate
12 this process.

13 We're reviewing it, in part, to determine, as I
14 said, what folks are doing, and whether they are doing what
15 they should be doing. And we're looking more at outcome
16 measures than just case statistics. As you know, case
17 statistics don't tell you everything, although they tell you
18 some things.

19 And so what we're doing is looking beyond that
20 scope, in trying to tell a better part of the story and
21 determine, really, the meat of the work that's being done in

1 the field by our grantees.

2 So we're very excited about that. We've gotten
3 lots of input from folks around the state, and those that are
4 in the trenches, as well as client groups and boards of
5 directors in the local programs.

6 We're about to launch a pilot project, the Dwayne
7 Biltons project. Gulf Coast Legal Foundation, this spring,
8 is going to be part of that pilot project, where we're going
9 to test these outcome measures, and test the tool that we've
10 come up with to evaluate our grantees. And we should be able
11 to report something about that later in this year.

12 We're also, at this time, undergoing a review of
13 our application process, and trying to get more information
14 about that at the front end, so that it's easier to evaluate
15 at the end what folks are saying they want to do, and it will
16 be helpful to us to evaluate whether or not they're able to
17 accomplish those goals at the end of the process. So we hope
18 to send out our new application process by the end of
19 February of this year.

20 In terms of the next steps, we're reviewing the
21 annual self-assessment report and the on-site monitoring

1 visits, as I said before, it was kind of a small group from
2 the Foundation staff and a board member usually, who went out
3 to do site visits. We're now going to implement a new
4 program that will include a peer review component and perhaps
5 some outside consultants, people from outside the state who
6 are going to help us evaluate our own grantees. It's going
7 to be a much more elaborate than one we've used before, but
8 again, we think it will be one that will provide for us
9 better information, more information, and more helpful
10 information.

11 We're also -- we think, at the Foundation, acting
12 in what we've kind of called the servant/leader role. It's
13 sort of a buzz word, I know, these days, but we take that
14 role very seriously.

15 And through that process, what we're hoping to do
16 is encourage and coordinate and provide leadership to the
17 grantees that we serve, and further the communities that they
18 serve. And our goals, certainly, are to provide technical
19 assistance, create more capacity in the individual
20 communities that the grantees serve.

21 We have been long and continue to develop

1 collaboration among grantees, among funders, among everybody
2 that are sort of stakeholders in this process, and also
3 enhance community support in this process.

4 And so we're both servants and leaders in this
5 process, we think, and we hope that we will be able to report
6 to you in the future about how we've done at the end of the
7 process.

8 The other program, or sort of process, I guess, I
9 want to talk a little bit about has to do with statewide
10 planning. I guess I don't have to tell this group that
11 you've had some concerns, as I understand it, about the
12 planning process in Texas, and you've challenged those of us
13 that are stakeholders in that process and concerned about the
14 delivery system in Texas, you've challenged us to look at it
15 more seriously, and be more creative and work a little harder
16 at planning how we're going to provide legal services to the
17 poor in our state.

18 We've taken your challenge very seriously, and we
19 at the Foundation have put our money where our mouth is, so
20 to speak, and have provided matching funds to yours so that
21 the process of planning can be undertaken in a way that's

1 helpful and useful and meaningful.

2 So I want to thank you for your commitment to that
3 process and let you know that our matching dollars and our
4 efforts in time have been well spent in that process, and I
5 think it's going very well.

6 You, I understand, have already heard from Mr.
7 Furrh about that, and our executive director serves on that
8 committee as well, and other fine individuals who I think are
9 creative and who can think outside the box, and who are ready
10 and willing and able to step up to the plate and do what's
11 necessary to make sure that we have a comprehensive plan in
12 Texas.

13 So that's all I really wanted to report to you.
14 I'm happy to answer questions if anybody has any.

15 CHAIR EAKELEY: Great report. Let me just mention
16 one thing, and then we'll turn it over to the rest of the
17 board for questions.

18 We just adopted a new strategic plan and strategic
19 direction for the corporation yesterday, after a year-long
20 effort. And part of that strategic direction, and a
21 substantial part of our discussion had to do with

1 accomplishing the two goals that we've determined to be our
2 strategic objective, namely dramatically increased access and
3 high-quality outcomes-oriented delivery of legal services.

4 And we are in the process of struggling with the
5 same issue that you are, in terms of how to define outcome
6 measures that assess the quality of justice being provided in
7 our daily work.

8 And the other thing we made explicit, that was
9 implicit before, but made explicit, is our recognition that
10 we are partners with the IOLTA programs around the country in
11 this very important mission, and we appreciate the
12 partnership and all of the collaboration and leadership that
13 you provide.

14 And of course, most recently, yesterday, the first
15 wonderful step. Congratulations on staying the course.

16 JUDGE LIVINGSTON: Well, thank you very much. I
17 also wear another hat. I'm a commission member, an ABA IOLTA
18 Commission member, and so we'll hopefully see some, if not
19 all of you in Dallas in a week or two, and we're looking
20 forward to Mr. McKay's remarks to our IOLTA workshops on
21 Thursday at lunch time.

1 So I'm very, very happy about the collaborative
2 effort that has been demonstrated, both by those in the LSC
3 community, as well as those in the national IOLTA community,
4 and individual states and program directors, and IOLTA
5 directors across this country that have been so very helpful
6 in that effort. So we are very, very grateful.

7 CHAIR EAKELEY: Any questions of Justice
8 Livingston? Yes, Luisa?

9 MS. MERCADO: Yes. I was just curious. We did a
10 visit yesterday to some of the housing that was being worked
11 on, some paperwork and work with bankruptcy, the legal aid
12 attorneys for the local program, and I think in either the
13 presentation or the discussion we were talking about some of
14 the IOLTA funds that they get. However, that can't be used
15 to represent groups, like the low-income housing and non-
16 profits groups.

17 And I was just curious about that situation. We
18 were trying to build housing for people, and to find that
19 wasn't allowed --

20 JUDGE LIVINGSTON: I was at a meeting yesterday at
21 lunch with our local pro bono project in Austin. It's called

1 the Volunteer Legal Services Project. And that is the
2 subject -- not so much the housing, but representing the
3 groups and doing other restricted activity outside the
4 context of the field program here.

5 And so one of the things that we're working on
6 locally is providing pro bono assistance from firms and
7 individual lawyers who might take up that slack. It's not
8 nearly as comprehensive a program as they have in the state
9 of Washington.

10 I mean, as you know, they've set up a complete
11 different program, a 501(c)(3), independent of the LSC
12 programs to handle those kind of cases.

13 We're not quite at that sophisticated a point yet,
14 but at least locally -- and I think those efforts probably
15 will be duplicated in other parts of our state -- to try to
16 take up that slack.

17 It's not as sophisticated as I'd like it to be, but
18 we are working on it, and it's a problem that we recognize,
19 and we hope the local program, at least, will collaborate
20 with Legal Aid of Central Texas to try to fix that, fill that
21 gap.

1 MS. MERCADO: Thank you.

2 CHAIR EAKELEY: Any other questions or comments?

3 Laura, well thank you, very much, for taking your Saturday
4 morning and spending it with us. We look forward to
5 continuing to partner together.

6 JUDGE LIVINGSTON: All right. Thank you very much
7 for having me.

8 CHAIR EAKELEY: Thank you. Paul, I'm going to ask
9 that you yield, once again at this time, for Congressman
10 Lloyd Doggett, who I'd be delighted to introduce, but we're
11 all going to be around a lot longer --

12 (Laughter.)

13 CHAIR EAKELEY: Let me call Representative Doggett
14 to the stand.

15 I'm delighted to introduce Congressman Doggett, who
16 is a native of Austin, and a representative of the 10th
17 District since 1994.

18 Throughout his career, Congressman Doggett has been
19 a strong supporter of the National Legal Services Program, as
20 well as a national leader in his commitment to reducing
21 domestic violence.

1 And we are so privileged and honored to have you
2 with us today.

3 CONGRESSMAN DOGGETT: Well, thank you very much.
4 I'm just delighted that you chose my home town to hold this
5 meeting, and I think it's already having some impact beyond
6 the important discussion that you've had here on the board
7 yourself.

8 I know that a few of you actually went out and saw
9 my home town by a foot this morning, and I guess that anyone
10 who's been around the Legal Services Corporation in recent
11 years has a great deal of experience running.

12 (Laughter.)

13 HON DUGGETT: And I appreciate the running you've
14 done here and over the last many years.

15 CHAIR EAKELEY: Most of it was backwards. We think
16 we're inching forward now.

17 CONGRESSMAN DOGGETT: A few years back, actually
18 before serving in Congress, I served with Chief Justice
19 Phillips for six years on the Texas Supreme Court. And
20 before that, in other work, served on the board for
21 Consumer's Union. And I remember what was basically a bi-

1 coastal organization, national organization, like so many
2 public interest groups, when we got the CU board to come here
3 to Austin, what an inspiration it was for our public interest
4 community.

5 We now have, as you may have heard, the Consumer's
6 Union southwest office located in Austin, and the
7 Environmental Defense Fund office located here, and I believe
8 that just the fact that you came and devoted these days here
9 to our community is really inspiring to all of us who care so
10 much about legal services.

11 I'm particularly pleased that you got a tour of
12 some of the area that is served daily by Regina Rogoff, who
13 has provided us, I think, a little more than a quarter of a
14 century of service heading, and participating in legal
15 services here. She does, really, a great job and enjoys the
16 support --

17 (Applause.)

18 CHAIR EAKELEY: And we're very proud of Regina as
19 well.

20 CONGRESSMAN DOGGETT: -- of a large segment of our
21 Bar, and I understand I missed, and I actually haven't seen

1 him for a couple of years, my friend Dave Hall. It seems to
2 me that -- is he here? Oh, I see him for the first time.
3 I'll still say, Dave, what I was going to say about you, not
4 to your embarrassment, I hope, but I expect Dave and his
5 lawyers have gotten this Commission into hot water, probably
6 more than any other person in the country. And I hope that,
7 within reason, he keeps doing it.

8 CHAIR EAKELEY: Put in a good word for him with
9 Senator Gramm?

10 CONGRESSMAN DOGGETT: Well, not unlike Sam Houston
11 in another century, when he spoke out in favor of union in
12 this state, against the majority, Dave's lawyers go out and
13 take the hardest cases in the most difficult part of this
14 state, they do an incredibly good job, and I hope that my
15 colleague, Chief Justice Phillips, in addition to all that he
16 said, will whisper along with his other Republican colleagues
17 on the Supreme Court to Senator Gramm, to Tom DeLay, and to
18 Dick Arme y about the importance of Legal Services and what
19 you're doing here.

20 You mentioned domestic violence. That has been a
21 pet interest of mine. We have the National Domestic Violence

1 Hotline, as you may know, serving the entire country, based
2 here in Austin.

3 When I read a few years ago, in the height of our
4 struggle in Congress over Legal Services, this so-called
5 contract with the American family, talking about how we were
6 subsidizing divorce and illegitimacy, I thought what a
7 contrast between that and the kind of difficult family
8 situations I've seen, our safe place here in Austin and now a
9 national domestic violence effort is having to deal with.

10 And I know that Regina's lawyers and Dave's
11 lawyers, when they're not stirring up some of the issues that
12 we hear the most about in the political scene, are dealing
13 with those kind of tough domestic issues that don't have easy
14 answers, and people that really need that representation,
15 they're there providing it.

16 I think that, as we look at this new millennium,
17 it's appropriate to consider moving from the question of how
18 little can we get by with, in terms of restrictions and
19 appropriations, and begin to focus, I hope in 2001, on how
20 much more can we do if we have the resources? And we have
21 some of what I think are unreasonable restrictions removed

1 from Legal Services. And that's certainly going to be my
2 goal, is to work with you in doing that.

3 I am pleased that you have engaged a wide segment
4 of our Texas Bar to speak out on this. I'm hopeful that the
5 Supreme Court, in what is truly, I think, a first-ever
6 session that I'm aware of, where the Court would devote all
7 nine justices all day to meeting with you and listening to
8 the tremendous unmet need for legal services in this state,
9 hearing from Julie Oliver and Chuck Herring, and Jim
10 Harrington, and other people who I know came forward, who've
11 been trying to get the attention of that court for some time
12 in the legal system and otherwise, that this really provides
13 some momentum for change so victims of domestic violence and
14 others will have some supplemental resources to what you're
15 able to provide.

16 And I guess I would just close with a Texas story
17 that has broader implications for all of us. I was up not
18 very long ago for the funeral service of a long-time friend
19 of mine up in Burnett County, just a little to the west of
20 here, out in the Texas hill country, an incredibly remote
21 spot, before electricity came into play -- if you've read Bob

1 Caro's first book on Lyndon Johnson, you get a great
2 description of how rough life was in the Texas hill country.

3 And this woman was really one of the pioneers up
4 there. She lived a very long life and wrote her own
5 obituary, which was delivered in the First Baptist Church in
6 Burnett, Texas.

7 And one of the lines that was the most inspiring to
8 me, was that she said something to the effect that public
9 service is the rent that we pay for a free America. And I
10 try to pay my rent every day. And I just want to say that I
11 think those of you, regardless of political party or
12 philosophy who have served at any recent time on this
13 Commission, have paid your rent and a surcharge, and I
14 appreciate it. Thank you very much.

15 CHAIR EAKELEY: Congressman, thank you for your
16 lifetime rent payment. We share your hope for the new
17 millennium, and look forward to working with you and
18 Congress. And we sure do appreciate not only the words and
19 the heartfelt sentiment, but your presence. And that is a
20 presence that has a -- it makes a difference, where we come
21 from.

1 CONGRESSMAN DOGGETT: Thank you. Have a safe trip
2 back, and I'll see you in the snow up in Washington next
3 week.

4 CHAIR EAKELEY: All right. Paul Furrh to the
5 floor.

6 MR. FURRH: Lest I forget, let me introduce Linda
7 Baker to the group. Linda is our primary consultant in the
8 state planning process.

9 CHAIR EAKELEY: I want to say I apologize for the
10 interruptions, but they were pretty good.

11 (Applause.)

12 MR. FURRH: I'd like to start by just commenting on
13 what a wonderful convergence of events has occurred this
14 week. Who would have thought, as we're preparing to come to
15 Austin, that involved with your meeting here would be the
16 grand Supreme Court hearing that was held on Thursday, and
17 the wonderful news that came Friday. And I'm hoping that
18 this meeting will be auspicious also.

19 Let me thank all of you all for being here. I --
20 you can believe in the stars and fate, but usually there are
21 other factors involved when things converge like this.

1 I tell you that there are a lot of us that grit our
2 teeth hard on this state planning process. I would have to
3 give it significant credit for the hearing on Thursday -- we
4 all felt was doing so well.

5 The Supreme Court of Texas sat and heard a full day
6 of testimony, not just about pro bono, because that's the
7 language that frequently gets used.

8 I was most impressed when one of the justices made
9 the comment that we're really talking about legal services to
10 the poor across -- and really, that's the emphasis that
11 needed to be had and was had. In our minds, all of us, you
12 know, that was a tremendous and significant event, and one
13 that gives us hope and faith in what follows after that.

14 But we want to thank you for being here, because we
15 think it's had an influence on that, and the choices and
16 decisions you have to make about where you meet is
17 advantageous to us in the process.

18 I also want to thank the court for coming today,
19 for the hearing on Thursday. Thank the Bar Association.
20 These proceedings get a little contentious sometimes, when
21 all the various parties have to look at their role in things,

1 but frankly and candidly, that's the State Bar of Texas. We
2 would be here, and those others in Texas, they provided
3 funding for Texas Lawyers Care, they do provide malpractice
4 insurance for us, they've provided real leadership in
5 developing pro bono services.

6 I want to thank the Texas Equal Access to Justice
7 Foundation folks for being here. We're on a roll right now,
8 and when you really add to that -- but without their help and
9 leadership and partnering in all this, we certainly couldn't
10 be where we're at in all of this.

11 We started in 1988 on the state planning process,
12 and I want to try to give you some meaningful comments about
13 this planning process. Because as I said earlier, all of us
14 had to really grit our teeth about it.

15 It's like we embarked on a grand endeavor to create
16 what -- this word, these buzz words, comprehensive integrated
17 state-wide delivery system.

18 Well, candidly, there are a lot of harsh and a lot
19 of complex issues I'm talking about. In Texas, candidly, I
20 think we're the state of the frontier, and most of us are
21 content to do our job, and sometimes put our nose down and

1 just keep doing our job. And sometimes we don't pull back
2 enough and take a look at the overall picture and look at
3 what other people are doing. And state planning has
4 certainly caused us to do that.

5 I submitted materials to the Court, which I brought
6 copies of, which I'll leave for you all, if anyone's
7 interested in looking at it, but the Texas experience is
8 probably a little bit unique and a little different than it
9 has been in some states.

10 I understand state planning is going to be unique
11 in every state. But there are some factors that come into
12 play in Texas that I think you've gotten a good side of, just
13 by being here. There are some things that make state
14 planning in Texas different. Not necessarily more difficult,
15 although some of the issues are difficult.

16 Bottom line is this process has caused us all to
17 step back and take some long, hard looks at what we do and
18 how we do it, and we made our first run of it, and you folks
19 spanked us a little bit about what we ought to be doing in
20 the process, and we've come back for a -- not just the
21 second, but the long. We've involved more people, we've

1 expanded the process a little bit.

2 I must say, just so that you hear this, that
3 technology is such a huge part of this, Lisa Melton at the
4 Equal Access for Justice Foundation had provided slides which
5 we could have put on power point for presentation. It was
6 entirely my fault that we don't have that.

7 But in the interest of getting you all out of here,
8 you're probably glad that happens and hope that I will limit
9 my remarks a little bit.

10 We've done all the regular things that everybody
11 does in state planning. We're looking at all the factors
12 that you wanted us to look at. I want to highlight a couple
13 or three of them, I think, that are more complicated in
14 Texas, and perhaps create some partial realities.

15 The coordination of efforts. There are 10 legal
16 services programs in Texas funded by LSC. I know there were
17 approximately 50 Texas Equal Access to Justice Foundation
18 folks, and numerous other folks that do it, that sort of are
19 on the fringe, haven't been involved in state planning.
20 We're trying to pull as many of those people together as we
21 can.

1 We have a big, statewide meeting planned in March,
2 and we hope to get as many of those folks in there as we can.

3 It's not an easy thing. As the hearing at the
4 Supreme Court unveiled, a lot of questions started with
5 funding. We went through that. I won't go through it in
6 nearly as much detail as we did there, but let me just
7 quickly -- an encore.

8 The figures that we have, which I understand were
9 slightly dated, and the ABA has been provided some more
10 updated information, and hopefully Texas will see a little
11 progress.

12 In 1997 we were 47th in the country for overall
13 funding. Bumped up in 1998 to 46. IOLTA, in 1998, if you
14 look at just IOLTA funds is 28 out of 51 states just for
15 funding. Where I think we've been hurt the most, and where
16 our figures look the lowest is when you look at local, state,
17 and other private resources. We raised a meager 73 cents per
18 person in 1998.

19 I'm aware that Texas is probably going to go up in
20 that, simply because there's a great mass of grant-writing
21 involved, Violence Against Women, my organization got a big

1 grant, so there will be plenty of other things in there that
2 show progress.

3 But the point is, is that Texas, while it has the
4 second highest number of poor people in the country, is way
5 on down there at the bottom, in terms of actual funding. And
6 funding, like it or not, no matter what else you do or say,
7 inhibits the excess problem that we have.

8 Technology is a big part of the state planning
9 effort. And we're talking about 800-telephone service, we're
10 talking about the use of computers. I've got lots of clients
11 in east Texas that don't have a phone. They use the 800-
12 service everywhere. They've been using it for years. But
13 you've got to get clients, sometimes, over the phone. You go
14 down to the valley, you've got the very same problem. Phones
15 can be several miles away for these people, when you live way
16 out in the hinterlands.

17 Equal access part of this. I'm not here to roast
18 anybody, or pester anyone else about the restrictions. We
19 know why we have restrictions, we know where Congress is on
20 that. So I'm not -- I don't want to appear to be here
21 whining about restrictions. I know what can be done, will be

1 done, and --

2 CHAIR EAKELEY: You can whine.

3 (Applause.)

4 MR. FURRH: What I want to comment on is that in
5 many states, state money is used to provide those restricted
6 services. In Texas, there is no other money available to
7 provide those restricted services. Restrictions on Texas
8 Equal Access to Justice Foundation, in many cases reflect the
9 LSC restrictions. And in the case of basic legal services
10 for the poor, they're even more restricted.

11 We'd love to be able to do it. Fact is, we can't.

12 But someone in Texas needs to be able to do this vital and
13 critical work.

14 I don't want to -- I mean, I didn't want to come up
15 here and just spend my time trying to brag about NCLS, but we
16 spent the early seventies and eighties filing voting rights
17 cases across east Texas, which changed the voting environment
18 there. Some of the early litigation that came out, finally,
19 has made the right to education a constitutional matter, came
20 out of east Texas.

21 There was a huge number of issues that -- we talked

1 about basic legal services in Texas. Well, how basic is the
2 right to vote? A public housing problem?

3 My service area includes Bider, Texas. We just got
4 a big grant from HUD to try to help integrate area for public
5 housing. It includes Jasper, Texas. So you know these
6 names, you know the environment we come from. There are huge
7 numbers and types of legal issues that come up in these
8 areas.

9 They really are basic legal services, the rights to
10 the funds of -- we can't -- and again, I'm not here to whine
11 about it, I'm here to ask for your help, and for the state
12 planning process's help for what do we do about folks having
13 access to those types of legal services throughout Texas.
14 Equal access.

15 There's a little -- in this configuration issue --
16 I would be remiss if I didn't point out to you that we, in
17 Texas cover 35,000 square miles. We're bigger than about 15
18 states. There are two other programs in Texas that are
19 bigger than we are. So Texas has got its own unique census.

20 But when you look at each program in each are, it's each got
21 its own unique factors.

1 The issue of access, related back to the CSR
2 numbers. Use of technology would certainly help all of us do
3 a better job, technology helps you do that, once you get
4 where you can use it.

5 When you look at these numbers, though, it's this
6 whole issue of service, particularly using telephone service.

7 Don't forget that the vast majority of these people, when
8 they call, or when they came in and asked for help, would
9 have preferred to have a lawyer take care of their legal
10 problem.

11 So, I mean, let's not be misled, or seduced is
12 perhaps the best way to say it, by the notion that, you know,
13 "800-service, technology, we go to the Internet, the local
14 library and find out information." It's a wonderful thing
15 and accounting for the numbers, it's a wonderful thing too,
16 because we want that count. But let's not forget that most
17 of these people really, if they had their druthers, would
18 rather have a lawyer.

19 And you looking at the closing categories for these
20 service areas, I think that's particularly true. When you
21 talk to a woman that is either going to a shelter or in a

1 shelter, and you give you advice, I can promise you she'd
2 rather have a lawyer with her, not just for the protective
3 orders, and not just for the divorce.

4 I've been on the board of the legal services
5 program in east Texas. It takes a while to get everybody to
6 see it, but the one -- the reasoning that a woman goes back
7 to the battering situation because she didn't get a divorce
8 or protective order -- a lot of times that's a matter of
9 going and representing that client to the local public
10 housing authority, that she needs to be moved up on the
11 waiting list to be gotten into public housing.

12 There are huge numbers of issues like that that
13 don't immediately come to your eye when you talk about
14 access, when you talk about the numbers. We want to work
15 with you all on that. We want to work to make sure that we
16 get appropriate credit for everything that we do. But let's
17 not, any of us, be seduced into thinking that we're actually
18 meeting legal needs when we simply give advice.

19 I don't know what the numbers will show, the
20 percentages will show, in that sort of thing. As a couple of
21 comments were made at the Supreme Court hearing, we probably

1 do need a national survey.

2 If you've read the material that was in our state
3 plan, we included the three-year plan that was mentioned at
4 the hearing. The statement was made in there that there are
5 a great number of lawyers in Texas who believe that the needs
6 are met.

7 Well, all of us can say a lot of what we have to
8 say about this is anecdotal comments. Maybe it's a good
9 thing that there be another and harder look at that. But
10 don't forget when you do that, that giving advice and brief
11 service is a much more complex issue than just looking at the
12 numbers. And I believe you'll miss an opportunity,
13 nationally, to make a huge point of this, that while access
14 has got to include that giving of advice, what those folks
15 really want most often is the opportunity to have a lawyer
16 represent them, a little bit more complicated legal need that
17 they have, because when you actually sit down and talk with
18 them, it's going to include all these other factors.

19 Well, I made the comment at the tour that sitting
20 on a state planning committee was very much like herding
21 cats, and it is. It hasn't been easy, and sometimes it

1 hasn't been fun. But I have to say that this week gives me
2 confidence and faith and hope that this process really is
3 headed somewhere, that it's going to be important and
4 meaningful to us all.

5 I'm sure sometimes you all feel like you're herding
6 cats. So as one of the cats, I salute you and will be quiet.

7 If you have any questions, I'll be glad to try to respond.

8 CHAIR EAKELEY: Well, from another cat, let me just
9 say thank you, first, for your remarks and your perspective,
10 which is invaluable, and for your wonderful career of
11 service. I understand when you say it's easy to be seduced
12 by the siren song of technology, and it's also easy to
13 fixate, say myopically, on numbers and brief advice and
14 counseling.

15 But I think that none of us is interested in
16 numbers, simply for numbers, nor are we interested simply in
17 advice and counseling when the needs of the clients are much
18 greater. I think our commitment is, as yours is, access to
19 justice and the provision of justice. And that, in
20 individual cases, means a heck of a lot more, more often.

21 The other thing I have to say is I don't know how

1 we can profess to attempt to provide equal access to justice
2 with federal funding with all of the restrictions we have on
3 it. But that's another story for another audience for
4 another time.

5 But we are committed to an ongoing dialogue with
6 the Congress about restrictions, as well as the resources.
7 And we wish you well, and we -- I think we've come to
8 appreciate the difficulty and the hard work, but ultimately
9 the value of the state planning process as well, and we're
10 very supportive of that process, but as a means of ultimately
11 being in a position to help your programs more. So we wish
12 you good luck in that.

13 I'm going to open it up to the rest of the board
14 for questions and comments.

15 MS. MERCADO: The only thing I was going to say is
16 that I have been telling them that for six years, that Texas
17 is a whole other country. If you drove it from one end to
18 the other and went across, I think it takes that to
19 understand how far and how complex the area is, and just like
20 you said, your program is larger than 15 states.

21 And yet, you know, we deal with those states in say

1 -- or, that small state will want one legal services program,
2 and you can see that, because geographically the population
3 that you have makes it easy to do that. So there's a state-
4 by-state particular need to that state by what its population
5 is and what its means are. And hopefully that's part of what
6 your state planning committee's going to be doing.

7 CHAIR EAKELEY: Yes. Bucky Askew?

8 MR. ASKEW: Paul, is it Nagodoches, or Nacogdoches?

9 MR. FURRH: Nacogdoches.

10 MR. ASKEW: Nacogdoches. I've known Paul for more
11 than a few years, and I appreciate your thoughtful comments,
12 and I also have confidence in the leadership that exists
13 within Texas that you all are going to be able to pull this
14 off. And I appreciate what we heard from you about your
15 committment to do that, and to keep this process moving.

16 And I think you're going to get where you need to
17 be with this process, so thanks for being here.

18 CHAIR EAKELEY: Any other questions? Okay, thank
19 you very much, and good luck.

20 MR. FURRH: Thank you.

21 CHAIR EAKELEY: I think we also had -- my agenda

1 said Lisa Melton, but was that Judge Livingston, Lisa?

2 MS. MELTON: Right.

3 CHAIR EAKELEY: So we have the State Bar of Texas
4 representative, Julie Oliver, next. Good morning.

5 MS. OLIVER: Good morning. Thank you for putting
6 me on your schedule today. I will be very brief. I'm the
7 director of Texas Lawyers Care, which is the pro bono legal
8 services support project of the State Bar. We've been in
9 existence since 1982. It was, and has been, and continues to
10 be a partnership with the LSC programs in Texas.

11 Three years ago, when federal funding cuts came to
12 pass for our programs in Texas, was the beginning of the end
13 of funding that we got from the LSC programs. And up until
14 that point, they had supported the existence of Texas Lawyers
15 Care with some of their PAI dollars. But we continue to work
16 very closely with them. That was a gesture the State Bar
17 made to try to relieve some of the pressures from the cuts.

18 On behalf of the State Bar, I want to welcome you
19 to Texas. We were very pleased that you chose to come to
20 Austin for your meeting. I would like to mention that I
21 apologize for no Bar leadership being here. As you know, the

1 hearing on Thursday -- several of our Bar leaders were there
2 and spent much of the week here in town, preparing for the
3 hearing, and attending the hearing, and just were not able to
4 extend their stays to today.

5 However, president Charles Acawck, president-elect
6 Lynn Liberato, and the chair of our board, David Keltner,
7 would have liked to have been here, and all applaud you in
8 all the wonderful work that you do to continue services to
9 poor clients in the country, and particularly in Texas.

10 I wanted to mention just a couple of things. As
11 you know, the State Bar of Texas has been supportive of LSC
12 historically. Back in the eighties, I think, when
13 restrictions were first being discussed, the State Bar
14 weighed in on those issues.

15 In 1995, when Congress began its attack on the
16 existence of LSC, the State Bar jumped in there and has
17 played a role in those efforts to continue your existence and
18 to also hopefully improve the level of support for your
19 program.

20 And I can assure you the State Bar will continue to
21 provide that support to LSC, and appreciates everything that

1 you all do.

2 I did want to mention the hearing that happened on
3 Thursday. I was very pleased to see several of you there. I
4 do believe that that hearing has had a great impact on the
5 State Bar. We presented a report -- I gave a copy to
6 Mauricio yesterday for your board to have, of the report that
7 we submitted. And hopefully you'll have an opportunity to
8 look at that.

9 I think I can say with authority that the current
10 leadership of the Bar, and the identified future leadership
11 of the State Bar is very, very concerned about legal services
12 to the poor, and committed to addressing the funding needs
13 and the needs for additional pro bono service.

14 I do believe that the level of committment was
15 given a real boost by that hearing the other day, and I think
16 that was great that that happened.

17 I think it's safe to say that we, the State Bar,
18 will be aggressively pursuing additional funding in the
19 immediate future.

20 The State Bar leadership will be more actively
21 participating in the state planning process that you heard

1 about earlier, and that you were very much responsible for.
2 And the State Bar leadership will be much more involved in
3 our efforts that have been ongoing since at least 1992, to
4 improve the participation of private attorneys in the
5 provision of legal services to poor Texans.

6 Again, I want to welcome you to Austin, and hope
7 you enjoy the rest of your stay, although it's going to be
8 brief, and hope to see you back here some time in the not-
9 too-distant future. Thank you for all you do.

10 CHAIR EAKELEY: Well, thank you very much. Rumor
11 has it that you do a fantastic job.

12 MS. OLIVER: Well, thank you, thank you.

13 (Applause.)

14 MS. OLIVER: I appreciate that.

15 CHAIR EAKELEY: Any questions or comments? Well,
16 great. Thanks for joining us.

17 MS. OLIVER: Thank you very much.

18 MS. ROGOFF: I have one comment. Julie, again,
19 appears to be --

20 (Laughter.)

21 A PARTICIPANT: And recovered.

1 CHAIR EAKELEY: John McKay suggests that perhaps we
2 should call, while we're doing the public comment part, that
3 the agenda is a bit truncated, but if there's any other
4 public comment, perhaps we should call for that while we're
5 still in a public comment mode, and then proceed. I think
6 the next thing on the agenda after that is the inspector
7 general's report.

8 MS. MERCADO: And Doug, just to make it clear, it's
9 the last item on the agenda --

10 CHAIR EAKELEY: Well, that's why -- well, we're
11 moving it up now, if people want to comment, they're welcome.
12 And I think Doreen Dodson had expressed an interest, and
13 Cindy?

14 MS. SNYDER: Yes. Mr. Chairman, I'd just like to
15 take this opportunity to also introduce two members of the El
16 Paso Legal Aid staff who just joined us as they flew in this
17 morning. They were here on Thursday for the Supreme Court
18 hearing. Would you like to state your names?

19 MS. BUSTAMANTE: I'm Monica Bustamanto, with legal
20 services, and I brought with me one of our board members --
21 our board of directors -- and she's been with us for over 15

1 years, and she wanted to make some comments.

2 CHAIR EAKELEY: Great. Well, the seat is still
3 warm.

4 MS. RIOS: Thank you. I'm sorry, I didn't get your
5 name.

6 CHAIR EAKELEY: Want me to give -- when you sit
7 down, we'll need your name for the record, on the microphone.

8 MS. RIOS: For the record -- and thank you for
9 having us here, chairpersons -- my name is Juvencia Rios. I
10 am a client counsel board member for the past 15 years, plus
11 a few months more. And this is the first time that I will be
12 addressing you on behalf of our client counsel board members,
13 and the board of directors.

14 Mr. McCalpin -- I'll try and speak a little louder.
15 I also know sign language, okay?

16 (Laughter.)

17 MS. RIOS: It gives me great privilege to be here.
18 A little nervous, but I'm here. And this is in respect to -
19 - what we have found out is that there is going to be some
20 big changes in the legal services areas all over the U.S.

21 We in El Paso live in the far, far west Texas area.

1 I happen to live in the Vinton, village of Vinton, area in
2 El Paso County. I live in the second exit as you come in
3 from the west side, New Mexico. The exit is Benton. I have
4 to travel 35 minutes to get to El Paso in order to get some
5 legal services.

6 Now, with this merging that is being proposed, I
7 cannot see myself traveling 700 miles to get legal services.

8 Neither do the rest of the client board members. If we were
9 to compare states in the east, very far east, compared to the
10 very far west in Texas, there is no way we can get proper
11 legal representation. Yes, we can call 1-800 numbers,
12 but how well would that other person on the other end accept
13 it, other than to put it in black and white and on paper.
14 She cannot see what we're going through, unless you're seeing
15 the person.

16 A lot of times actions, the emotions, the person
17 itself, you can see a lot more than when you are taking it
18 over the phone.

19 I left my family because when I got this call, "Be
20 here," I said yes. I have not told my husband yet, but I
21 said yes, because I believe very strongly that this needs to

1 be addressed, that we cannot merge with a place, legal
2 services office, approximately 700 miles away.

3 If we do compare, geographically, we're very, very
4 far west Texas services that we are being provided right now
5 in El Paso. If you go by approximation of miles, states
6 versus the El Paso, towards the nearest legal services
7 office, if it does merge with an office of 100 miles away,
8 what are we looking at?

9 The approximation, square mileage of Maine, 25,000
10 miles, New Hampshire, 5,000 miles, Connecticut, 4,500,
11 Massachusetts, 6,000, Vermont, 5,000, Rhode Island, 2,500,
12 New York, 30,000. Their total being 78,000 miles compared to
13 half a million square mileage of Texas.

14 But do remember, geographically, we can put all
15 these states together between El Paso and the nearest legal
16 services office whether it be Fort Worth, Dallas, San
17 Antonio, Corpus Christi, which would be more. We're talking
18 about 7,000 to 9,000 miles. We can put all these states that
19 I mentioned: Maine, New Hampshire, Connecticut,
20 Massachusetts, Vermont, Rhode Island, and New York. We can
21 put them all in between and you would still be in Texas. If

1 you were to leave El Paso and get to the nearest legal
2 services office.

3 How well will they serve us if we can't get there?

4 We're talking about family, time, expense, and also how is
5 it worth it for us to do all this? You're seeing me now.

6 I'm nervous, but it is very important that you know this.

7 You will not see this when I'm talking to you. You will just
8 hear my voice.

9 But the impact it will have if we merge with
10 another office 700 miles or further, that is not a legal
11 representation for the poor or for those of us who cannot get
12 legal representation in court.

13 I urge each and every single person in this room to
14 help support us in the west Texas El Paso County, to please
15 not let us merge with an office 700 miles or farther, because
16 we have established a very good record of serving the poor,
17 serving those who are less fortunate than others, to have an
18 attorney.

19 And who can pay for an attorney? We can not. We
20 can not. So Mr. McCalpin, Mr. Askew, Mrs. Mercado, Mr.
21 McKay, Mr. Erkley --

1 CHAIR EAKELEY: Eakeley.

2 MS. RIOS: Eakeley, chairperson, vice chairperson,
3 Mr. Erlenborn --

4 MR. ERLNBORN: You did that right.

5 MS. RIOS: Thank you. And Mrs. Williams and Mrs.
6 Watlington, I urge you, please reconsider. Do not merge us.

7 I will now present this and pass my time to Monica, and she
8 will give you the statistics, how well we've been doing. The
9 monitors have been out there. We have succeeded in what
10 Gustav Hernandez, our executive director, has been doing with
11 legal services to the poor.

12 Please don't merge, please let us be and have the
13 services we have been providing, and do have at this present
14 time. I thank you very much, and I'm sorry for coming right
15 up and just --

16 CHAIR EAKELEY: Letting us have it.

17 MS. RIOS: Letting you have it. But like I said,
18 by phone, it's not the same.

19 CHAIR EAKELEY: It's not the same, not a very
20 effective presentation. What is the population at El Paso.

21 MS. RIOS: A little over half a million, and we're

1 still growing. West Texas is becoming a place where a lot of
2 people are going because of the sunny weather we have, and I
3 welcome each and every one of you, that if you go to the
4 legal service that you're thinking of merging us with, just
5 travel between there and El Paso -- don't fly, because we
6 can't afford to fly -- so travel by car and see if -- you
7 will find out that you leave El Paso, travel by car, and you
8 will know the distance, that you could have traveled through
9 all these states and you're still in Texas. Very far.

10 CHAIR EAKELEY: Well, thank you, the geography
11 lesson was fantastic also. It really -- I was relieved that
12 you didn't mention New Jersey, because I think we fit in the
13 panhandle somewhere, but --

14 MS. RIOS: Yes, you would be in between. But like
15 I said, Texas is very big --

16 CHAIR EAKELEY: I mean, we're not involved in
17 individual merger decisions. We push a process called state
18 planning, which encourages --

19 MS. RIOS: The funding --

20 CHAIR EAKELEY: -- programs to come together and
21 look at the best way to coordinate their efforts so that the

1 people in need are best served. And it doesn't necessarily
2 follow, even if a merger is contemplated, that an office
3 needs to be closer.

4 MS. RIOS: Okay.

5 CHAIR EAKELEY: But obviously, we're here because
6 of our concern that people in need have access to a lawyer so
7 that they can have access to justice. And we thank you for
8 coming all this way to give a very effective presentation and
9 --

10 MS. RIOS: Thank you, sir.

11 CHAIR EAKELEY: -- it's much more than a
12 presentation about a single office, but an important office
13 that it is.

14 MS. RIOS: Yes, sir. And with that in mind, I said
15 it geographically, in how important it is that we keep that,
16 and now I turn it over to Monica Bustamante, who will now
17 give you the information on statistics for funding sources,
18 why it's important that we be provided the sources of funding
19 for our agency, and not cut us off. Thank you.

20 CHAIR EAKELEY: Okay, well thank you very much.

21 MS. BUSTAMANTE: Again, I'm Monica Bustamante, I'm

1 the administrator. And to be quite honest with you, I wasn't
2 prepared to speak. I was basically asked to accompany our
3 board member. But she wants me to give you a little bit of
4 information as far as stats.

5 And the reason this has come up, when we received
6 our -- the letter saying that we were only going to get
7 funding from January through April, there was not a real
8 reason stated as to why, so when we had our board meeting, we
9 couldn't answer them why we were not getting the full year of
10 funding.

11 And as you pretty much could tell, they're thinking
12 they're just going to take away our program. There's not
13 going to be a program in El Paso. So basically we don't have
14 answers for our board, as to why we only received funding for
15 that short period of time.

16 I'm sure you all know, we are going to be going
17 through a monitor visit, and most people would think, "Well,
18 why not award the grant for a year, come and see our program,
19 and if there's anything wrong, well then of course, you know,
20 you can shorten the funding period, or what have you." And
21 that's why they had these questions. We really don't

1 understand what has happened.

2 Yes, it's logical, if we merge with another
3 program, we might enjoy the other resources and the advantage
4 of having somebody else take care of fundraising full time,
5 but the concern in El Paso, as I'm sure all of you know, or
6 if have heard anything of what's going on in Austin, El Paso
7 usually gets left out.

8 You know, they call us Siberia/El Paso, because
9 we're so far away. We never really get our fair share of
10 funding, and that's a concern that some of our client board
11 members have, you know, are we going to be facing the same
12 situation if we merge? Are we really going to get dollars to
13 get the amount of lawyers that we need to serve El Paso?

14 In the past -- as you know, we've been around for
15 30 years, and we've had good monitoring reports in the past.

16 It came as a surprise and a shock, you know, "How can this
17 be?" I feel confident that we're in compliance.

18 We've done every report that we need to do. We're
19 serving the people we say we're going to serve, and it was
20 quite a surprise that, you know, here all the sudden we're
21 not going to have the funding that we've gotten for all 30

1 years and the question is, if we were doing something wrong,
2 well we should have heard we were doing something wrong
3 before we got this funding information.

4 And that's why our board wants to know what are the
5 real reasons? What can we go back and tell the people on El
6 Paso's TY why this decision was made?

7 As Ms. Rios was saying, we are very active out
8 there. We don't just do phone intake, we actually have a
9 circuit-riding program where we go out to the communities
10 that are outside the city of El Paso, and you know, to them
11 it's useful. We're doing the right things, we're out there
12 meeting the people face to face, and it just didn't make
13 sense why this decision was made.

14 You're probably also wondering why isn't your
15 executive director here? As we speak, he is in El Paso
16 preparing for a trial, visiting with the client right now,
17 looking at medicals, and that's why he couldn't be here. But
18 he did want to make sure that our -- that the concerns of our
19 board of directors would be heard and that you would
20 reconsider that decision.

21 CHAIR EAKELEY: Well, we -- I don't think -- the

1 board doesn't make the funding decisions on individual
2 programs, the president does.

3 The four-month grant decision is not a decision to
4 non-fund, but as I understand it, a decision was made that
5 the grant application was not sufficient to support longer
6 funding and that there was -- the staff wanted to talk with
7 program management and clients and other people involved, so
8 that they could understand and interact with your project.

9 And I think that that visit has been scheduled, and
10 it's not a monitoring visit, as much as an informational
11 visit. And we have a great deal of faith in our staff, and
12 we also have a great deal of appreciation for the work that
13 your program does. So I hope that at the end of the visit
14 there will be a lot greater mutual understanding of where
15 things are.

16 Thank you for coming all the way up here for this.

17 Tom Smegal?

18 MR. SMEGAL: I was on this board in 1986, when we
19 last met in Texas, in El Paso. And at that point in time, I
20 served on a board whose primary function was the abolition of
21 the Legal Services Corporation, not in El Paso, Texas, but

1 across the whole United States.

2 We're still here, it's 15 years later, and as our
3 chair has just indicated, the process we're going through is
4 to try to make the delivery of legal services more effective.

5 And there's no finger pointing at El Paso in any sense, as
6 there was not any finger pointing at El Paso in 1986 when we
7 were there in your midst. Thank you.

8 MR. ERLBORN: Tom, I think you should make it
9 apparent that you were not in favor of doing away with the
10 Legal Services --

11 (Laughter.)

12 CHAIR EAKELEY: Maria Luisa Mercado?

13 MS. MERCADO: Yes, actually I was just in El Paso a
14 couple of weekends ago, celebrating my brother's 40th
15 birthday. He lives in El Paso. And El Paso is, in fact, a
16 Siberia.

17 I think that one of the comments, being a Texan,
18 and in some of the statewide organizations that I have
19 served, is that nobody ever wants to meet in El Paso. It's
20 either Austin, Dallas, Houston, San Antonio, that El Paso is
21 sort of thought like the other country, the other Mexico,

1 actually more part of New Mexico than Texas.

2 But I actually thought, statistics-wise, that maybe
3 I was wrong. I thought El Paso was like over a million
4 dollars and a million people, I'm sorry, in El Paso County
5 area --

6 MS. BUSTAMANTE: Well, it -- no, it's about
7 750,000. A lot of people think 1 million, because they
8 include the population of Ciudad Juarez, which has also
9 grown. And they usually combine us and say, you know,
10 there's 1 1/2 million, you know, population down there, but I
11 believe it's about 750,000.

12 MS. MERCADO: And it's also probably one of the
13 cities that has the highest percentage of poverty
14 populations, as well, there.

15 MS. BUSTAMANTE: Exactly, and unemployment.

16 MS. MERCADO: And, yes, real high unemployment
17 rate. What percentage of your work that you do is generally
18 the Spanish-speaking only, or very limited English-speaking
19 clients?

20 MS. BUSTAMANTE: A very high percentage. I would
21 say about 70 percent. One of the requirements for our staff

1 attorneys is that they speak Spanish, or get busy learning it
2 pretty quickly. Otherwise, we pull secretaries to go
3 translate.

4 But we've been fortunate. The people that make a
5 commitment to come down to El Paso, if they don't know the
6 language, they learn it pretty quickly.

7 MS. MERCADO: The only other question I was going
8 to ask you was, on -- because at least from our understanding
9 was, is that you know, the grant application itself did not
10 have whatever information it needed to have.

11 And my question to you is did you get information
12 before you filled out the grant application that told you
13 what you needed to have there before you sent that out?

14 MS. BUSTAMANTE: Yes, we did. And you're right,
15 the comment was that it was a weak application. I don't
16 know, I wasn't present whenever that conversation took place,
17 but we haven't had, you know, in writing, spelled out, "Oh,
18 your intake was weak, oh, your CSR's" -- we don't know what
19 it is that was weak that we maybe didn't write it properly so
20 that you could understand what we're doing. And that's what
21 we wanted, an opportunity, "Okay, tell us what we did wrong

1 on the application. We'll tell you, we'll fix it, we'll
2 explain to you." And I don't think that that opportunity has
3 been given to us.

4 CHAIR EAKELEY: I think that's been scheduled.
5 That's the purpose of the visit.

6 MS. BUSTAMANTE: But in the meanwhile, our board is
7 asking, "Well, what did you guys do wrong?" We don't have an
8 answer. So I guess if we can have something in writing, or a
9 conversation take place with our director, really explaining,
10 you know, what we can say to our board.

11 CHAIR EAKELEY: There will be that conversation.

12 MS. BUSTAMANTE: Okay.

13 CHAIR EAKELEY: And several more than that. Good
14 luck with that. But again, thank you for coming up here and
15 meeting with us.

16 MS. BUSTAMANTE: Thank you for your time.

17 CHAIR EAKELEY: Oh, Ernestina, I'm sorry.

18 MS. WATLINGTON: I don't let you forget me.

19 (Laughter.)

20 MS. WATLINGTON: As a client board member, I just
21 wanted to say, even though you were nervous, you eloquently

1 spoke of your concerns, and I just wanted to thank you for
2 doing that.

3 CHAIR EAKELEY: And there was no reason to be
4 nervous about it. Have a safe trip home.

5 Are there other field programs that wanted
6 to --

7 MR. GILL: Yes, for the record, I'm Brendan Gill,
8 the director of the Baylor County Legal Aid Association, and
9 I've been so for 19 years, and I've been with that program
10 for 29 years. We are a program that has been visited many
11 times by Legal Services through the years. We are a program
12 that received \$240,000 from the State of Texas, grants signed
13 by the governor of the State of Texas that come to us through
14 victims of crime act funding, and two separate grants, and
15 also a grant for Violence Against Women Act grant.

16 We also submitted an application that was labeled a
17 weak application. What is unclear to us, even though we've
18 had significant dialogue, is who read the application, and
19 what was understood from that application after it was read.

20 I'd like to highlight a few things. I received a
21 telephone call from the -- from Cindy Snyder, who personally,

1 is the person who has been with Legal Services for a long
2 time, and a person that I respect, largely from the good
3 words I hear from her from people in my program who worked
4 with Cindy many years ago up in Milwaukee.

5 But basically, I was told that we were put on four
6 months' short funding because of a weak application also.
7 Also, I have not received a specific as to what was
8 supposedly weak about that application.

9 I was told that the funder had been -- the funders
10 had been notified. And then I said, "All of the funders?"

11 And the answer to that question was, "There's more
12 than one."

13 I said, "Yes, there is. There's four funders." So
14 I have to question how serious an application was read, when
15 there is no basic information about who even funds the
16 program known by the Texas program office.

17 I also have to question another factor that's in
18 the criteria, and that criteria is that your reputation with
19 the Legal Services Corporation is a factor to be considered
20 in your grant application.

21 My grant application may not have been the best

1 effort I have made in my many years as a program director,
2 and one of the reasons for that is our program received a
3 visit, called a compliance visit, from the Legal Services
4 Corporation. That visit came in July, and we were promised a
5 report in August, and it is now February and we haven't
6 received that report.

7 So I ask the obvious question, "Did the visit to
8 our program in July have anything to do with your funding
9 decision?"

10 The response I get is, "What visit in July?" So
11 that the fact that the granting component of the Legal
12 Services Corporation didn't know that the compliance part of
13 the Legal Services Corporation had visited our program, I
14 quite frankly found to be shocking.

15 I'd like to now go to a basic legal issue of great
16 importance. A strategic planning document was adopted by the
17 board already. Congress adopted an appropriation act that
18 called for competitive bidding. They put in that act very
19 specific criteria that were to be utilized by the Legal
20 Services Corporation in making decisions on competitive
21 bidding. Nowhere in that appropriate act will you see the

1 term state planning. You will see, very clearly in that act,
2 something saying that an existing grantee should not have a
3 competitive advantage over outside grantees.

4 That's what the act says. The act further mandated
5 the Legal Services Corporation to promulgate a regulation,
6 promulgate it timely. The Legal Services Corporation did
7 promulgate a regulation, a regulation that I presume is still
8 binding on the Corporation, since it was passed. Nowhere in
9 that regulation will you see state planning as being a
10 criteria outlined in that regulation.

11 I would ask this board to ask for a legal opinion
12 from its general counsel to investigate that incongruity
13 between the regulation that governs the funding process and
14 in fact what takes place.

15 Yesterday in the discussion, it was said that the
16 strategic plan that was going to be voted on by the board was
17 merely reducing to a writing what had already been done, that
18 state planning was already been tied to program funding.

19 And I don't see how you can do that and be in
20 compliance with the competitive bidding regulation, because
21 obviously someone who has not been involved in the state

1 planning process is left outside of the loop.

2 So I'd urge this board to request a legal opinion.

3 And if necessary, revise the regulation, after a legal
4 opinion would indicate that you have the authority to revise
5 it. I don't think that legal opinion would be forthcoming.

6 So we are very concerned about it. A lot of kind
7 words have been said about the veterans of Legal Services,
8 and I am one of them. And I don't need those kind words. I
9 get my energy from the people that I serve, like the
10 courageous client board member who came before this board
11 today and addressed her serious concerns about the funding
12 process. That's where my energy has always come from, and as
13 long as that is there, it will never die.

14 Chairman McCalpin, I remember many years ago, in
15 one of the more difficult moments of Legal Services, when you
16 appeared at perhaps one of the most, I thought, dynamic Legal
17 Service meetings, gathering, that ever took place. And I do
18 believe we happen to be meeting in the restaurant that is
19 used for the stage, or from which the stage for the show
20 Cheers is based on.

21 And I remember you talking about serious concerns

1 about the attack on Legal Services back in 1982. And I
2 remember you saying very courageously then -- and you lived
3 up to your words and actions -- you quoted from Churchill,
4 saying that, "If they persist in these actions, we'll fight
5 them on the beaches, we'll fight them here, we'll fight them
6 there, and everywhere." And you fought them and you won.
7 And we thank you for your service.

8 And I want to close with those comments, and I hope
9 that -- as I was coming up this morning, there was a sign
10 outside a church in neon lights, that talked about good
11 intentions and said, "The greatest of good intentions pales
12 in insignificance to the action of the smallest deed."

13 And I would ask this board to take a big -- do a
14 big deed, and that is to obtain a legal opinion that will
15 address the issue of state planning and funding going
16 together.

17 The two are wonderful. I am not locked into the
18 existing structure. I have sat at a planning meeting and
19 said that if there is going to be a new program, that it
20 would have to be a totally new program. I am open to that
21 idea. But I don't think the funding process and the lever of

1 that should be used as the tool that it is used. It should
2 be separate and apart. I think that's what the appropriation
3 act calls for, and I hope that that will be followed in the
4 future.

5 CHAIR EAKELEY: Well, thank you. We take as our
6 guide the Legal Services Corporation Act, which charges the
7 board with assuring the provision of high-quality, cost-
8 effective legal services, legal assistance. And I think it's
9 that that animates the state planning initiative. But in any
10 event, we thank you for your comments.

11 I'll defer to the president for the moment, since
12 he's the one who should be, appropriately, taking the heat on
13 this.

14 MR. MCKAY: I want to thank Brendan for his
15 comments, and the comments of the representatives of the El
16 Paso program, and just let me see if I can clarify one point
17 in particular, Brendan.

18 The state planning, grant-making function that was
19 discussed yesterday is completely unrelated to the process by
20 which we made determinations to come and visit Baylor county,
21 and to visit the El Paso programs. And I know that, because

1 I am the decision-maker on both of those processes.

2 When we talk about tying the grant decisions and
3 the grant service areas to state planning, we're talking
4 about a process that's meant to be collaborative with state
5 planning programs.

6 A separate function which is really separately
7 staffed, it's separately considered by us is on the grant
8 applications in the competition process. And I want you to
9 know that in terms of intentions and desires, while they are
10 handled separately, the desires are the same, and that's for
11 high quality, comprehensive, integrated systems.

12 With regard to the competition decisions, the
13 individual decision that we made with regard to Baylor
14 county, that is a reflection of, admittedly, a little
15 information garnered from the application process, reviewed
16 by an independent, outside consultant, and by our staff.

17 And so what we're saying is, we need to know more,
18 and we're going to come and visit with you all and make that
19 determination. But I want you to know, in particular with
20 regard to Baylor County, and in particular, with regard to El
21 Paso, they're completely unrelated to state planning in

1 Texas. And we really feel that in Texas, we're still at an
2 early stage, we're still -- we don't know what the
3 configuration is going to look like, and I want to say,
4 especially to the representatives from El Paso, no decision
5 has been made by LSC with regard to the merger of any
6 programs in Texas. We view that at this point to continue to
7 be the principle domain of the state planners in Texas, and
8 we have quite a ways to go.

9 But I want to thank you very much for your
10 comments, and Brendan, for yours as well, and I know that we
11 share -- all share -- the same goal of serving our clients.
12 I hope those are kind words that you will accept, because I
13 mean them very sincerely.

14 MR. GILL: Well, I do accept them, as sincerely
15 given, but I do want to come back and say that the state
16 planning process is mentioned, even in the request in the
17 competitive bidding process. It mentions that the state
18 planning process is involved in that.

19 And it's the tying of the two together -- state
20 planning is a wonderful thing, and by agreement, we may come
21 out with something that is very, hopefully, worthy of

1 replication throughout the country. But when it's tied into
2 a funding decision, and that state planning and that go
3 together, I think that's a disconnect that's not envisioned
4 in the statute, and I hope that a general counsel's opinion
5 will be forthcoming on the issue.

6 CHAIR EAKELEY: Okay, thank you very much. Anyone
7 else? All right, I'd like to invite Doreen Dodson, chairman
8 of SCLAID, to the -- it's not really a podium, but --

9 MS. DODSON: Thank you, Mr. Chair. I appreciate
10 that, and know that I don't have anything nearly as
11 interesting to say as particularly the client board member
12 from El Paso, so I will particularly try to be brief, and let
13 you all get out of here.

14 Thank you very much for this opportunity to talk
15 with you. As always, as representing the American Bar
16 Association, we are pleased to have been the partner of LSC,
17 through good times and bad times, for 25 years, and in the
18 past few years, particularly.

19 I wanted to congratulate you on the strategic
20 directions which you adopted yesterday. I know that that's
21 not a plan. I think that, particularly with respect to your

1 strategic goals, we hope that we will -- you will feel that
2 we can partner with you on those goals, and work with you on
3 those.

4 The strategies to enact them are very ambitious.
5 They may be difficult to achieve, but I congratulate you on
6 attempting it, and taking steps to go forward for additional
7 access to legal services and quality legal services.

8 In that vein, there were a couple of things. I was
9 pleased that president McKay mentioned, particularly, two
10 things yesterday, the involvement of IOLTA, and wrote that
11 into the revision that I saw this morning, and secondly, made
12 it clear that you do not intend to duplicate efforts, that
13 funding initiatives on technology, and on planning, and on
14 communications, for instance that OSI is funding with the
15 National Legal Aid and Defender Association, Center for Law
16 and Social Policy, that you will work in concert with that,
17 and we won't waste scarce resources.

18 And again, I hope that with respect to the legal
19 needs study analysis that's contemplated, that Mr.
20 Erlenborn's comments are taken seriously in that it may not
21 be the best idea for LSC to undertake that, but to subgrant

1 it and get it out of there, understanding that anything that
2 the corporation itself might do would be suspect,
3 politically, on the Hill.

4 I understand it's in the Act -- and as I said, I'm
5 trying to be brief, and not go into detail -- but we felt
6 that that was a very good point.

7 Three very quick main things. Chairman Eakeley,
8 you made the point and added in language under one of the
9 goals to analyze regulations, and to see that they are
10 efficient, analyze the burdens as well, and to see if there
11 are any of the regulations that make it more difficult to
12 provide high-quality legal services to a greater number of
13 people.

14 And I would hope that we keep that in mind. There
15 was a sign yesterday, when we visited the legal aid program,
16 they had little blue sheets on the door. One said -- each
17 one had, "What would you say to LSC, if you could say it?"

18 And one said, "One, simplify, two, clarify." And I
19 thought that for most of us, that's exactly what we would
20 hope that you would keep in mind, that as simple, as clear
21 direction as we can give to the field programs -- and there

1 can be that communication back and forth -- is very
2 important.

3 That brings up the issue of trust. There is some,
4 with respect to compliance, with respect to the inspector
5 general, with respect to regulations, we know we need to
6 monitor and be careful stewards of federal funds. I also
7 hope that there is an atmosphere of trust.

8 Compliance for LSC is not a law enforcement
9 activity. It is a goal which I hope that management in the
10 field programs, and the ABA, and all of us approach with the
11 idea that we all have the same goal, and we want to help the
12 field programs meet that goal. We want to work with them.

13 And if there's a problem, if there's a situation
14 that it's more a, "How can we help you accomplish the task
15 and the goal that is out there," and not anything that is, I
16 guess, looking to catch a problem, and that there's an
17 important trust relationship that is needed for that to
18 happen.

19 Finally, on your strategic directions, the
20 reauthorization and additional for programs -- congratulate
21 you, hope to work with you, look forward to working with you

1 on both of those things. Thank you for having us here.

2 CHAIR EAKELEY: Thank you, Doreen. Those were
3 brief, but very, very kind remarks. I just want to emphasize
4 one point, and that is your point about the trusting
5 relationship and not to limit it to the compliance area, but
6 obviously was raised in that context. And I think it should
7 be apparent that indeed that is the type of relationship that
8 we hope that we cultivate, and will continue to cultivate as
9 we move forward together.

10 And obviously, the compliance is important for
11 accountability, but there are ways and ways to be
12 accountable. And encouraging people to be accountable works
13 a lot better in the long run.

14 MS. DODSON: That's right. I couldn't agree more.
15 Thank you very much for this opportunity.

16 CHAIR EAKELEY: Questions? Comments? Okay, thank
17 you very much.

18 MS. DODSON: Thank you.

19 CHAIR EAKELEY: Other public comment before we move
20 on to the inspector general's report? Are there other
21 comments?

1 Good afternoon.

2 MR. QUATREVAUX: Good afternoon, Mr. Chairman,
3 members of the board.

4 We have completed our planning for the assessment
5 of the 1999 case statistical data, which as you know, is
6 required by Congress.

7 We issued a memo to the executive directors, which
8 you should have received, on January 11, which provided an
9 overview of the assessment, described two data calls in early
10 March of this year, and also describe a process by which we
11 would avoid an issue which is in dispute, regarding access to
12 records by processing certain information separately,
13 specifically not co-mingling client name and legal problem
14 type.

15 We are also coordinating with the developers of the
16 case management systems to see if they could provide
17 assistance, should it be needed by any of their clients.

18 Next week we will issue a technical specifications
19 memo to the executive directors, which will describe in the
20 terms that are necessary to transmit the data, the format for
21 that.

1 We have begun database construction and the writing
2 of specialized software to maintain this analogy to a Chinese
3 Wall within law firms. This project, we estimate to cost
4 about \$800,000. Half a million of that represents OIG staff
5 time. The other \$300,000 -- about \$200,000 of that is for
6 the wall, itself, the construction of these databases and
7 some hardware as well. The remainder of it is travel, and
8 other consulting fees.

9 That's the only issue I have for you. I would like
10 to point out that the IG act requires inspectors general to
11 comply with them on auditing standards, and government
12 auditing standards require that auditors maintain
13 professional skepticism. Thank you.

14 CHAIR EAKELEY: Thank you, and I think Doreen's
15 comment was directed at the LSC management compliance
16 function, and did not mean to trench upon your institutional
17 skepticism. We all appreciate it.

18 MR. QUATREVAUX: Well, I just thought it was
19 important that everyone understand that.

20 CHAIR EAKELEY: But thank you. Are there any
21 questions of the inspector general? Maria Luisa?

1 MS. MERCADO: Yes. Yesterday, when we were going
2 over the Fiscal Year 2000 consolidated operating budget, your
3 line item for consulting, where we had the \$545,562 -- is
4 that the funding for the Chinese Wall that you were talking
5 about?

6 MR. QUATREVAUX: Well, in part, yes. Part of it is
7 also funding for consulting auditors who will assist in
8 conducting site visits as part of this. It also includes
9 contract auditors for audit service reviews. And it also
10 includes funds for certain information systems work that's
11 internal to the OIG.

12 MS. MERCADO: Okay. The -- one of the questions
13 that I had in here for you, in talking about doing technical
14 specifications that they require the programs, is the OIG in
15 your funding purchasing the software for the programs to do
16 that --

17 MR. QUATREVAUX: No, this --

18 MS. MERCADO: -- or are you asking them to do that
19 separately?

20 MR. QUATREVAUX: They are required to, under LSC
21 guidelines. The CSR handbook has a requirement that grantees

1 maintain a functional, automated case management system
2 which, among other things, can produce information required
3 by funding sources.

4 MS. MERCADO: So when you're talking about doing
5 this whole system of hardware database, that \$800,000, none
6 of that is going to the grantees?

7 MR. QUATREVAUX: That's correct.

8 MS. MERCADO: Except for the IG --

9 MR. QUATREVAUX: Correct. That's for us to process
10 the information as it comes in in this very specialized and
11 unusual fashion.

12 MS. MERCADO: Have you estimated what the cost
13 would be, nationwide, for all the grantees to get the kind of
14 a program to provide that information for you?

15 MR. QUATREVAUX: They should be able to do that.
16 They are required now to be able to do that.

17 MS. MERCADO: So they should already have that, is
18 what you're saying.

19 MR. QUATREVAUX: That's right. But just as an
20 added measure to try to assist any who may have trouble, we
21 are in communication with case management system developers.

1 We have shared with them our requirements, both the
2 memorandum I mentioned, as well as the technical
3 specifications, and suggested to them that some of their
4 clients may need assistance and we're talking with them one-
5 on-one, and may convene a meeting in Washington, if that
6 proves necessary.

7 CHAIR EAKELEY: John Erlenborn?

8 MR. ERLENBORN: Thank you, Mr. Chairman. And Ed,
9 as you're aware of, and I think the other people here should
10 be aware, Will McCalpin and I met with you and discussed the
11 plan that you had designed, and I want to compliment you as I
12 did at that time.

13 The CSR verification process, I think, has been
14 very carefully designed to avoid the problems that may have
15 arisen in full-up audits in the past. And I think it's
16 awfully important that the programs across the country
17 respond positively to the program that you have designed.

18 It's maybe not understood by all the programs, but
19 your verification of the CSR data is required by Congress, a
20 specific action of the Congress and you have to get that to
21 the Congress by the end of July. And if there's any

1 resistance to providing this information so that you can make
2 this verification, it would be very awkward.

3 So I'm just urging anyone who may represent
4 programs, look carefully at this. I think it's well
5 designed, I think your possible problems with things in the
6 past are not in this program that is CSR data.

7 Let me just finally say -- then I'd be happy to
8 yield to the gentleman from Missouri --

9 CHAIR EAKELEY: How about yielding from the board
10 member from Vermont, first?

11 MR. ERLENBORN: Oh, she's first? Okay. Sorry
12 about that.

13 CHAIR EAKELEY: That's okay.

14 MR. ERLENBORN: I just want to say that the CSR
15 verification -- I'm repeating what you've told me, but I
16 think it should be understood -- is not an audit. Other
17 rules relative to the audit require other requirements.

18 So there are some problems we've had with the
19 corporation personnel, as well as the office of the OIG and
20 audits. It may not yet be resolved. I hope they can be, so
21 that we can move ahead without any disagreements.

1 MR. QUATREVAUX: Thank you, Mr. Erlenborn, for your
2 comments. Any credit for the design should go to OIG staff,
3 which -- it's their creation. Thank you.

4 CHAIR EAKELEY: Edna, did you have a question?

5 MS. FAIRBANKS-WILLIAMS: Yes. I wanted to ask you
6 if you have just a rough idea of the programs that were out
7 there that could give you a view of the stuff through the new
8 computers and things that you have set up. Is there any of
9 the programs out there that are so far behind electronically
10 that they can't give you that information?

11 MR. QUATREVAUX: I don't believe there should be.
12 The information request and process is simply pulling data
13 out of their own case management system and transmitting it
14 to us. And that can be done as simply as a floppy disk via
15 the mail, or an e-mail attachment.

16 So we don't -- we think there should not be any
17 significant problem.

18 CHAIR EAKELEY: Bill McCalpin?

19 MR. MCCALPIN: Mr. Chairman, I fully subscribe to
20 and support the comments of the vice chair, with respect to
21 our visit with the inspector general and his office, and the

1 compliments that we came away with. And I am pleased to
2 report that in the very small sampling that I have done of
3 the programs that have received his earlier communication, I
4 find nothing but an intent to support exactly what he's
5 trying to do.

6 CHAIR EAKELEY: You're checking up on him already?
7 Thank you. Are there any other questions of the inspector
8 general? Thank you very much.

9 MR. QUATREVAUX: Thank you, Mr. Chairman.

10 CHAIR EAKELEY: John Broderick, are you still
11 holding on there?

12 JUSTICE BRODERICK: I sure am.

13 CHAIR EAKELEY: Let me just now -- I think I hear
14 some stomachs growling in the audience and around the table,
15 but my intention, because of the weather back east, and
16 having already missed my plane, and having John Erlenborn's
17 canceled, is to continue with the meeting until we conclude,
18 and then those hardy souls left are invited to lunch.

19 And to conclude what we have left on the open
20 agenda items are the approval of the strategic directions as
21 edited over night by John McKay, and then the report of the -

1 - we call it the ad hoc committee, but it's the Broderick ad
2 hoc committee, and the election of the board chair and vice
3 chair, and then we have an executive session with you, do we
4 not?

5 MR. QUATREVAUX: We do, Mr. Chairman, but we have
6 another item, which is the presentation of the corporation --

7 CHAIR EAKELEY: Oh, I'm sorry. Yes, I skipped
8 right over that. I apologize for that. In fact, why don't
9 we ask you to come back up and do that, and then strategic
10 directions, and then to Justice Broderick.

11 I'm going to leave it in the capable hands of our
12 assistant IG for audit, Len Koczur, and our audit manager,
13 Charmaine Romear.

14 CHAIR EAKELEY: Good afternoon.

15 MS. MERCADO: Do we have a copy of that? The
16 audit?

17 MS. ROMEAR: You should have.

18 CHAIR EAKELEY: It came in the mail. I think they
19 were mailed out.

20 MR. KOCZUR: This year, as in the last several
21 years, we have a --

1 CHAIR EAKELEY: The mic isn't on --

2 MR. KOCZUR: We have a clean opinion on the
3 financial statements, which means essentially, that they have
4 no significant errors. Charmaine Romear, who is in charge of
5 the project for the Office of Inspector General, will -- and
6 receives the contractor that does the work for us and reviews
7 their work to make sure it meets audit standards, will
8 discuss the reports.

9 And then I'll go back to -- this year we have a
10 management letter from the auditor, which covers some items
11 that are not significant, with respect to the balance sheet,
12 but to the financial statement together, but could become
13 problems in the future. And that's kind of an early warning
14 of things that need to be fixed. So, Charmaine?

15 MS. ROMEAR: For the record, Charmaine Romear,
16 audit manager of the Office of Inspector General. Members of
17 the board, you should have in front of you the copy of the
18 audit report, plus the management letter.

19 Len has discussed the independent auditor's report.

20 You should be pretty much familiar with that, and we will
21 move on to the balance sheet, in which I'd like to just

1 stress some highlights of the financial information, as
2 presented.

3 Your current assets are, as of September 30, 1999,
4 it was roughly \$52 million. Current liabilities, we're
5 looking at \$50 million. If we were to break out in terms of
6 some of the significant highlights, the cash -- your assets,
7 the bulk of it, relates to the cash and the financial
8 institutions as well as -- that's roughly \$51.7 million.

9 Under your current liabilities, the \$50 million,
10 the bulk of that is your grants and contracts payable, and
11 you're looking at roughly \$48.6 million. And that,
12 essentially, covers roughly two months' worth of funding.

13 Your residual is the fund balance. For purposes
14 here, it's more commonly referred to as the carryover.
15 Combined, the designated carryover is \$438,000. Undesignated
16 is roughly \$1.2 million. Collectively, that shows an
17 increase of roughly \$600,000 from the prior year.

18 On the second page we deal with the statements of
19 revenues and expenses. This pretty much accounts for the
20 appropriation received, plus some additional grant revenues
21 and income. The expenses for both grants and contracts, as

1 well as management administration. And it shows you the
2 carryover.

3 Other than that, there isn't anything that has --
4 there have not been any major changes from the prior year.
5 And I would turn it over to Len to discuss the management
6 letter, unless you have any questions.

7 CHAIR EAKELEY: Thank you. Are there any questions
8 on this section?

9 MR. MCCALPIN: Do we have a management response to
10 the management letter, and all of the items that were listed
11 there?

12 MS. ROMEAR: We met with management and they were
13 in agreement with the findings presented, and subsequently
14 will be receiving, in writing, the response which we'll
15 forward to you once we've received it.

16 MR. MCCALPIN: Thank you.

17 MR. KOCZUR: As I indicated, the management letter
18 is a report on minor issues that don't affect -- that are
19 significant enough to affect the financial statements. They
20 could become problems in the future, if not corrected.

21 And basically, there were four areas that were

1 addressed in this -- in the letter. Some accounting
2 transactions were not correctly posted to the records.
3 Again, insignificant amounts.

4 Payments to grantees, in the case when they were
5 made electronically, they were not numbered in sequence. And
6 from a control standpoint, it's good to have them numbered in
7 sequence.

8 And some of the supporting records, supporting
9 general ledgers and things, were not reconciled with the day
10 that it was in the accounting system.

11 Now, those three problems, basically, are related
12 to the implementation of the new accounting system this year.

13 And we would -- it's not unusual to have those type problems
14 with a new accounting system, relatively easy to correct, and
15 they should be fixed without much difficulty.

16 The last item is the way we account for our fixed
17 assets. And basically, that is not done in the controller's
18 office, it's done in administration, which is a little bit
19 different from the way it's handled in most organizations.
20 And there were some minor errors in those records this year.

21 And the recommendation our auditor made is that the

1 fixed assets be handled through the controller's office, and
2 specifically, there's a part of the accounting system that
3 we're not using, because you couldn't handle these very
4 easily. And their recommendation is to adopt that part of
5 the accounting system.

6 MS. MERCADO: I -- I'm sorry.

7 CHAIR EAKELEY: Is that it?

8 MR. KOCZUR: Yes, that's it.

9 CHAIR EAKELEY: Are there any questions? Maria
10 Luisa?

11 MS. MERCADO: I just had a question on page three
12 of your audit report, on the support and revenue line. The
13 interest on other income for 1999, the \$506,066, was that
14 accounted for on the grant line to the grantees, or was that
15 money that was put in the M&A line?

16 MS. ROMEAR: Okay, the person who will best be able
17 to answer that question is Mr. Richardson. What we're
18 showing here is the money that has been earned.

19 CHAIR EAKELEY: Who is it?

20 MS. ROMEAR: David Richardson, our controller.

21 CHAIR EAKELEY: But does this concern the audit?

1 MS. MERCADO: Well, I mean, in the auditing, how
2 are they auditing? How are they noting that income? Is it
3 noted as income that went to the grantees, or is it noted as
4 income that went to M&A?

5 MS. ROMEAR: Okay, for audit purposes, this is
6 noted as income that was earned by the Corporation through
7 the 12-month period. Portions of that, obviously relates --
8 there are portions of it that relate to the grants as well as
9 to the M&A line, yes.

10 MR. RICHARDSON: To further answer your question,
11 there's two elements in this particular line of particular
12 note.

13 Last year, of course, we were able to dispose of
14 the Wilkinson case. So of this amount, \$225,000 of it, was
15 money that had already been expended to pay out that and was
16 brought back in. Once we won the case, the money was
17 returned to us.

18 As far as the interest, there -- the interest is
19 money that, of course, we did earn on our bank accounts, it
20 is part of the budget that was submitted to you yesterday,
21 and it's helping to support management administration.

1 CHAIR EAKELEY: Any other questions?

2 MS. MERCADO: Well, I guess the follow-up is that
3 if a percentage of interest that comes from grantee-allocated
4 funds -- shouldn't that percentage of interest go back into
5 the grantee line instead of the M&A line?

6 MR. RICHARDSON: It certainly is something that
7 could be looked at, but as I reported yesterday, when I came
8 to the Corporation, all the -- there was no interest on the
9 accounts. All of it was just -- the banks was earning it.

10 So I converted the accounts to be interest-bearing.
11 Normally, the interest we get, for instance, on the grants
12 is two days of interest, because what we do is the bank
13 requires us to put the money in the bank two days prior to
14 the settlement of the January -- or the first day of each
15 month's checks.

16 We do have about 60 grantees that are still
17 receiving checks, and those could settle somebody's debts for
18 as little as a few days. Last year we had one sit on a desk
19 for as long as 60 days. And when that money is not cashed,
20 run through the bank, then we do earn the interest on it.

21 MS. MERCADO: I just didn't know where there was

1 any particular problems that we would have if it was in one
2 category versus another category.

3 MR. RICHARDSON: Actually, the reason that it has
4 gone to support management administration -- and this goes
5 back to eighties and early nineties -- the Congress
6 specifically reduced the Corporation's funding in lieu of
7 interest it had received on the accounts. And by taking that
8 into account when they make the appropriation, we've never
9 looked at providing the money back to the floor because of
10 that.

11 CHAIR EAKELEY: Or put it back in technical
12 assistance grants?

13 MR. RICHARDSON: We did --

14 MS. MERCADO: We've only done that once, though,
15 right?

16 CHAIR EAKELEY: In any event, I think we're getting
17 far off of the presentation of the results of the annual
18 audit, although these are issues that we might want to follow
19 up with David Richardson later.

20 Are there any other questions about the
21 presentation on the annual audit?

1 M O T I O N

2 MR. SMEGAL: Well, I think you have a motion that's
3 required, and if you are prepared to receive that, I'll make
4 it.

5 CHAIR EAKELEY: We'll take it. Is there a second?

6 MS. WATLINGTON: I'll second it.

7 MR. SMEGAL: With respect to the management report,
8 there are a number of recommendations, and I --

9 CHAIR EAKELEY: Well, I think we wait for a
10 management letter -- I think it's the response of management
11 that will be forthcoming.

12 And in fact, what this is is a presentation. We
13 don't really have -- the audit is the audit, and there's no
14 action required --

15 MR. SMEGAL: No, I'm not talking about the audit,
16 I'm talking about the separate report on modifications to our
17 procedures.

18 CHAIR EAKELEY: But I think that's for management
19 to respond to in writing, and that's in due course. So I
20 think we're okay just receiving and saying thank you very
21 much.

1 MS. ROMEAR: Thank you.

2 CHAIR EAKELEY: Okay, next I'd like to invite
3 Justice Broderick to take over the meeting.

4 Oh, I'm sorry. I was going to do the strategic
5 planning directions, to get that out of the way, if we could.

6
7 Circulated this morning was a rewrite, and John
8 Broderick, I apologize. You probably don't have it, but we
9 have a rewrite of the strategic directions document. And the
10 resolution we approved yesterday was subject to, in essence,
11 ratification of the text of the revisions that were made
12 overnight.

13 Well, I think -- do you want to go over them? How
14 would the board like to proceed? John, you have
15 a --

16 MR. ERLNBORN: I have one issue I'd like to raise.

17 CHAIR EAKELEY: Okay.

18 MR. ERLNBORN: We talked at some length yesterday
19 about the language that was basically state-based,
20 integrated, comprehensive civil legal services delivery
21 systems.

1 And we agreed to a change which you will find at
2 the top of page three. But then I called the attention of
3 the chair to a later part of the document that you will find
4 on page four, the last sentence of the paragraph at the top
5 of the page.

6 And I don't think that our agreed changes were
7 incorporated here. This says, "State-based, integrated, and
8 comprehensive civil legal services delivery system," which is
9 what we changed -- had in both places.

10 MR. MCKAY: And we've located the third example.

11 MR. ERLENBORN: Oh, is that right? There's a third
12 one?

13 MR. MCKAY: Yes, yes. And this one was actually
14 slightly different, Mr. Vice Chairman. In this case, we
15 actually had a phraseology that had state-based appearing
16 before integrated and comprehensive. And afterwards it had
17 occurred in the middle.

18 If you wish, we can sort of apply the same
19 structure to this reference, and get it fixed. I think
20 that's a grammatical change.

21 MR. ERLENBORN: I would appreciate if that were

1 done.

2 CHAIR EAKELEY: Gentlemen, just very -- yes?

3 MR. MCKAY: I'm not going to go -- I've got a
4 number of grammatical corrections which I have tried to pick
5 up in this document, but substantively, the first changes on
6 page three under strategic goals, the last bullet now says,
7 "Expansion of federal funding and other public and private
8 resources dedicated to
9 meeting." So the insertion is "federal funding," a direct
10 reference there.

11 On page five, the first bullet under near-term
12 implications, and we're talking about state planning here, is
13 included within the broad agreement of the civil justice
14 community of the courts. And it now says, "And IOLTA
15 programs."

16 Page six includes, at the paragraph in the middle
17 of the page beginning, "LSC will promote," third line down
18 now says, "In addition to sharing information about
19 successful technology applications, it has inserted,
20 "Coordinating technology initiatives with other funders,"
21 picking up the comments of board member Askew.

1 Now, on page seven, also picking up some of Bucky's
2 comments on the last bullet on the top half of the page which
3 begins, "Working with grantees and planners," I'm just going
4 to read the entire bullet. "In each state, to promote
5 leadership training, including local board training and
6 development, and to promote client board member participation
7 and training," which I think picks up both Bucky's -- and I
8 hope picked up Bucky's -- and Ernestine's comments.

9 On page eight, the second bullet has been revised
10 to clarify our intention with regard to the review of the
11 grant-making process, performance standards, and statute and
12 regulatory compliance requirements.

13 There was a period there, which now includes, "For
14 efficiency, unnecessary duplication, and implications" --
15 that's a new word, Bucky, a little bit different than the one
16 that you had proposed -- "for the delivery of high quality,
17 appropriate legal services," more clearly relating to the
18 analysis that Doreen Dodson mentioned earlier, which it
19 certainly is our intention to undertake. I hope that's
20 satisfactory, Bucky.

21 One last change is the third to the last bullet on

1 page eight. This has been reworded, as suggested by Maria
2 Luisa Mercado, to be more positive, which certainly was our
3 intention, that we will support technological applications to
4 assist programs' ability to detect and correct, which now is
5 an assistive -- the language is more assistive to the
6 programs, Maria, which I think is your comment.

7 Those -- there are other grammatic changes, and
8 I'll pick up John Erlenborn's which is more than grammatic,
9 and we'll get that fixed in the final version.

10 M O T I O N

11 CHAIR EAKELEY: Subject to that one further
12 correction, is there a motion to adopt the document as the
13 expression of the strategic direction of the board?

14 MR. ASKEW: So moved.

15 CHAIR EAKELEY: Is there a second?

16 MS. WATLINGTON: Second.

17 CHAIR EAKELEY: Ernestine Watlington. Any further
18 discussion?

19 (No response.)

20 CHAIR EAKELEY: All those in favor?

21 (Chorus of ayes.)

1 CHAIR EAKELEY: Opposed?

2 (No response.)

3 CHAIR EAKELEY: The ayes have it. The motion
4 carries. Thank you very much.

5 Now, Justice Broderick. You'll all recall that we
6 met in late February in 1999 and had a mini-retreat. And out
7 of that came a variety of suggestions. And we asked Justice
8 Broderick to head up what has become known as the board
9 development task force, or ad hoc committee, or Broderick
10 committee.

11 And we had a report from that committee dated
12 October 27, 1999, which was circulated at the time, and I
13 think everyone should have gotten another copy of that under
14 the door this morning.

15 So let me just turn the --

16 MR. SMEGAL: I didn't.

17 CHAIR EAKELEY: Okay. Let me just turn the meeting
18 over to John Broderick.

19 JUSTICE BRODERICK: Thank you --

20 VOICE: May I have your attention, please? We have
21 experienced a false alarm. There is no emergency. Thank you

1 for your cooperation, and we apologize for any inconvenience.

2 CHAIR EAKELEY: John?

3 JUSTICE BRODERICK: Yes?

4 CHAIR EAKELEY: Are you there?

5 JUSTICE BRODERICK: I am, Doug.

6 CHAIR EAKELEY: Okay. We just had a false alarm
7 that we didn't hear.

8 JUSTICE BRODERICK: Okay. Can everyone hear me?

9 SEVERAL: Yes.

10 JUSTICE BRODERICK: I just want to say that none of
11 you have looked better to me than you have this morning.

12 (Laughter.)

13 JUSTICE BRODERICK: And I have never enjoyed your
14 company more than this morning. Let me take just a few
15 minutes, because I know many of you are probably running to
16 airports.

17 Doug has asked me just to briefly review this
18 report. I know all of you have it, and I'm sure you've all
19 had a chance to review it. I just want to make a couple of
20 comments about it.

21 I think the focus of the report is really looking

1 forward, and not stopping on today alone. And it was really
2 designed, I think, to be sort of a footprint to the board in
3 the future, and that all of us would derive whatever benefits
4 we thought appropriate during the balance of our term.

5 But I think that the goal is to create something
6 that would have some life and vitality to it in the future,
7 and to make it sufficiently attractive to future boards that
8 adopt it.

9 Most of us will not likely serve on the Corporation
10 board for more than another year or so, and so while I think
11 we might be able to derive some benefits from the proposals,
12 clearly the principal benefit will be the future boards yet
13 unknown.

14 And so I think it's important to keep that in mind.

15 It was not a document drafted by Tom, Ernestine, and myself
16 to be critical of our board or of anybody on our board, and I
17 hope people understand that.

18 It was an effort to energize the structure of the
19 board and the involvement of board members, not only -- even
20 non-principal, or on the current board, but in the future.

21 And Doug had asked us to take a look at really the

1 function of the board, the protocol, and the process that we
2 follow, and obviously the structure that we follow.

3 And I think, speaking for the other members, Tom
4 and Ernestine, I think our view was that while the board has
5 functioned well, and while we had enormously responsibilities
6 over the time we've been there, we could perhaps enhance and
7 improve it.

8 And I think the feeling was that the participation
9 of members of the board was somewhat uneven, not totally
10 because of the structure we follow, but certainly in part
11 because of that, and it could have been, and perhaps could be
12 more inclusive, and engage people more directly and more
13 fully.

14 And with that in mind, Tom, Ernestine, and I spent
15 some time thinking about ways that the board could be
16 enhanced as an institution, and we set forth a number of
17 recommendations, I think beginning at page eight of your
18 memo.

19 And I don't know whether anyone's had time to spend
20 much time reviewing them. It would seem to me that if there
21 was firm consensus, some of them perhaps could be implemented

1 immediately at no real cost to the institution. Others,
2 perhaps, require more discussion, and some would require some
3 increased staff or increased cost, which we may not be able
4 to accommodate, but perhaps in the future, other boards, if
5 they're interested, would do that.

6 I think, ideally, I would like to be with you in
7 Austin, and would like to have some time to talk about these
8 and to get some input from everyone in an informal way about
9 them. But obviously, that's not going to happen today.

10 CHAIR EAKELEY: Well, John, my thought on this
11 document and the process in general, is that now that we have
12 the strategic directions document -- and hopefully most, if
13 not all, of a strategic plan by the next board meeting --
14 that we take the strategic directions and we take the
15 committee's recommendations and come back to the -- and
16 consult with management and come back to the board with an
17 action plan for the board for the rest of the year that would
18 attempt to incorporate as many of these as possible.

19 I think the one thing in the report that we ought
20 to deal with today, and if others would like to deal with --
21 address other issues we can, but I think that this is the

1 annual meeting, it is the time to elect board chair and vice
2 chair, and to deal with committee assignments, or at least
3 delegate that decision to the board chair, and recommendation
4 number five on the report recommends adopting term limits for
5 board chair and vice chair, and rotate subcommittee
6 chairmanships. And I was wondering whether we ought to take
7 a little bit of time and address that now, before dealing
8 with the last two agenda items. Bill McCalpin?

9 MR. MCCALPIN: Mr. Chairman, it seems to me,
10 without having gone back and looked at them, to adopt term
11 limits for the board chair and the vice chair probably ought
12 to include a revision of the bylaws. And I don't think that
13 we can do that at this time, with the lack of notice for
14 that.

15 It seems to me, if we're going to do that, it ought
16 to be in the bylaws, and not simply by a resolution.

17 CHAIR EAKELEY: We could impose an automatic term
18 limit on the chair and vice chair by voting in --

19 (Laughter.)

20 CHAIR EAKELEY: -- for discussion.

21 MR. MCCALPIN: I understood the supreme court of

1 New Hampshire to say that, "We don't need to do that sort of
2 thing."

3 CHAIR EAKELEY: Well, how about the other, the
4 suggestion of the rotation of committee memberships? I mean,
5 that has been an issue that has come up before. We've
6 discussed it before, and how do people feel about that?

7 MS. WATLINGTON: Isn't that done by the chair?

8 CHAIR EAKELEY: Well, the way we have done it in
9 the past is, the board has authorized me to appoint the
10 committee chairs, and make the committee composition.

11 The discussion we had back in Miami had to do with
12 evening out the assignment of responsibilities and challenges
13 and opportunities of board members, not just in committee
14 assignments, but also in specific other types of work.

15 And this is something we can -- if the sense of the
16 board is that we should rotate, then my mission would be to
17 go ahead with the recommendation of the committee. But I
18 don't want to -- that is not to say anything disparaging
19 about the hard working committee chairs and assignments that
20 we've had.

21 But I think that we have a recommendation in front

1 of us, and we're at the annual meeting, and therefore we
2 ought to decide how to proceed with that. And then on that,
3 your guidance would be appreciated.

4 MS. MERCADO: I know that one of the things we
5 discussed in the Miami strategic planning, or strategies
6 session that we had, was in talking about the rotating but
7 that wasn't done.

8 And I think part of the reality that many of us
9 here around the board looked at is that for the positions of
10 the chair and the vice chair, in as much as it would have
11 been nice over the six years that we'd have to have had some
12 rotating chairs or vice chairs, and we're now at the tail end
13 of our service, so to speak, that at that point in time, in
14 order to have some diversity in the chair and vice chair, by
15 either having someone of a different gender or of a different
16 nationality, that the reality was that those who would be
17 eligible for that didn't have the immediate access to
18 Washington, D.C. to be there in the 45-minute flight, as you
19 would be, or to be there, you know, within a 30-minute drive
20 as John Erlenborn has done, and noted that we wanted both a
21 chair and a vice chair that was bipartisan, you being the

1 Democrat and Erlenborn being the Republican to go up on the
2 Hill.

3 And so consequently, in as much as we wanted to be
4 able to do that, unless, you know, the client reps will want
5 to do that, but I think that because of the restrictions,
6 because of the precarious situation that has happened with
7 funding in Congress, and the immediate turn around, that
8 whether we like it or not, geography there, like in Texas,
9 plays a big role in that you're just right away, you know, a
10 30-minute flight, or whatever it takes you to get there, and
11 John is right there as well.

12 And that seems to be the most accessible. And I
13 think that we recognize that, because I am in trial a lot,
14 and I think, you know, if the other board members are across
15 the country like Tom, or -- well, Edna is way out in the
16 boonies, too. A quick turnaround meeting within two hours in
17 the mid-morning is difficult to do, and we recognize that.

18 And I think that -- because of that, at least at
19 our last session, when we sort of assumed that you would just
20 keep that leadership there, as it were. And yet making sure
21 that in the committee chairs you at least have some

1 diversity.

2 MS. WATLINGTON: I agree with what she said, and
3 also with what Bill is saying -- although I really expect
4 more than a year of all of us coming at the same time -- that
5 is, forces the chair and vice chair -- we should check the
6 bylaws and maybe have kind of a look at it more and do that,
7 but I don't think we should change that at this time, of you
8 know, give them limited terms. I think someone should look
9 at it and go through the bylaws type thing.

10 CHAIR EAKELEY: On the committee chair point?

11 MS. WATLINGTON: We still would leave that up to
12 the chair, and to appoint that like it has been in this --

13 CHAIR EAKELEY: But understand, on the committee
14 chairs, if Bucky were to say to you, "Ernestine, I've had it
15 with provisions. I think you ought to take a try at running
16 the provisions committee."

17 Would you say, "Hell no, I won't go."

18 MS. WATLINGTON: No, I wouldn't. I would do what I
19 did what I've been doing ever since I've been on the board,
20 try to serve and do what I can where people feel that I can.

21 CHAIR EAKELEY: Mr. Smegal?

1 MR. SMEGAL: You know, I was just going to say,
2 with respect to the committee chairs, as we have in the past,
3 delegating to the president the responsibility to make those
4 selections, I see no reason to change that, and if it's
5 within the judgement of the president who should know best
6 that the committee chairs rotate in some way, as the
7 Broderick committee has suggested, I think that would be part
8 of what I would understand the president to do.

9 CHAIR EAKELEY: The chairman?

10 MR. SMEGAL: The chairman to do. I'm sorry. The
11 president isn't part of this.

12 MR. ASKEW: Ernestine, I've had it with the
13 provisions committee, would you please --

14 (Laughter.)

15 MR. ASKEW: I'm conceptually not a fan of term
16 limits, but I am conceptually in favor of this idea. I've
17 been chair of a committee for 6 1/2 years, and I think there
18 are two good reasons why my committee should be rotated.

19 One, it's blocking other people from serving and
20 providing a more useful role, and I think there are a number
21 of board members who could play a very active role as chair

1 of provisions, and I wrote members of my committee after our
2 last board meeting and said we'd sort of fallen into a rut,
3 and I wanted us to reconsider how we were doing our committee
4 business and would like to approach it in a different way,
5 and we need to get together as a committee and discuss how
6 we're going to do it. I think maybe some new leadership, or
7 a new, fresh approach that would help.

8 Secondly, besides giving other people the
9 opportunity, I can get a little tired at it, or a little
10 stuck in a rut, and I think it would be useful, especially,
11 if we're reaching -- or getting toward the end of our terms
12 on the board, to give some other people the opportunity to
13 serve.

14 I have no objection, personally, to the chair
15 rotating my committee chairmanship if he chooses to do so. I
16 think it would be a great opportunity for other board members
17 to serve in ways that they may not have had the opportunity
18 to serve.

19 But I'm quite happy to leave it up to the chair to
20 make that decision, as he always has, and follow whatever
21 decision he chooses to make. Thank you, Ernestine.

1 MS. MERCADO: I agree, as well, although I would
2 not want to be chair of the ops and regs committee --

3 (Laughter.)

4 MS. MERCADO: -- even though I am their honorary
5 committee person, because I'm always there at their regs
6 meeting, because I'd rather sit there and work with them
7 through the regs than get it in the mail and work with it
8 then, so I understand that.

9 I definitely feel that, you know, if the chair
10 feels so inclined to allow the members to chair those
11 committees, then --

12 CHAIR EAKELEY: Bill?

13 MR. MCCALPIN: It seems to me, Mr. Chairman, that
14 rotation of committee service involves a tradeoff, a tradeoff
15 between the experience you gave over long service on the
16 committee, and alternatively, the opportunity for new ideas,
17 new fertilization of ideas within a particular committee.

18 I think this relates not just to the chair of the
19 committee, but to the members of the committees as well. I
20 think it's possible for people to come down on different
21 sides of the weight of those particular tradeoffs, of

1 experience versus new ideas.

2 Contrary to what I said earlier, about the chair
3 and the vice chair, I don't think that we want to memorialize
4 anything about committee chairs or committee service in the
5 bylaws. I think that that ought to be left free, as a matter
6 of principle, for the boards in the future, chairs in the
7 future, to decide as the circumstances warrant.

8 I personally -- when we came to the board six-plus
9 years ago, as Bucky said, we were all asked what we would
10 like to do in the way of service. My recollection is that I
11 said to you at that time that I had some experience in the
12 umbrella group that formulated the first regulations of the
13 board, of the first board, indeed, before that first board
14 was actually sworn into office, that in my prior service on
15 the board, I had served on the -- what was -- whatever the
16 finance committee was then called, and I would be happy to go
17 either way and you made the choice to put me on operations
18 and regulations, and I have enjoyed and profited from that
19 service over the years.

20 I am perfectly content to continue there, but on
21 the other hand, I would also be happy to serve in any place

1 that would suit you, in terms of looking at the composition
2 of the board as a whole, what we have available, where it
3 could be, and beyond serving on the committees dictated by
4 the bylaws, I'm perfectly happy to serve as the utility
5 infielder any time I may be needed.

6 CHAIR EAKELEY: All right. Any other comments or
7 suggestions? Let's just --

8 MR. ERLNBORN: I'm sorry, Mr. Chairman, let me
9 just quickly say that I know that the chair has been seeking
10 some guidance from the members of the board, obviously under
11 the bylaws you have a right to make those determinations as
12 to who will serve on committees and who will serve as chair
13 of the various committee.

14 I perceive that there seems to be if not unanimity,
15 at least there's a strong indication that the members of the
16 board are willing to let you make changes, if you so desire.

17 I don't think the board is opposed to that, and both as to
18 chair and members, that is, and I would agree with what
19 appears to be almost a consensus.

20 CHAIR EAKELEY: All right. Well, if that's the
21 case, I think we have -- John, you want to -- we've got this

1 action that we've got to elect a board chair, vice chair, and
2 authorize the chair to appoint committees, which need not
3 take a long time, but I don't want to cut off this
4 discussion, if anyone else wants to say something, or if John
5 Broderick wants to add his benediction.

6 JUSTICE BRODERICK: No, I've heard the discussion,
7 and I think it's constructive. I think there are many other
8 things the board needs to consider doing, in addition to what
9 you've been talking about, and many of them are recounted in
10 the memo. But I don't think the time to do that is today,
11 and I take your comments as they were intended, and I think,
12 you know, going forward, we could take a look at them in view
13 of strategic planning and other issues.

14 CHAIR EAKELEY: Good, okay. Well, I think you and
15 I should get together soon, John, and pay a visit jointly to
16 John McKay, and then maybe add the other committee members,
17 as well, and invite them, and talk about shaping the next
18 board meeting.

19 If I may just move us back to the agenda and call
20 for nominations for board chair.

21 MS. MERCADO: Do we need to approve this report?

1 CHAIR EAKELEY: I think it's a -- these are
2 recommendations, and I think it gives us a sense of the
3 committee, so we've accepted them.

4 MS. MERCADO: Just accept it?

5 CHAIR EAKELEY: I mean, we should say with thanks
6 to the committee, also.

7 MS. MERCADO: And I really do think the
8 recommendations on there, on pages 8 through 11, are really
9 great recommendations, Chairman Broderick -- or your honor,
10 either way.

11 JUSTICE BRODERICK: Well, it's a three-person
12 committee, and we spent some time on it. So I hope they're
13 helpful.

14 CHAIR EAKELEY: I think so.

15 JUSTICE BRODERICK: I think they'll be profitable
16 to discuss further.

17 CHAIR EAKELEY: Okay. Board chair.

18 M O T I O N

19 MS. WATLINGTON: Well, I'd like to nominate that
20 Doug Eakeley continues chairperson. I have been his -- since
21 our beginning, except the one I missed when I was ill, so I

1 want to continue.

2 CHAIR EAKELEY: You're on a roll. Thank you,
3 Ernestine. Any other nominations?

4 MS. FAIRBANKS-WILLIAMS: I move the nomination,
5 please.

6 CHAIR EAKELEY: Nominations closed?

7 MR. ERLNBORN: There's a second necessary.

8 CHAIR EAKELEY: Edna seconded it. Okay, all those
9 in favor?

10 (Chorus of ayes.)

11 CHAIR EAKELEY: Naves? Abstains?

12 (No response.)

13 CHAIR EAKELEY: Thank you very much. Board Vice-
14 Chair?

15 M O T I O N

16 MS. MERCADO: I nominate John Erlernborn for vice-
17 chair.

18 CHAIR EAKELEY: Second?

19 MS. WATLINGTON: Second.

20 CHAIR EAKELEY: Any other nominations? Hearing all
21 those in favor of re-electing John Erlernborn?

1 (Chorus of ayes.)

2 (Laughter.)

3 CHAIR EAKELEY: Opposed? Abstains?

4 MR. ERLNBORN: Go ahead, you can announce it.

5 CHAIR EAKELEY: The ayes have it.

6 MR. ERLNBORN: I was just going to say the last
7 time I didn't vote for myself was a high school election. I
8 voted for myself in every other election I've held.

9 (Laughter.)

10 M O T I O N

11 CHAIR EAKELEY: Then could we entertain a motion,
12 assuming this is the consensus, can we have a motion to
13 authorize the board chair to appoint -- to make the committee
14 assignments for calendar year 2000?

15 MR. MCCALPIN: So moved

16 MR. SMEGAL: Second.

17 MS. WATLINGTON: Second.

18 CHAIR EAKELEY: And part of that will be to
19 designate committee chairs, as well as make the committee
20 sets. Any further discussion?

21 (No response.)

1 CHAIR EAKELEY: Any further discussion?

2 (No response.)

3 CHAIR EAKELEY: All those in favor?

4 (Chorus of ayes.)

5 CHAIR EAKELEY: Opposed?

6 (No response.)

7 CHAIR EAKELEY: Abstain?

8 (No response.)

9 CHAIR EAKELEY: The ayes have it. The motion
10 carries.

11 Before we go into executive session -- and I think
12 that is the end of our open session, except for the welcoming
13 of Velva Price, who is president of the Travis County Bar
14 Association, and I'm so sorry that I didn't have a chance to
15 thank you on Thursday night for your wonderful hospitality at
16 the state capital.

17 MS. PRICE: Oh, that's okay.

18 CHAIR EAKELEY: Ed, are we losing you, or -- okay,
19 I'm sorry. We're nervously -- I promised the inspector
20 general he could come into the executive session quickly, so
21 that we could all leave quickly. But in order to do

1 executive session, we have to clear the room.

2 MS. PRICE: Oh.

3 CHAIR EAKELEY: So we get through with the public
4 business first, and then we come back. And I saw him running
5 and I thought -- well, in any event, it's so nice of you to
6 come here today, and it's -- we've had a wonderful time here
7 in Austin, and I'm very impressed with the people and the
8 programs.

9 And you've just made us feel very much at home.
10 And so let me just introduce you to my board. Ms. Price is,
11 in addition to being president of the Travis County Bar
12 Association, is a litigator with the firm of Don Kaufman and
13 Associates, she's been president of the Austin Black Lawyers
14 Association, president of Travis County Women Lawyers
15 Association, director of the Austin Young Lawyers
16 Association.

17 The co-sponsoring of the events and the staffing of
18 the bar just made it possible for us to have the annual
19 meeting here, and just very nice to have you sort of cap off
20 our meeting with your presence here today.

21 MS. PRICE: Well, I'm going to make this quick,

1 because I know that the weather wherever you guys are going
2 is not getting good, or any better.

3 I'm actually president-elect of the board. I take
4 over as president in July. Gina was unable to be here, so
5 she sent me. I just wanted to say welcome, and thank you for
6 the wonderful run -- well, walk, that's what I did --

7 CHAIR EAKELEY: Some people ran. I walked.

8 MS. PRICE: More importantly, for me personally,
9 thank you for not picking up the cones until we actually got
10 back up the route, because they were right behind us.

11 I mainly wanted to say that the Travis County Bar
12 Association is now an organization of about 3,500 attorneys,
13 and we are -- we have 7,000 in Austin, and hopefully soon
14 we'll be, you know, they will all be members of our
15 organization.

16 But we are deeply committed to legal services to
17 the poor. Actually, I don't know if you know about the long-
18 term legal services. That is an organization which I'm sure
19 Gina has told you about that came out of trying to assist
20 with even more of the -- basically I think that even Legal
21 Services of Central Texas does a wonderful, marvelous job.

1 Unfortunately, the need is overwhelming, and the private Bar
2 has tried to help with that by raising money and giving our
3 own personal efforts on there.

4 And so one way we did, is that the Bar & Grill
5 Singers, which is a bunch of lawyers who come from the Travis
6 County Bar are singing all over the United States, and they
7 put on an annual review, have raised over \$200,000, and they
8 continue to raise money every year.

9 And to thank you for coming, and honoring us with
10 your anniversary year in Austin. We are going to give you
11 gifts of the CDs, not only for the board, but also for the
12 staff, which has been wonderful in trying to coordinate this.
13 So thank you.

14 CHAIR EAKELEY: Well, thank you, but you've got it
15 all reversed. We're the ones who ought to be thanking you
16 and giving you a gift as a token of our appreciate.

17 MS. PRICE: Oh, okay, thank you.

18 (Applause.)

19 CHAIR EAKELEY: Okay, is there any other public
20 business, before we go on with executive session?

21 MR. SMEGAL: Yes, if I may. As a point of personal

1 privilege, I had mentioned earlier, when the presenters were
2 here from El Paso, that we had once before met -- at least I
3 had once before met -- with this board in El Paso, and I just
4 wanted to note that on that occasion, the president of the
5 State Bar of Texas was Bill Whitehurst in 1985, and as a
6 result of that meeting, and a meeting we had in New
7 Hampshire, where Jonathan Ross was the president, and in
8 Massachusetts, where Mike Greco was president, an
9 organization was created in 1985 called Bar Leaders for the
10 Preservation of Legal Services.

11 And that organization was what kept a lot of
12 lawyers involved in a fight with the Reagan administration in
13 the eighties to preserve this corporation, and Bill
14 Whitehurst has just joined us.

15 CHAIR EAKELEY: I wasn't going to close before we
16 acknowledged Bill Whitehurst to say --

17 (Applause.)

18 CHAIR EAKELEY: I think Bucky Askew wants to say a
19 few words, disrespectfully.

20 MR. ASKEW: President-elect Whitehurst was treated
21 with great disrespect at that meeting, and I think we should

1 CHAIR EAKELEY: Second?

2 MS. WATLINGTON: Second.

3 CHAIR EAKELEY: All those in favor?

4 (Chorus of ayes.)

5 CHAIR EAKELEY: We're in executive session.

6 Lunch is served downstairs, and you are all

7 invited. Two minute break for executive session.

8 (Whereupon, at 1:35 p.m., the meeting was adjourned

9 to executive session.)

10

* * * * *

1 CHAIR EAKELEY: Any further business?

2 (No response.)

3 M O T I O N

4 CHAIR EAKELEY: Hearing no further business, we'll
5 entertain a motion to -- the public just arrived.

6 MR. ERLNBORN: I move we adjourn.

7 CHAIR EAKELEY: Is there a second?

8 MR. MCCALPIN: Second.

9 CHAIR EAKELEY: McCalpin second. All those in
10 favor of adjourning?

11 (Chorus of ayes.)

12 CHAIR EAKELEY: We stand adjourned. Thank you very
13 much. Safe trip home, everyone.

14 (Whereupon, at 1:53 p.m., the meeting was
15 adjourned.)

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