

ORIGINAL

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

MEETING OF THE BOARD OF DIRECTORS

OPEN SESSION

Saturday, November 11, 2000

10:00 a.m.

Marriott at Metro Center
12th and H Street, N.W.
Washington, D.C. 20002

BOARD MEMBERS PRESENT:

Douglas S. Eakeley, Chair
F. William McCalpin
Hulett H. Askew
Nancy H. Rogers
Maria Luisa Mercado

John McKay
Hon. John N. Erlenborn
Hon. John Broderick, Jr.
Edna Fairbanks-Williams
Ernestine P. Watlington

STAFF AND PUBLIC PRESENT:

Esther Lardent, President of the Pro Bono Institute
Bonnie Allen, National Legal Aid & Defender Association
John Russenello, Russenello Research
Edouard Quatrevaux, Inspector General
Robin Dafoe, The Legal Aid of Ontario
Leonard Koczur, Inspector General Designate
Victor Fortuno, General Counsel
David Richardson, General Counsel

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P R O C E E D I N G S

1
2 CHAIR EAKELEY: All right, I'd like to call
3 the meeting to order. Welcome, and good morning,
4 everyone.

5 LaVeeda Battle could not be with us this
6 weekend because of a family conflict. John Erlenborn
7 is at a breakfast meeting with one of his classes, and
8 will be here as soon as that is concluded. And Tom
9 Smegal, who was with us yesterday had to return to
10 California for an important -- a very important --
11 partner meeting that was mandatory for all partners.

12 So otherwise, we are here, and those of us who
13 are here are called to order and asked, as the first
14 order of business, for a motion to approve the agenda
15 as submitted.

M O T I O N

16
17 CHAIR EAKELEY: I have one other thing to add,
18 which is in the other business, in the open session
19 part of the calendar, but item 12, "Consider an act on
20 the employment status of the president and inspector
21 general" should basically be changed to read, "Consider
22 an act on the tendered resignation of the inspector

1 general."

2 And under item 16, other business, I would
3 propose that we amend that to read, "Consider and act
4 on the appointment of an acting inspector general."

5 MS. FAIRBANKS-WILLIAMS: Moved.

6 CHAIR EAKELEY: There has been a motion by Ms.
7 Fairbanks-Williams? Is there a --

8 MS. WATLINGTON: Second.

9 CHAIR EAKELEY: Second by Ms. Watlington. All
10 in favor?

11 (Chorus of ayes.)

12 CHAIR EAKELEY: Opposed?

13 (No response.)

14 CHAIR EAKELEY: The ayes have it, and now
15 we're to item two, "Approval of minutes of the board's
16 meeting on September 18, 2000. Those were circulated
17 in advance of the meeting. Are there any corrections,
18 additions, deletions? Mr. McCalpin?

19 MR. MCCALPIN: Let me find it. On page 29,
20 there is a statement that -- determining that the
21 finance committee had concluded its business, Ms.
22 Rogers adjourned the committee's meeting.

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1 I didn't understand that there was a separate
2 meeting within the meeting to be adjourned. I thought
3 that we were sort of sitting as a committee of the
4 whole. I didn't think that there was a formal
5 commencement of a committee meeting, and I was
6 wondering about the adjournment of a committee meeting.

7 MS. MERCADO: You're correct. We just decided
8 to take up the business of the finance committee, and
9 the full board, is what I recollect.

10 CHAIR EAKELEY: Victor, do we have to have the
11 finance committee meeting?

12 MR. FORTUNO: Well, that's simply what the
13 minutes -- the minutes simply reflect what the
14 transcript says. That's the way it was approached.

15 CHAIR EAKELEY: Mr. Fortuno advises that
16 that's the way the transcript reads, but I think,
17 Nancy, whether you --

18 MS. ROGERS: I think it was suggested to me
19 that I do that, and so if I didn't have the power to do
20 it, I am happy to -- wasn't mentioning that I did
21 something that I didn't have the power to do.

22 MR. MCCALPIN: I just didn't understand that

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1 there was a meeting of the finance committee which had
2 been initiated.

3 CHAIR EAKELEY: I think we, in fact, convened
4 the finance committee as part of the meeting of the
5 board, and went through that committee's agenda, and
6 then as if the committee were recommending, we voted on
7 the motion at the time. So --

8 MR. MCKAY: Finance committee business was
9 taken up by the board.

10 CHAIR EAKELEY: The whole board?

11 MS. ROGERS: Yes.

12 MR. MCKAY: If you could just -- in reference
13 to the minutes, I think the reference to adjourning the
14 meeting, you can just delete that from the minutes, and
15 then we'll solve the problem.

16 M O T I O N

17 CHAIR EAKELEY: We don't we just take out that
18 whole sentence?

19 MR. MCKAY: Yes.

20 MS. ROGERS: That is fine with me.

21 CHAIR EAKELEY: All those in favor of --

22 MR. MCCALPIN: I move.

1 CHAIR EAKELEY: That's a motion by Mr.
2 McCalpin.

3 MS. ROGERS: Second.

4 CHAIR EAKELEY: And a second by Ms. Rogers.
5 And all those in favor of amending the minutes -- are
6 there any other amendments to the minutes that need to
7 be made?

8 (No response.)

9 CHAIR EAKELEY: All right, those in favor of
10 amending the minutes on page 29 to delete the sentence
11 determining that the finance committee had concluded
12 all business, say aye.

13 (Chorus of ayes.)

14 CHAIR EAKELEY: Opposed?

15 (No response.)

16 CHAIR EAKELEY: The ayes have it. You also
17 had circulated minutes of the executive session.

18 M O T I O N

19 MR. MCCALPIN: Well, I move we approve the
20 minutes as amended.

21 CHAIR EAKELEY: Thank you, sir.

22 MS. FAIRBANKS-WILLIAMS: I'll second it.

1 CHAIR EAKELEY: All those in favor of
2 approving the minutes as amended?

3 (Chorus of ayes.)

4 CHAIR EAKELEY: All those opposed?

5 (No response.)

6 CHAIR EAKELEY: The ayes have it.

7 Item three, approval of minutes of the
8 executive session of the board's meeting on September
9 18th. Any corrections, changes, deletions?

10 (No response.)

11 M O T I O N

12 CHAIR EAKELEY: Hearing none, is there a
13 motion to approve the minutes of the executive session?

14 MS. MERCADO: So moved.

15 CHAIR EAKELEY: Ms. Mercado so moved.

16 MS. FAIRBANKS-WILLIAMS: Second.

17 CHAIR EAKELEY: And Ms. Fairbanks-Williams
18 seconded. All those in favor?

19 (Chorus of ayes.)

20 CHAIR EAKELEY: Opposed?

21 (No response.)

22 CHAIR EAKELEY: The ayes have it, the minutes

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1 are approved.

2 Now, we move into scheduled public speakers,
3 and right on cue, I wanted to ask to come up to the
4 podium Esther Lardent, representative of the ABA
5 standing committee on the Legal Aid and Indigent
6 Defendants, as well as executive director of the Pro
7 Bono Institute and many other very praiseworthy
8 organizations. Good morning, Esther.

9 MS. LARDENT: Good morning. We're slightly
10 windblown and definitely not quite awake.

11 I really don't have any particular issue to
12 take up with you at all, I just want to bring you
13 greetings from our chair, Jonathan Ross, who
14 unfortunately wasn't able to attend, but who asked me
15 to attend in his stead, and just to let you know how
16 much we value our relationship with this board and with
17 the corporation.

18 And while we're in a time of uncertainty, we
19 know that we're going to be very busy in the months
20 ahead dealing with some new administration, and
21 obviously SCLADE plans to be very active with respect
22 to the transition, with respect to educating a new

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1 administration in leadership and getting their support
2 for legal services, and so we want to work with you in
3 every way that we can to do that.

4 CHAIR EAKELEY: Thank you very much. We
5 enjoyed your presentation yesterday wearing a different
6 hat on the corporate pro bono project.

7 I think it's fair to say -- it goes without
8 saying, but I'll say it anyway -- we share SCLADE's
9 view of our relationship, and it is a very important
10 part of our institutional support and reference points.
11 So thank you for coming, give our regards to Jonathan
12 and your members.

13 MS. LARDENT: Well, thank you.

14 CHAIR EAKELEY: Next, I'd like to invite
15 Bonnie Allen to come up. Not -- Bonnie's not here yet?
16 Okay. And John Russenello, from Russenello Research, I
17 think was -- was John coming -- going to be speaking
18 with Bonnie?

19 PARTICIPANT: No, he's not going to be --

20 CHAIR EAKELEY: Not here? Okay. I don't want
21 to put her on the spot, but we have a visitor from the
22 province of Ontario, Robin Dafoe, who is the corporate

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1 secretary of a new organization called The Legal Aid of
2 Ontario. And Ms. Dafoe, welcome.

3 MS. DAFOE: Thank you.

4 CHAIR EAKELEY: And good morning.

5 MS. DAFOE: Hi. I was alerted to the
6 potential for this by John, so I did think a little bit
7 about it. I'd like to start by thanking everyone for
8 inviting me here, inviting, I guess, our chair, Sidney
9 Linden.

10 He's the -- he was the chief judge of the
11 province of Ontario's court of justice, and was
12 recently, less than two years ago, appointed as the
13 chair of the Legal Aid Services board in Ontario. He
14 sends his regards and I can tell that after being here
15 for a couple of days, he will be interested in coming
16 back. So I don't think you've heard the last from
17 Ontario.

18 Thanks to Bill and to Maria Louisa. I met
19 them in Quebec, and at the conference there, the
20 Canadian conference, and I believe John has been to one
21 in the past, but I wasn't at that one.

22 I guess I would give a little bit of context

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1 to my position in Ontario. The corporate secretary is
2 an officer appointed by the board. And so I work for
3 the chair and the board. It's a little bit different.

4 And so I came here to learn about -- and
5 apologize for my voice -- I came here to learn about
6 how you operate, how your board functions, how your
7 committee's are structured, and I've learned a great
8 deal. You're very efficient, your committee works --
9 your committees yesterday were very impressive, and so
10 I'll take back some of the ideas that I learned.

11 During the past year, we didn't have a
12 president. The corporation was created, as I said,
13 less than two years ago. The board was fully appointed
14 last January, and the president left at the end of
15 March.

16 So the chair in Ontario is a full-time
17 position, salaried, paid position, stepped in and did
18 the CEO's responsibilities as well. So for the last
19 number of months, we've been busy with the operational
20 side of the business.

21 And in Ontario, that involves -- we have 70
22 community legal clinics, which I think are similar to

1 your programs, you call them. We have 50 area offices
2 which support our judicare program, and that is the
3 majority of the work that we do, it's more than 50
4 percent of our budget.

5 Our budget is \$270 million for the province,
6 of which \$230 million is provided by the province, and
7 the rest comes from what you would call IOLTAs, or most
8 of it from the Law Foundation, we call it there.

9 We also have staff lawyers, duty counsel,
10 which we have in all court -- most locations to provide
11 services to people who come in without a lawyer, and
12 either direct them to the community legal clinics, the
13 judicare lawyers, or to help them that day in the
14 court. So that's a pretty comprehensive system as
15 well.

16 And we also provide services, the corporation
17 provides services to all of those service providers.
18 So we have a little more responsibility, I guess,
19 beyond the granting role that you have. We have that
20 as well, but we do some services.

21 So I've learned a great deal about all of the
22 aspects of your business, and we had Stephen Orchard

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1 from England and Wales come to speak at a conference
2 recently. And after being here and listening to
3 Stephen, it's obvious that all jurisdictions are
4 looking at the same issues, you know, needs
5 assessments, trying to justify getting the money,
6 quality assurance, trying to justify keeping the money,
7 and you know, making the whole system work better.

8 And it's obvious that we're all committed to
9 client services, getting the needs of those who need
10 it, low income, disadvantaged individuals in our
11 community the legal services they so much need. And so
12 I hope we can continue to interact and share ideas for
13 the achievement of that goal.

14 So, thank you very much for having me. It's
15 been a really good experience. Thanks.

16 CHAIR EAKELEY: Thank you. I understand that
17 the \$270 million is spent on both civil and criminal
18 legal representation.

19 MS. DAFOE: That's correct. The judicare
20 system supports the criminal and family. Our community
21 legal clinics do the other civil. They don't do the
22 family, like your programs do.

1 CHAIR EAKELEY: Is it possible to break out
2 the amount of funding spent on civil, which includes
3 family, or --

4 MS. DAFOE: Which includes family? We could
5 do that.

6 CHAIR EAKELEY: I'm just looking the
7 operability --

8 MS. DAFOE: We look at our judicare budget,
9 you know, family and criminal, and then the community
10 legal clinics. But we could look at how much money is
11 spent on family certificates and combine that with
12 our --

13 CHAIR EAKELEY: I'm just curious to see -- we
14 spend a lot of time trying to develop comparative
15 analyses of resources made available to address needs
16 of given poverty populations. I'm not sure what the
17 population of the province of Ontario is --

18 MS. FAIRBANKS-WILLIAMS: That was the question
19 I was going to ask.

20 MS. DAFOE: The poverty population? No, I
21 don't know that off the top of our head -- my head.
22 Our general population is about 12 million to 14

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1 million, but what percentage of that --

2 CHAIR EAKELEY: But by the sound of it, you're
3 not as resource-challenged as we are.

4 MS. DAFOE: Not currently, no. We've had some
5 crises. In 1995, funding was slashed and we're
6 building back as well. But no. Currently, we're in a
7 very good financial situation. We actually can't spend
8 our money as fast as we want to. But that's --

9 CHAIR EAKELEY: Would you like some help?
10 (Laughter.)

11 MS. DAFOE: We are expanding. We're opening
12 another number of clinics, community legal clinics, in
13 the next year, because of this money. But it takes a
14 while to get those programs up and running and staffed,
15 and their community boards, and that whole process
16 takes time.

17 CHAIR EAKELEY: Well, we appreciate your
18 coming. I think we have a lot to learn as well, and
19 Bill McCalpin, who has been paying an annual visit
20 to --

21 MS. DAFOE: Well, I --

22 CHAIR EAKELEY: -- Canada, comes back, and

1 then -- and then has actually brought Maria Louisa with
2 him -- and comes back aglow with the experience. And I
3 can see why.

4 MR. MCCALPIN: Two points I would make is that
5 they do a lot of what they call alien representation,
6 which --

7 MS. DAFOE: Immigration --

8 MR. MCCALPIN: -- we have largely denied --

9 MS. DAFOE: That's correct.

10 MR. MCCALPIN: -- to do, and that's a very
11 substantial part of their representation.

12 Secondly, they do a lot of work with what, in
13 Canada, they call aborigines, that we call Native
14 Americans.

15 MS. DAFOE: Yes, special programs.

16 MR. MCCALPIN: And there is a very substantial
17 amount of work, particularly in northern Ontario, I
18 think.

19 So in those areas, their representation is
20 somewhat different than ours, quantitatively.

21 MS. DAFOE: Yes. On the -- the community
22 legal clinic budget is about \$38 million, and we're

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1 infusing another -- about \$10 million into that in the
2 next year. So that -- just to give you a sense of the
3 civil commitment. But it's an exciting time of growth
4 in Ontario.

5 CHAIR EAKELEY: Any other questions or
6 comments? No? John?

7 MR. MCKAY: I would just like to thank Robin
8 for coming and her -- the new program in Ontario, we
9 congratulate you on its formation. We have an interest
10 in maintaining staff-level contacts with the plans in
11 Canada, based on your experience with the federal
12 organizations through Ab Curry --

13 MS. DAFOE: That's right.

14 MR. MCKAY: -- whom Bill introduced me to on a
15 previous visit. I think the analytical capabilities in
16 your system are superior to ours, and we have a lot to
17 learn from you, and much of which we can and should
18 emulate.

19 And I think that our board should be aware
20 that we believe that there is substantial value in
21 maintaining these kinds of contacts. Not just for
22 shared experiences, but for issues such as analytical,

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1 structure, comparability. And in that sense I mean
2 resource comparability --

3 MS. DAFOE: Exactly.

4 MR. MCKAY: -- that exists between programs
5 here in the United States, programs in Canada, England,
6 and Europe, and that we really need to keep those kinds
7 of contacts. And they're hungry, I think, for that
8 information from us.

9 MS. DAFOE: Yes.

10 MR. MCKAY: And I wanted to thank you for
11 coming.

12 MS. DAFOE: Yes, definitely. Thank you for
13 having me.

14 CHAIR EAKELEY: Next I'd like to invite Bonnie
15 Allen, from the National Legal Aid and Defender
16 Association to come to the -- I keep saying -- it's not
17 a podium, is it? It's a table. It's a table in front
18 of us with a -- good morning.

19 MS. ALLEN: Thank you. Good morning. It's
20 great to be here. Thank you for the invitation to
21 present.

22 I'm Bonnie Allen. I work at the National

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1 Legal Aid and Defender Association. And part of my
2 work there is on the Project for the Future of Equal
3 Justice, which I believe you've heard a little bit
4 about in prior reports.

5 So I'm not going to go into a lot of detail,
6 other than just to say that the project is a project
7 that was funded several years ago by the Ford
8 Foundation and the Open Society Institute that is
9 designed to help our entire community build capacity in
10 this rapidly changing environment of civil legal
11 services with an emphasis, in particular, in the areas
12 of technology and resource development.

13 And I have worked on the resource development
14 angle, trying to help cultivate our landscape
15 nationally, as well as at the state level, that will
16 help our programs raise support, both financial
17 support, pro bono support, and ultimately, political
18 support at the state legislative level.

19 What I'm going to talk about today is a very
20 interesting project that started about a year, or a
21 year-and-a-half ago, that's a public opinion research
22 project.

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1 It was -- we went into the research with the
2 intention of trying to really talk to the public about
3 legal services, what is it, what are the attitudes,
4 what are the currents of public opinion, what are the
5 attitudes that folks have about legal aid that aren't
6 immediately involved in it?

7 And it's been a very, very interesting
8 process. So I'm going to tell you just a little bit
9 this morning about why we engaged in the public opinion
10 research, what -- how we went about doing that, what
11 the process was, what the research findings are, and
12 then finally, where we're going with all this, what our
13 plans are in terms of developing specific
14 communications products for various groups at the
15 national, state, and local level.

16 The -- in terms of why we did a national
17 study, this is a situation where it was very ground-up,
18 very much of a grass roots request to some of us that
19 work at the national level to begin to talk to the
20 public about legal aid, find out how much support there
21 really is out there, and then develop some very
22 specific communications materials to help programs,

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1 particularly at the state and local level, raise money,
2 and develop public support.

3 So this was a response to a request that
4 really came from the field. We wanted to raise public
5 awareness about civil legal aid at the national level,
6 to reinforce that it is, in fact, an issue of great
7 national importance, great public importance.

8 And secondly, to provide a research basis for
9 state and local groups to develop integrated marketing
10 strategies, to get the message out to the public and to
11 targeted audiences of supporters about why it's so
12 important to support legal services through
13 fundraising, through pro bono, and ultimately through
14 legislative initiatives.

15 In both cases, the research and the message
16 materials that we produce at the end of this process
17 will provide an umbrella, or a national branding, for
18 legal aid.

19 It's sort of the United Way approach, that
20 while we're all -- while our programs are very
21 community-based and have relationships at the local
22 level and are serving clients at the local level, that

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1 in fact, they are part of this sort of a United Way-
2 type of approach, that there is, in fact, a national
3 branding as well as a local branding for legal
4 services.

5 In terms of how we went about doing the
6 research, we talked to a number of public relations
7 firms, and ended up hiring Belden Russenello & Stewart,
8 a local firm here, a very small firm, that specializes
9 in public interest research, and even more
10 specifically, has done a lot of work in law-related
11 areas.

12 They've worked on judicial independence,
13 they've worked on juvenile justice issues, they've done
14 research on various indigent defense issues and death
15 penalty issues, and so they're very, very steeped, in
16 terms of background, in these related areas.

17 And the first step that the Russenello firm
18 took -- well, we didn't want to enter this as though --
19 in a vacuum, as though there had never -- there was not
20 already some information out there on at least related
21 issues to legal aid.

22 So they did an assessment of current, or pre-

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1 existing public opinion polls that had already taken
2 place. And the ABA had done some polling in the past,
3 the ACLU had done some polling in the past.

4 None of them were really completely on point.
5 None of them specifically probed the issue of legal
6 aid, but there were some questions and some findings
7 that came out of those polls that were relevant to
8 people's confidence level, or lack thereof, in the
9 court system, whether the public perceived that people
10 were treated fairly, that sort of a thing.

11 Then went out and talked, interviewed, a
12 number of different folks, both volunteers and staff
13 people who work in the legal services system. And
14 those interviews reinforced the need for this kind of
15 work, that in fact there was a real cry for some kind
16 of national research and materials to help programs at
17 the local level.

18 And so, on the basis of that, we went out and
19 talked to the public. Conducted 10 focus groups in 5
20 different cities, did a national telephone survey of
21 1,200 people, and then we -- and finally, we tested, on
22 the basis of the information and the results that came

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1 out of the poll and of the focus groups, we then tested
2 specific messages and graphics in two additional focus
3 groups, just recently.

4 And so I'm going to give you just a few
5 highlights. Unfortunately, John Russenello, who is --
6 who did the actual research and is our consultant on
7 the project -- some of you may have heard John present
8 in other places. He does an excellent job with
9 overheads. John was not available today, so I'm really
10 here, sort of standing in for John. But I'm going to
11 attempt to just give you a few highlights of the
12 research.

13 There will be a full report at the NLADA
14 conference this release. And if any of you want the
15 full report, you can just contact me. And I have a
16 hand-out that I'll send around at the end of this that
17 has my contact information.

18 I'm just going to give you a few highlights of
19 the research, and then -- John, can you -- and then
20 talk a little bit about where we're going, in terms of
21 implementing a communications initiative.

22 It's -- the great thing about talking about

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1 this project is that the news is really, really
2 positive. I mean, we have extremely strong public
3 support for civil legal services for low-income people.
4 Eight-nine percent of the public -- and this was
5 consistent in the polls, and reinforced by the focus
6 groups -- eighty-nine percent of the public believes in
7 the work that we do.

8 When the information is added, specifically
9 that this is a government-funded program, a taxpayer-
10 funded program, that support goes down a little bit,
11 but only a little bit, six percent.

12 So 82 percent of the public -- and this was a
13 bipartisan poll, conservative, liberal, men, women
14 supports civil legal services for low-income people, 82
15 percent. The values that underlie this support are
16 fairness and responsibility to help other people.

17 Now, the challenges that we face, in terms of
18 educating the public and communicating the public about
19 this work are -- they really fall into three
20 categories.

21 One is -- and this, I think, is really the
22 most serious obstacle -- people don't know about us.

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1 When you describe the work that legal services programs
2 do, people are with us. But we're sort of invisible.
3 You know, we're not Habitat for Humanity quite yet, you
4 know, and we're not -- we don't have visibility in
5 terms of an important public service.

6 And so the biggest challenge, really, is the
7 level of awareness, and also there's a lack perception
8 of the need, which I'll talk about a little bit more in
9 a minute.

10 The second area of challenge relates to this
11 anti-litigation sentiment that is really not about
12 legal aid, but it's about lawyers, and it's about the
13 legal aid system.

14 We are, unfortunately, subject to the public's
15 overall concerns about the fact that there are too many
16 lawsuits, or their perceptions that there are too many
17 lawsuits. That's not a legal aid issue, that's a legal
18 system issue, but we get wrapped up in that.

19 And then third, there are concerns about the
20 cost of another government program. So we do have to
21 deal with that and have ways to talk about it as a
22 private/public partnership, and as a community-based

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1 non-profit.

2 There is broad -- another area of findings
3 that we tested -- there is broad support for a full
4 range of advocacy. We did test the restrictions
5 somewhat.

6 We did -- that was not the focus of this
7 research, by any means, but there were some questions
8 that tested certain types -- you know, class actions,
9 for example, we tested. The public supports the full
10 range. I mean, the public thinks that poor people
11 ought to have access to lawyers as much as anyone else,
12 and ought to be not restricted.

13 However -- and I think local programs have
14 figured this out -- however, there is, by far, the
15 strongest support for advice and negotiation. Again,
16 getting -- we're bumping into that sort of anti-
17 litigation sentiment.

18 So while we shouldn't be afraid to talk to the
19 public about litigation or class actions or a full
20 range of advocacy, that's not the strongest argument.
21 You don't lead off with that, that you know, we're all
22 about suing everybody that we can. That's not our

1 strongest argument.

2 The strongest argument is actually a most
3 accurate argument. It's an accurate description of
4 what legal aid programs mostly do, which is help people
5 resolve day-to-day problems, and that most of those are
6 handled through advice and negotiation and settlements,
7 and that sort of a thing.

8 In terms of the values that underlie support,
9 fairness and equality, ensuring that everyone has
10 access to justice, responsibility to help others, and
11 then thirdly, responsibility to the community to solve
12 community problems.

13 Although again, the public is much more
14 receptive when you talk about individual clients and
15 individual stories, as opposed to the discussions about
16 helping the community.

17 We were, frankly, surprised by that. You
18 know, we went in thinking that the best way to sell
19 this is to tell people that it's good for the community
20 if you help poor people. And in fact, people -- the
21 inherent underlying values, and what people connect
22 with most easily, is helping that individual person who

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1 really, really needs some help.

2 A couple of other highlights. The interesting
3 and somewhat depressing finding is that again,
4 hearkening back to what I said earlier, that people
5 really don't know a whole lot about who we are, less
6 than half of the public knows, really, anything about
7 civil legal services. And about 38 percent knows that
8 civil legal services, or something like that, exists,
9 but they don't know what it's called.

10 Only 13 percent know about legal aid, and can
11 name it. They can say -- you know, and interestingly,
12 legal aid has much stronger name recognition than legal
13 services. Only 1 percent, I think, of the public
14 thought that legal services had -- was a term of --
15 they thought it was too generic, and that legal aid was
16 much more specific.

17 And then an even smaller percent -- I think
18 somewhere between one to three percent -- were able to
19 name their local legal aid or legal services program in
20 the community. So there is clearly a very, very huge
21 need for educating the public about this work.

22 I think that touched on most of the points.

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1 The only -- just a few other points about the research
2 findings. What we discovered is that the more
3 specifically that we describe legal services work, the
4 better that people connect with it. And so, that it's
5 important, in terms of taglines and messages that you
6 say specifically what it is that we do.

7 The most convincing message -- and this came
8 up in both the poll and the focus group -- was this
9 one, this is just one example that came out on top.
10 Legal aid makes a difference for the single mother who
11 needs to receive child support in order to feed her
12 children, for the veteran who needs his disability
13 check or won't have a place to live, for the child
14 being abused to ensure a safe and loving home. This
15 was the most convincing message.

16 And the types of cases that were the most
17 sympathetic -- and these are -- none of these are
18 surprising, I don't think, to any of us -- child abuse,
19 number one, elderly people and denying Medicare
20 benefits, that sort of thing, legal advice to women in
21 domestic violence cases, helping veterans who have been
22 denied their veteran's benefits. And then, consumer

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1 fraud, helping community groups to solve problems,
2 challenging welfare policies, and group actions.

3 All still had more than 50 percent, but --
4 they all had more than a majority of support in all
5 those types of cases, but those first four were the
6 most compelling.

7 Just in closing, in terms of the research, and
8 then I'll just talk a minute about where we're going,
9 John's -- John Russenello's -- advice to us in terms of
10 recommendations about communication strategies is that
11 there are three recommendations that he has about
12 describing legal aid cases, that you need to answer
13 these three questions.

14 One, did the person seeking legal advice truly
15 need legal advice, as opposed to some other type of
16 help, social services, or could the person's problem be
17 solved without legal intervention?

18 Two, could the person have received legal
19 advice from other sources? We talked a lot in the
20 focus groups about, you know, there were a lot of
21 comments to the effect of, "Oh, if you have a phone,
22 you have a lawyer," you know, and that's all that

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1 lawyer -- it's a response to lawyer advertising, that
2 there is a perception that advertising has created that
3 there is a lawyer for everybody.

4 And so it was interesting in the focus groups
5 to hear that type of feedback. And so it's very
6 important to explain that legal aid helps when no one
7 else is there.

8 And particularly, when you're talking about
9 group actions or class actions, you have to make it
10 very clear that it's not about money. Because the
11 minute it's about money -- the McDonald's case came up
12 in every single focus group.

13 So that you have to educate the public, or I
14 think even some private bar audiences, or even other
15 target audiences, that we're talking about cases that
16 -- where there is no lawyer or law firm that's willing
17 to take it on a contingency fee-basis.

18 Interestingly, the class action case and the
19 group action case that we tested was sort of the
20 classic incinerator in a poor neighborhood. And that
21 tested out pretty well. But not because it was so much
22 about a class action, but more environmental. People

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1 were very interested in health and in environmental
2 issues.

3 And then finally, would a serious injustice or
4 harm have occurred if civil legal aid professionals had
5 not stepped in to help?

6 So those are some key communications tips.
7 Just briefly, in terms of where we're going with the
8 research, there will be a final report released in just
9 a few weeks that contains a summary of the research, a
10 recommended tag line.

11 And I can't tell you exactly what the tag line
12 is going to be, but I do know generally that they're
13 working with this idea of, "legal aid when no one else
14 is there to help" concept, and that there will be a
15 sub-message, or a sub-tag line, "Please help us help,
16 you know, those who need help."

17 So it is a case for support-type of a tag
18 line, that we really are asking the public and target
19 audiences -- which I'll talk about briefly -- to help
20 us help the folks that really need legal help.

21 There also will be ad slicks in just a few
22 weeks. There will be ad slicks that have a tab line

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1 and a graphic, a picture of a client, an elderly woman
2 who is about to be evicted, or a child who has been
3 abused, and we'll have specific messages and graphics.
4 And those can be localized. Those are going to be made
5 available to our -- to the programs, so that they can
6 put their own name on it, their own contact
7 information, tweak it.

8 I mean, one of the things that we heard over
9 and over again as we were developing this is, "Whatever
10 you produce nationally, please make it -- you know, do
11 it in a format that it can be localized, and tailored
12 locally." And so we will be doing that with our
13 products.

14 And then early in 2001, next year, we will
15 start producing some materials, starting with PSAs,
16 public service announcements, for print and radio in
17 the beginning and hopefully also television. That's a
18 lot more expensive, so we'll have to make sure we have
19 the funding for that, but at least with print and
20 radio. And those will be distributed to our programs
21 who can then disseminate them into their local media
22 markets.

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1 We'll be producing communications tool kits.
2 Elizabeth Arlege, who is the NLADA communications
3 director, will be helping with that.

4 And I want to just say one thing at this point
5 that I didn't mention earlier. This entire process has
6 been guided by an advisory group that has been a very
7 active advisory group. And that advisory group is
8 going to continue to work through the production of
9 materials stage, as well.

10 We felt that it was very important that this
11 be a product of the community, and not just something
12 that one organization produced. So Mauricio sits on
13 the advisory group, Bob Evans, from the ABA, as well as
14 Terry Brooks, folks from the Brennan Center for the
15 Management -- and we also have some IOLTA directors and
16 local project directors and state support people as
17 well.

18 There's also a larger advisory group that has
19 private bar representation, general counsels, and
20 foundation folks, other national non-profits. So we
21 really did want to have a process that was open, and
22 that will continue.

1 And I think that the -- in terms of what we do
2 with rolling out these products, it's going to be very,
3 very important that we get input from as many different
4 folks as possible to make sure that this is always,
5 always, from day one and continues to be something that
6 we want to be practical and usable.

7 So the communications tool kits will involve
8 -- will include talking points, media materials, press
9 releases, sample articles, sort of a how-to guide, how
10 to use the kit.

11 We'll also be doing some trainings over the
12 next year of both legal services staff and volunteer
13 leaders at the various national conferences, and also
14 at some regional conferences and in bar meetings.

15 And in these trainings, we will have folks
16 learn what the messages are that have been tested, how
17 to stay on message, how to work with the media, and
18 then how to use these communications products.

19 Just finally, the -- in terms of target
20 audiences, the research has been general public
21 research. We felt that it was very, very important to
22 talk to the people, the public first, and find out what

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1 people did or didn't know about us. And I think that,
2 reflecting back on it, that really has been a great --
3 something we've never truly done before in legal
4 services.

5 But we also know that our support that's
6 critical to our political support before Congress as
7 well as state legislatures, as well as financial
8 support at the state and local level, as well as
9 continuing to expand pro bono, that there -- that the
10 private bar is critical to that.

11 And they have been our supporters for a long,
12 long time, and we need to grow that support, and that
13 also the business community is emerging as a very, very
14 key player, particularly in some of these state
15 legislative appropriations.

16 What happened in Massachusetts this year was a
17 combination of law firm leaders and general counsels
18 from major corporations in Massachusetts getting
19 together and supporting a very, very large increase in
20 the legislative appropriation. And it wouldn't have
21 happened without it.

22 Letters from general counsels from the major

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1 corporations up there made that happen. And that is a
2 trend that is beginning to happen at the -- in state
3 legislative appropriations, and also in local
4 communities, with fundraising efforts.

5 Tulsa is a community -- and I think John, you
6 were there -- where they've had very strong support
7 from the general counsels. The Twin Cities and
8 Minnesota has had that for a long time.

9 And all over the country, more and more, the
10 general counsels are beginning to chair or co-chair
11 some of the private bar campaigns, and it's very
12 important to have the general counsels, as an access
13 point to the business community, working very closely
14 with law firms and in the private bar to grow this
15 support.

16 So we'll be doing some interviewing of general
17 counsels and bar leaders, using the general public
18 research as a starting point, but asking them to help
19 us refine messages.

20 And then also developing materials that are
21 specifically geared for those audiences, you know,
22 materials for going to the law firm, if you're starting

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1 a private bar campaign in your community, particularly
2 some of these smaller communities that don't have the
3 sophisticated marketing products that some of the
4 larger communities have.

5 And similarly, if you want to meet with some
6 of -- if your Chamber of Commerce, if you're in a
7 smaller town, or a group of general counsels, you want
8 to have materials that tell them why legal services for
9 low-income people is good for business. So we'll be
10 developing some specific materials for those audiences
11 as well.

12 And then in closing, I just want to mention
13 that a number of states are picking up on the national
14 research, and developing statewide communication
15 strategies as part of their overall state planning.

16 Florida is developing a communications
17 campaign through the Florida Bar Foundation. They're
18 going to be hiring Doug Gould, which is a public
19 relations firm in New York that we're going to be
20 using. We're already using Doug, actually, to develop
21 the ad slicks.

22 And so we're working very closely with the

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1 Florida Bar Foundation to coordinate, to make sure that
2 they have -- are able to take full advantage of the
3 national research, and then apply it at the state
4 level.

5 And that communications campaign will be
6 designed to help the foundation expand its visibility
7 institutionally, but also to expand the visibility of
8 its grantees.

9 Georgia, Georgia Legal Services, which covers
10 most of the state, is similarly developing a
11 communications initiative designed to help them grow
12 their -- expand their pro bono support, as well as
13 fundraising and the political support, the broader
14 state legislative or local funding sources.

15 They have applied for a grant with a local PR
16 firm that gives a community-based grant each year to a
17 non-profit who gives them free public relations work
18 through a grant. And they, also, will be tapping into
19 the national research.

20 In Texas, the Texas Bar Foundation has just
21 funded a communications initiative, similar to Florida,
22 and we'll be tapping into the Russenello Research as a

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1 starting point.

2 And then in North Carolina, the Legal Services
3 of North Carolina, the almost statewide program,
4 although it is a moving target in North Carolina, but I
5 -- the -- they have hired a communications director
6 there as part of their capacity-building, to develop
7 statewide -- or, almost statewide -- communications
8 strategies.

9 And then finally, just a plug for sort of
10 inspiration from the northwest. Washington and Oregon,
11 really, are way ahead of the game on this. I mean,
12 they've been working on message strategies for a long
13 time.

14 And actually, when we started the national
15 project, we were in very close contact with Lauren
16 Moore, and some of the other folks out in Washington
17 State, because they had done some research already.

18 And they're incorporating it into a public
19 education campaign. I mean, they're actually -- last
20 summer, they started a project where they started
21 talking to people in the streets about legal services,
22 and very much of a grassroots campaign.

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1 And in Oregon, they are developing some very
2 sophisticated media strategies and really doing a lot
3 of great work with the media. The open houses that
4 took place just recently out there across the state,
5 there was great media coverage.

6 And so, I mean, I think that the
7 communications work that's happening nationally as well
8 as at the state level is really part of what I would
9 call an integrated strategic marketing strategy that's
10 very much part of building support for the delivery
11 system at the state level, as well as trying to do some
12 branding at the national level.

13 And I think that there is a great relationship
14 right now between what's happening nationally at the
15 state level, in terms of the ways that they feed into
16 each other. And one of the things that the project
17 will be offering is ongoing technical assistance to
18 states as they begin to develop their own
19 communications initiatives.

20 So that's it. We'll try to keep you posted as
21 much we can. I do have some handouts that provides a
22 summary of some of the things that I highlighted, and I

1 don't know if you all have any questions.

2 CHAIR EAKELEY: Why don't we just skip to --
3 we can -- I thank you, Bonnie, this is real exciting
4 and impressive. We look forward to the report, and
5 also to some of the communications initiatives.

6 I used to thinking branding was something you
7 did to cattle and it hurt a lot, but the strategic
8 approach, and the way it dovetails with state planning
9 efforts, and the way the state planning itself, in some
10 states, has helped emphasize the need for strategic
11 messages, is a fascinating confluence.

12 So we wish you well. We've have -- open it up
13 after these mandatory board chair comments.

14 (Laughter.)

15 MS. MERCADO: Thank you. I'm actually very
16 excited about it, in trying to develop a message for
17 legal services, because I definitely think that Habitat
18 for Humanity and Head-Start are way ahead of the game.

19 But one of the questions that I had when you
20 were describing communication tool kits that we have, I
21 wonder whether part of this educating of the public
22 including doing curricular in the schools to do that

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1 kind of activity that starts sort of educating the
2 value system in our school system and younger people
3 that will then become the professionals, or the leaders
4 in the communities.

5 MS. ALLEN: I -- that particular suggestion I
6 have not heard before, but I think it's a great idea,
7 and I think that we are really, right now, the advisory
8 group in the process of designing what the various
9 strategies and products are going to be.

10 I mentioned some of the things that we are
11 planning to do, but this is something that, hopefully,
12 will continue over a, you know, many-year period, we'll
13 continue to roll it out. I think that's a great idea,
14 and I think that we always have to be mindful of the
15 grassroots public support need, and that starting with
16 young people is a terrific idea. So, thank you.

17 CHAIR EAKELEY: Mr. -- mentioned yesterday --
18 or, not mentioned, briefed us on the corporate pro bono
19 project and mentioned a number which stuck, 2.5 million
20 hits a month on the Association of Corporate Counsel
21 Website.

22 But I'm assuming that part of your targeting

1 of corporate lawyers includes the possibility of
2 collaboration for that project.

3 MS. ALLEN: Certainly we will be doing that.

4 CHAIR EAKELEY: Any other questions? John --
5 I'm sorry, Bucky?

6 MR. ASKEW: I think you should assume that we
7 all want your report. Just go ahead and send it to us.

8 MS. ALLEN: Yes? Okay.

9 CHAIR EAKELEY: Yes, yes. I'm sorry, I'm
10 sorry, I thought that was understood.

11 MS. ALLEN: The full -- the one that's coming
12 out in just a few weeks?

13 CHAIR EAKELEY: Yes, that would be great.

14 MS. ALLEN: We'll do that.

15 CHAIR EAKELEY: John?

16 MR. MCKAY: I was going to just commend the
17 board members on that point. We were briefed by John
18 Russenello on the study, some of the staff, and
19 Mauricio Vivero sits on the committee that Bonnie
20 referenced -- you may have mentioned that, Bonnie, and
21 I --

22 MS. ALLEN: Yes.

1 MR. MCKAY: -- missed it, but I also commend
2 the foundation. This study that Russenello performed
3 is very strong, in my opinion, from a methodology
4 standpoint. I don't think it's listed in Bonnie's
5 handout, but it is a very significant study in the
6 numbers of persons interviewed, and the focus groups
7 that support it. I think it's a real study, and I
8 really commend -- for its work.

9 CHAIR EAKELEY: And thanks for sharing
10 yourself and morning, with us.

11 MS. ALLEN: Well, you're welcome.

12 CHAIR EAKELEY: I should, while Bonnie's still
13 here, or putting her materials together, just also
14 recognize other NLADA members in the audience, Julie
15 Clark and Don Saunders, and welcome Elizabeth Arlege,
16 the new director of communications for NLADA, sitting
17 next to Linda Perle from the Center for Law and Social
18 Policy and in front of Julie Strandlie, from the
19 American Bar Association.

20 And I should also just say hello to Kent Hull,
21 from the Committee for Effective Legal Services from
22 Notre Dame. And Mr. Hull and others will be addressing

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1 us at the public comment period, later.

2 PARTICIPANT: Don Saunders.

3 CHAIR EAKELEY: I did mention Don Saunders,
4 but he's always worth mentioning a second time. He
5 probably missed it the first time. All right.

6 MS. ALLEN: Thank you.

7 CHAIR EAKELEY: Thank you, again, Bonnie.
8 That brings us to item five on the agenda.

9 By way of -- I -- the only thing I want to --
10 two things I want to mention. The first is last night.
11 I really think that it was a wonderfully warm and
12 moving experience, John, to have the staff gathered
13 together at dinner for the board, and it was wonderful
14 to have that, and Chuck Ruff there and Tom Williamson,
15 and John Bailey, and a number of the people in the
16 audience.

17 But just the thought that went into it, and
18 the sentiment behind it are greatly appreciated by all
19 of us, and I just want to say thank you to everyone who
20 helped make that possible.

21 MR. MCCALPIN: I'd like to thank the staff for
22 putting only 25 candles on that cake.

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1 (Laughter.)

2 MR. MCCALPIN: I have trouble enough with
3 them.

4 MR. MCKAY: Bill, it's a nice thought, but
5 that was fire code.

6 (Laughter.)

7 CHAIR EAKELEY: Secondly, we got into a
8 dialogue yesterday morning, in the course of the
9 presidential performance review, that started to
10 resonate, as things frequently do when Bucky and Bill
11 McCalpin start reflecting publicly or not publicly

12 But I would like to pursue some of the themes
13 that we discussed and make them available so that
14 others can participate and not leave it where we left
15 it yesterday.

16 I'm not quite sure how to do it, one
17 possibility, as a start, is to explore releasing part
18 or all of the transcript, even though it was a
19 performance review discussion.

20 But I would welcome input from the board about
21 where we go from here to just capture those thematic
22 and develop the thought process a little further.

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1 John?

2 MR. MCCALPIN: I certainly think that -- well,
3 I guess I'm self-pleasing -- but I think that the
4 members of the board might want to have access to it,
5 and I had some reservation in my mind as to whether
6 that section should have been closed anyway.

7 MR. MCKAY: Well, may I just say, Mr.
8 Chairman, I would have no objection to releasing the
9 transcript of that discussion.

10 CHAIR EAKELEY: Okay, well I think that's the
11 sentiment. I think -- we were all there, and it was in
12 executive session, but I think that it might benefit
13 from being released.

14 So unless there are any objections to that,
15 Victor, I'll just look to you to coach me on what we do
16 to demystify --

17 PARTICIPANT: I wonder if you need a motion to
18 do it.

19 CHAIR EAKELEY: Do I need a motion --

20 PARTICIPANT: Probably.

21 CHAIR EAKELEY: Do you know?

22 PARTICIPANT: Yes.

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MS. MERCADO: I so move, Mr. Chairman.

MR. MCCALPIN: Second.

CHAIR EAKELEY: All those in favor of whatever one does to a closed session --

MS. MERCADO: To release the --

CHAIR EAKELEY: To open the closed session?

(Chorus of ayes.)

CHAIR EAKELEY: Opposed?

(No response.)

CHAIR EAKELEY: The ayes have it. Bucky?

MR. ASKEW: I've been criticized for not saying very much at dinner last night by some of my fans in the audience, perhaps. Perhaps if you release the transcript, it will help redeem me.

(Laughter.)

MR. ASKEW: I was attempting to be serious, but I'm not sure that helped.

CHAIR EAKELEY: The other part of my report you'll hear about later. I did spend -- I did come to Washington on a few occasions to meet with our inspector general and others, and you'll hear directly

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1 from the inspector general in a few minutes.

2 So, that concludes my report. Now, other
3 members' reports. Ernestine?

4 MS. WATLINGTON: None.

5 CHAIR EAKELEY: Edna?

6 MS. FAIRBANKS-WILLIAMS: I'm still -- I can't
7 talk about it.

8 (Laughter.)

9 CHAIR EAKELEY: You've got a confidentiality
10 agreement with you? John Broderick?

11 HON. BRODERICK: Nothing of great note, other
12 than to share the chairman's comments about the event
13 last evening. It was just a fabulous night, and I
14 appreciate the sentiment and the thought that went into
15 it. It was a very, very enjoyable night.

16 CHAIR EAKELEY: Maria Louisa Mercado?

17 MS. MERCADO: Nothing, again, other than just
18 to thank the staff and the other community members that
19 put this together for us.

20 But in doing so, I think a lot of us were sort
21 of sitting there thinking, you know, someone needs to
22 write a book about legal services, the history of it,

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1 or whatever, and we sort of did. Bill McCalpin, who
2 has a memory as sharp as you can imagine, he knows all
3 the intricate details of every decisions that were made
4 along the way.

5 But in any event, just sort of -- those of you
6 who are out there, if you could gently nod him in that
7 direction, it would be great.

8 MR. MCCALPIN: Have you ever heard of the 13th
9 Amendment?

10 (Laughter.)

11 MS. MERCADO: But in any event, that's -- and
12 other than in my own community, working with -- I'm
13 glad that Esther gave us a report yesterday on the
14 corporate sponsors, because actually in the Houston
15 area, a lot of the corporations, especially the
16 chemical companies, Amoco, and so forth, and the
17 medical schools, their in-house counsel are pro bono
18 specifically because they want to go to court.

19 And some of them are allowed, you know, 50
20 hours or 100 hours that they can take during their
21 regular work time to do these cases, these counseling
22 with some of them, some of my cases. And so I was glad

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1 to hear that it's going nationwide, and more
2 aggressively.

3 CHAIR EAKELEY: Nancy?

4 MS. ROGERS: Yes, I wanted to mention
5 something about Karen Sergeant, who we all love and
6 respect. I had nominated Karen for an Ohio State
7 University College of Law recent graduate service
8 award, and I got a call from the law school to say, "We
9 decided one of us should call you, Nancy, and let you
10 know that everyone who graduated more recently than you
11 is not, by the world at large, considered a recent
12 graduate."

13 (Laughter.)

14 MS. ROGERS: However, there was a decision
15 made that there ought to be a reward for career-long
16 public service, and we would like to you to be the one
17 to present that to Karen Sergeant.

18 So just a couple of weeks ago, it was my
19 pleasure to watch several hundred of our alums stand to
20 applaud Karen for a career of service that, as some
21 people said, represented in terms of contribution, more
22 than the donation of a chair.

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1 When you take so many of you who are here who
2 could have chosen a career in which the reimbursement
3 would have been much higher, and used that talent in a
4 way that didn't result in that level of compensation,
5 it does represent that kind of a contribution to what
6 is the obligation of all us in the legal profession.

7 So it was fun to see one of my heroines
8 honored in that way.

9 CHAIR EAKELEY: Good. Bucky, it's your turn
10 to expand.

11 MR. ASKEW: I was brought to that dinner under
12 false pretenses. I thought we were going to go to vote
13 on --

14 (Laughter.)

15 MR. ASKEW: No, I have nothing to report.

16 CHAIR EAKELEY: Bill McCalpin?

17 MR. MCCALPIN: Well, I am grateful to the
18 corporation and ABA to give me the first opportunity in
19 52 years of law practice to see and hear an argument in
20 the Supreme Court of the United States. It was my
21 pleasure to be present, and my educational experience
22 to be present.

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1 The Valezquez case was argued in the Supreme
2 Court five or six weeks ago. It was an interesting
3 experience that I'm sorry I didn't have earlier in my
4 life.

5 CHAIR EAKELEY: All right, thank you. Next,
6 item six -- item seven, inspector general's report.
7 Edouard Quatrevaux? Good morning, again.

8 MR. QUATREVAUX: Good morning, Mr. Chairman,
9 members of the board of directors of the Legal Aid
10 Corporation.

11 (Laughter.)

12 CHAIR EAKELEY: You got that, too?

13 MR. QUATREVAUX: I would simply, today, like
14 to announce my retirement to launch a new venture. I'm
15 very proud of the accomplishments of the office of
16 inspector general over the last nine years, and I'd
17 just like to mention a few of them.

18 You may recall that we had performed a
19 monitoring audit just before your arrival, which
20 ultimately lowered costs from \$3.5 million for that
21 function in 1993 to less than half of that today.

22 Later, when Congress gave the OIG significant

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1 responsibility for monitoring, we set up a system that
2 proved out to be inexpensive and non-intrusive, and to
3 this moment, has not generated a single complaint.

4 Our tech report, technology report, in 1996
5 illustrated how many poor people could receive legal
6 assistance, and I'd like to claim here some small
7 credit for the funding, for what one appropriations
8 staffer referred to as my "harassment."

9 Last, and most recent, our assessment of the
10 1999 CSR data was a major achievement from -- just from
11 a technical point of view, reaching a conclusion,
12 statistically valid conclusion, on a national level in
13 a very short period of time.

14 I think it also made a significant
15 contribution toward ending the controversy surrounding
16 CSR data.

17 I want you to know that I leave you with an
18 excellent staff, established policies and procedures,
19 and a plan for the future. That's a professional
20 organization, it will continue to function with or
21 without me in much the same manner.

22 I am looking forward eagerly to the future.

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1 Our venture, which is known as, "The Level Playing
2 Field" aims to make a college degree affordable to
3 everyone, regardless of income. We've acquired control
4 of an accredited college, and hope to begin online
5 delivery of our programs next year.

6 Finally, I had never heard of LSC prior to
7 1991, but I came to appreciate how essential the
8 provision of legal services to poor people really is,
9 and how integral that is for our democracy. And I want
10 to commend you on your public service, and thank you
11 very much, and wish you well in the future.

12 CHAIR EAKELEY: Thank you, Ed. You were
13 extremely brief in what could have been a much longer
14 list of accomplishments, one of the most notable of
15 which we keep talking about every time we convene,
16 which is the initiative and technology that got that
17 very important ball rolling.

18 But we thank you for your presentation, we
19 thank you for your service. We're going to hear from
20 Ed again in executive session, in terms of succession
21 planning and personnel.

22 But -- and we have an action item on the

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1 agenda later, in terms of what to do with Ed's tendered
2 resignation. But for now, I think we'll just leave it
3 with a thank-you, and we will look for another
4 opportunity after today to say thank you a little bit
5 more expansively.

6 Any questions of the IG, or comments before we
7 release him from the table?

8 HON. BRODERICK: Mr. Chairman, I just wanted
9 to, on a personal level I guess, to thank the IG for
10 his service here. I have enjoyed our many agreements,
11 and I've, in a perverse way, enjoyed our disagreements
12 from time to time. But I know you've always acted on
13 principle, and I respect that. And I appreciate your
14 service to the corporation, and we will miss you.

15 MR. QUATREVAUX: Thank you for those kind
16 remarks.

17 CHAIR EAKELEY: Okay, thanks again.
18 President's report.

19 MR. MCKAY: Thank you, Mr. Chairman. We have
20 reported separately to the board, but I should add for
21 the record our understanding that we will have a new
22 appropriate eventually, when Congress reconvenes and a

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1 bill is presented to the President.

2 We understand, however, that the figures are
3 good news for our field programs. Our total
4 appropriation of \$330 million is what we expect to
5 have, which will include \$310 million directly to field
6 programs, in addition to the \$310 million, \$7 million
7 in technology grants which will be made to field
8 programs as well.

9 The numbers for management and administration
10 are \$10.8 million, and for the inspector general's
11 office \$2.2 million.

12 The basic field line of \$310 million is a 7.26
13 percent increase in overall field services, and I know
14 that our programs will begin making plans based on the
15 level of the appropriation.

16 That number, of course, is higher when you add
17 in the technology grants, although those will not go on
18 a pro rata basis, they will go, as we did last year, on
19 the basis of competitive applications and we're very
20 excited about both the positive impact of last year's
21 technology, discretionary grants, but also what we can
22 accomplish with the additional funds that we have

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1 apparently received for the current fiscal year.

2 We are in the process with some internal news
3 of adjusting the LSC pay system. We are, as has been
4 previously discussed with the board, continuing to
5 implement now the second phase of the locality pay
6 increase. We -- that will be 3.4 percent this year.

7 We have also adjusted the way in which we will
8 award cost of living increases. We always have had
9 that component as part of what we were calling a merit
10 pay system, but we're going to separate that out and
11 acknowledge it for what it is, which is a cost of
12 living increase.

13 No real change in terms of how we determine
14 the figures, that will still be done in cooperation
15 with the inspector general's office, as required in our
16 program, but we're calling it a cost of living
17 increase, and wanted to let the board be aware of that.

18 I also wanted to inform the board that we had
19 a very good program during this past week for United
20 Way. We are a part of the community in the District of
21 Columbia. We're an important part of that community,
22 and our employees feel that way.

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1 We had a day of bingo and games and pizza and
2 fun. And in the course of that, raised, I think, by
3 the time all was said and done, something close to
4 \$20,000, which is a substantial increase.

5 We have a very large number of LSC employees
6 who are participating in their contribution, and I had
7 the privilege of reminding the United Way
8 representatives that we, all of employees, every day,
9 do work that serves low-income people, but that's not
10 enough for them and they reach into their own pockets
11 and make substantial contributions to the local United
12 Way.

13 And I want to thank Alice Dickerson and others
14 on her committee who organized the United Way efforts.

15 You have previously been briefed on the status
16 of the LSC lease and building, and I'd be glad to
17 answer any questions here in open session, if you have
18 them, with regard to our building. But let me just
19 say, for the record, that we are taking every step we
20 can to pursue the location and acquisition of a
21 permanent home for LSC.

22 We are working separately on a track that will

1 make sure that we either extend our current lease,
2 which will expire in May of 2002, or a less desirable
3 alternative, but one which we would certainly keep
4 open, which would be to identify another lease-hold
5 until we acquire a building.

6 I have -- just wanted to alert you on some of
7 my activities. Randi Youells and I recently traveled
8 to the states of Wisconsin and Texas, in which we had,
9 as they say in diplomatic terms, "full and frank
10 discussion" regarding the status of their state
11 planning efforts.

12 I would describe both of those meetings as
13 extremely productive. They engaged not only our
14 programs, who are working on state planning issues, but
15 in both of those locations, very senior representatives
16 of the state bar association, directors of the IOLTA
17 programs, in Texas, with a member of the state supreme
18 court, Justice Deborah Hankinson, whom many board
19 members met at our annual meeting in Austin, she is the
20 driving force in Texas behind what we believe will be a
21 supreme court order establishing an access to justice
22 board in Texas.

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1 And I would like to, for one, commend the
2 board for its direct engagement in that issue in
3 Austin. Justice Hankinson herself gives the board a
4 great deal of credit for helping the supreme court of
5 Texas to focus anew on the low-income needs of Texans,
6 and I'm very excited about it, as are the Bar
7 Association, the IOLTA program, and our programs in
8 Texas.

9 I also traveled with our board chairman -- he
10 didn't have to travel too far -- but I traveled to New
11 Jersey to make one of our four model grant awards to
12 the State of New Jersey and its very well-integrated
13 legal services programs.

14 We announced there that we would be funding, I
15 think, around \$260,000 in real technology
16 infrastructure that facilitates the communications
17 among the number of -- how many programs, Doug? We
18 have 14 in New Jersey -- but tremendous technological
19 maturation that's occurred in New Jersey and our
20 efforts there will help them complete their system.

21 I also, since our last meeting, traveled to
22 South Carolina. Board member LaVeeda Battle was going

1 to attend but could not. However, the governor of the
2 State of South Carolina announced our technology grants
3 there in a really wonderful ceremony in the capital.
4 Randi Youells and Mauricio Vivero and I also traveled
5 to our local program, who received that grant in
6 Greenville, South Carolina.

7 And I think that it's fair to say that the
8 work that's been done there is extremely impressive, a
9 statewide series of locations that will be linked by
10 the Internet to local legal services offices. These
11 will be the sort of two-way video -- it's very
12 rudimentary, but -- and it really extends the reach of
13 legal services throughout South Carolina.

14 And they're in places like women's shelters
15 and courthouses, and public libraries, reaching out now
16 into places where we have not ever had a presence, and
17 we're excited about that program in South Carolina.

18 I also visited Michigan, where I had an
19 opportunity to address the annual meeting of the state
20 bar of Michigan. I was present at an unexpected visit
21 by the President of the United States, who devoted half
22 of his speech to the need for funding the Legal

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1 Services Corporation.

2 He made extremely strong and compelling
3 remarks. We, of course, have his speech and are doing
4 the best we can to draw attention to that. But I want
5 to say, on the record, how much we appreciated the
6 President's emphasis on the need to fund LSC.

7 So at the time in which we were looking at the
8 status of our appropriation, the President weighed in
9 in, I think, a very compelling way, and I wanted to
10 thank him for his support.

11 I also traveled, and want to emphasize Bonnie
12 Allen's comments regarding the efforts in my part of
13 the world, the northwest United States. I traveled out
14 to the open houses that she described, in Oregon. They
15 were very impressive, 16 open houses on the same day in
16 Oregon.

17 Each open house throughout the state was
18 attended by local legislators and media. They
19 announced a state version of a legal needs study, which
20 I also commend to you. It points out that, in the
21 State of Oregon, in a study undertaken by Portland
22 State University as the back-up data gatherers,

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1 extensive interviews.

2 And I would like to say for the director of
3 Vermont that they actually conducted interviews in
4 laundromats in Oregon. And when I heard that, I
5 thought of you instantly, Edna, and I knew that the
6 report would have great credibility.

7 And it finds, to our great sadness, but I know
8 not to the surprise of board members, that the legal
9 needs of 18.2 percent of the poor in Oregon are being
10 met.

11 I think that's significant, from the
12 standpoint that this is a very recent study. But it
13 meets the overall number that we frequently cite. It's
14 consistent, although not identical -- you wouldn't
15 expect it to be identical -- it's consistent with the
16 American Bar Association study on legal needs, and I
17 think it tells us a lot.

18 And I commend to you that report, which we can
19 provide you if board members would like to see it, and
20 others, I'm sure, can obtain it through the folks in
21 Oregon.

22 I spoke in Pendleton, Oregon, which is way out

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1 in eastern Oregon, along with the president of the
2 Oregon State Bar Association, and then we dashed back
3 down the Columbia Gorge to Portland, where a large
4 gathering of folks were there for the largest open
5 house in the state, as you might imagine. And I spoke,
6 along with the chief justice of the supreme court.

7 But the integration of community people, state
8 leaders, courts, providers, legal services people, and
9 the media was remarkable. And I commend it to the
10 board, and I give not just our providers, but those who
11 are true members of the state justice community in
12 Oregon an awful lot of credit for that.

13 I spoke at the pro se conference in New
14 Orleans about two weeks ago. A good component of that,
15 thanks in large part to the Open Society Institute, was
16 a front-end application of our technology grants.

17 A number -- and I believe it's around 10 -- of
18 our recipients of our discretionary technology grants
19 attended this conference and entered workshops in
20 which, prior to fully initiating their projects, they
21 were able to share ideas and gather information from
22 each other, a project that was undertaken by Mike Genz

1 and his staff, and they did, in my estimation, an
2 excellent job in helping to pull this together with
3 NLADA, OSI, and the Legal Services Corporation, among
4 others. And I thank all of the participants for that
5 work.

6 Finally, I conducted a conference on October
7 25th to 27th out at Wye River. This was the third
8 conference that we call Mokita, in which with very few
9 LSC staff, I have asked leaders young, not-so-young,
10 new, and some who have been around for a long time to
11 come in a retreat setting and advise me and each other,
12 but principally to continue to advise me as a Legal
13 Services Corporation president, on any issue of
14 interest to any participant.

15 And I want to thank Randi Youells for doing an
16 excellent job of non-moderation of that meeting, Randi.
17 She was not the official moderator, but provided us
18 some guidance. I'd be glad to discuss with you who the
19 participants were, but you would know virtually all of
20 them, except that we purposefully invited some newer
21 executive directors who you wouldn't perhaps be
22 familiar with.

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1 It was tremendously beneficial to me, very
2 frank discussion, the purpose of which is to make sure
3 that we bring new issues into the consideration of the
4 corporation. There's a tendency when you meet, in my
5 opinion, to discuss history, you go over what's
6 occurred and not enough looking forward.

7 And what we tried to do in the last three
8 conferences -- one each in the years in which I've
9 served as president -- is to try and look forward. And
10 I want to thank Julie Clark and Don Saunders, who are
11 here, who were two of the participants. I may be
12 missing someone on our staff, some of our staff who are
13 here, but again, very few LSC staff. Mostly people
14 from the field and from the bar, including Sarah
15 Singleton, from New Mexico.

16 I'd be glad to share that outside of this
17 meeting with other board members, if you're interested.

18 CHAIR EAKELEY: Why don't you remind everyone
19 what Mokita means?

20 MR. MCKAY: Oh, I -- Mokita is a term I --
21 this was coined by Eta San Jaffey -- I can't say that I
22 have independently researched this, but Eta claims that

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1 this is a term from Papua New Guinea that has no other
2 corollary in another language. Mokita is -- a Mokita
3 is that thing of which everyone knows to be true, but
4 of which no one will speak. And she coined the first
5 meeting as the Mokita conference.

6 And so we've had these conferences and named
7 them Mokita I, II, and III, and I wanted to thank the
8 participants, as it was very helpful to me.

9 We are continuing to work with the chairman of
10 the board to assist him and John Erlenborn, who has, at
11 this point, been informally designated as participating
12 on the commission that will look at the impact of
13 restrictions on client communities, report back to the
14 board and to the congress.

15 We conducted a telephone conference call, and
16 we have been reaching out to try and get suggestions
17 for commission members. We haven't moved quite as
18 quickly as I think we all anticipated, but very
19 clearly, on Doug Eakeley's agenda, on John Erlenborn's,
20 and we have worked closely with John to try to continue
21 to help him develop names for Doug's selection.

22 We will, by -- my last point is on performance

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1 measures. Randi Youells has reported, and her staff
2 have reported on the efforts with regard to what we're
3 calling the results committee.

4 That's our effort to take a look at and try
5 and increase our reach with NCSRs to report more
6 accurately on what our programs do that we've never
7 asked them before. But we all know the tremendous work
8 being done by local programs that's not captured there.

9 In the long run, we expect that performance
10 measures, which will be the second half of your
11 strategic planning process, will take an entirely new
12 approach to relating the work being done by our local
13 programs.

14 We expect, within the next two weeks I would
15 say, at most, to enter into a contract with Tom
16 McQueeney, Dr. Tom McQueeney, who is very familiar to
17 the board, to enter into the management of one or more
18 -- and I think it will be somewhere between one and
19 five -- pilot projects with volunteer executive
20 directors and programs to launch that process.

21 We have already convened one meeting, one
22 group of advisory members from -- made up of executive

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1 director from around the country. Randi ran that
2 process in June for preliminary information rather than
3 going out of the box. With something in mind, we
4 wanted to be informed of field concerns before we did
5 that.

6 So we've been very busy, Mr. Chairman. There
7 are many other matters that are on our plate. I will
8 spare you that complete recitation. There are some out
9 there, I'm sure, that are holding a clock on me, and
10 someone has put bets on how long I'm going to speak,
11 but I will wrap up now.

12 CHAIR EAKELEY: Well, thank you for wrapping
13 up. One -- just one other point. I think it's -- John
14 Erlenborn is not here, but I think it's our hope that
15 we will have the Erlenborn II commission designated by
16 the end of -- or, at least some preliminary selections
17 made by the end of this week or next week so that we
18 can get this thing going in a -- on a time chart that
19 brings back to the board recommendations for
20 approaching restrictions by the middle of the year.

21 MR. MCKAY: Mr. Chairman, I neglected to
22 mention that board members have been provided with a

1 monthly update of activities, some of which I
2 mentioned, but most of which I did not. So there is
3 also a written report, your monthly report, which
4 should be in front of you.

5 CHAIR EAKELEY: Bucky?

6 MR. ASKEW: That's what I was going mention.
7 I was going to give credit to the president and the
8 staff for responding to the board's request a few
9 meetings ago for better communication. I think these
10 are very helpful, particularly coming at a time when we
11 are busy doing other things and can't keep up with
12 things. These have been very useful, and I hope they
13 will continue.

14 MR. MCKAY: They will.

15 CHAIR EAKELEY: Any other questions of John?

16 (No response.)

17 CHAIR EAKELEY: Hearing none, we'll proceed to
18 the item nine, "Consider and act on the report of the
19 Board's Committee on Provision for the Delivery of
20 Legal Services."

21 Ernestine, we all attended your committee
22 meeting yesterday, but --

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1 MS. WATLINGTON: It was quite informative of
2 things in the process, and the state planning. And it
3 was really very interesting, but there was nothing we
4 had to bring to vote on.

5 CHAIR EAKELEY: Are there any questions or
6 comments about the committee's meeting, or Ernestine's
7 report?

8 (No response.)

9 CHAIR EAKELEY: Hearing none, we'll move to
10 Justice Broderick, and the report of the board's
11 operations and regulations committee.

12 HON. BRODERICK: Mr. Chairman, I'm pleased to
13 report that we probably had one of the shortest
14 meetings in the history of the ops and regs committee,
15 and I think all of you attended it, so I'll be very
16 brief.

17 We received a staff report on the publication
18 of a regulation on the property acquisition manual.
19 The recipient fund balances regulation was published in
20 early November of this year, and late September the
21 proposed property acquisition and management manual was
22 published. And so we received a status report on

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1 those.

2 We also acted, and I'm not sure this board
3 needs to take any action, although I've read our new
4 rule-making protocol, and I think we might have
5 approached it in somewhat of an upside-down fashion.
6 So if I'm confused, I may not be the only one here.

7 In any event, there was a recommendation made
8 to us that we should proceed with notice and comment
9 rule-making on the recommendations of the Erlenborn
10 commission which dealt with the definition of, "present
11 in the United States," as it related to assisting
12 eligible aliens.

13 And we were told that we should make clear in
14 our regulations what the definition of "present" is,
15 consistent with the recommendations of the Erlenborn
16 commission.

17 And so we, acting through the chairman, which
18 is me, have instructed the president to go forward in
19 that regard. And under our rule-making protocol, once
20 that directive is given, the president is to advise the
21 board that we're proceeding.

22 And so I assume that will go forward. And I

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1 just wanted to emphasize, for the record, that when we
2 adopted our new rule-making protocol, it is
3 presumptively a protocol that will deal with negotiated
4 rule-making. That is, the preference, the express --
5 and we intent to follow that. It's unusual, and
6 perhaps a little unfortunate that the first time we use
7 it we're going to notice and comment rule-making.

8 But I think, given the fact that the Erlenborn
9 commission held a number of public hearings and the
10 issue involved is merely a clarification of our
11 existing regulations, it seems to make sense.

12 The last item that we talked about, and
13 received a briefing from staff, was on the regulations
14 review task force. We're told by the task force that
15 they have had an initial meeting, that we'll be meeting
16 several times in the near term.

17 And by March of 2001, we'll make a formal
18 report to the board, I guess to our committee, the ops
19 and reg committee, as to their thoughts on what
20 regulations need to be modified or repealed, clarified
21 or expanded.

22 But the notion behind this task force is to

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1 identify regulations that can be clarified and perhaps
2 somewhat limited to assist the field in performing its
3 mission in a lawful way.

4 We asked Mr. Fortuno, in the course of our
5 meeting yesterday -- and it really is a suggestion of
6 Chairman Eakeley -- to see if they could provide us
7 with a priority list of regulations for our January
8 meeting so that we can have a sense as to where they
9 were headed.

10 And although that's probably a real task, they
11 agreed to try to do that, and I want to thank them for
12 all the work that I know they're putting in to date and
13 will put in between now and next March.

14 And that, Mr. Chairman, is basically what we
15 did.

16 CHAIR EAKELEY: John, I think I may have a
17 slight difference in recollection of what we were going
18 to do with the -- with our new protocol. I think it
19 was the committee's recommendation or motion to ask the
20 board to propose rule-making on this subject of the
21 recommendations of the Erlenborn I commission.

22 HON. BRODERICK: Well, I think that's probably

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1 true. If you look at the rule-making protocol, the
2 very first thing that should have been done is that
3 when the ops and regs committee, or LSC staff, intends
4 to go to rule-making, we propose it should come to the
5 board, and the board should then endorse it and then a
6 rule-making options paper is prepared.

7 In this case, the understanding was that we
8 had implicitly authorized it. And -- so I'm not being
9 critical -- and it went forward. So we're now kind of
10 running back to step one, which is okay with me, and I
11 supposed to dot the I's, we should do that.

12 M O T I O N

13 CHAIR EAKELEY: So we're converting the report
14 to a motion by the chairman of the ops and regs
15 committee, implicit in the report of the committee that
16 the board propose rule-making to implement the
17 recommendations of the Erlenborn commission.

18 MR. MCCALPIN: Notice and comment rule-making.

19 CHAIR EAKELEY: Well, I think that's up --
20 that's not part of -- we just adopt as the subject
21 matter. It's understood that this rule-making is being
22 proposed as notice and comment. But I think the

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1 protocol kind of places the board agreeing, or
2 proposing the subject matter and then leaving it to
3 staff and committee to decide upon the method.

4 MR. ASKEW: I second that motion.

5 HON. BRODERICK: It would be nice to do that,
6 because otherwise, we'll have the rule before we have
7 the authority, so I appreciate that.

8 (Laughter.)

9 CHAIR EAKELEY: Any other comments?
10 Questions?

11 (No response.)

12 CHAIR EAKELEY: Hearing none, all those in
13 favor?

14 (Chorus of ayes.)

15 CHAIR EAKELEY: Opposed?

16 (No response.)

17 CHAIR EAKELEY: So the ayes have it.
18 Any questions of Justice Broderick?

19 (No response.)

20 CHAIR EAKELEY: Hearing none --

21 HON. BRODERICK: Oh, that's refreshing.

22 (Laughter.)

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1 CHAIR EAKELEY: I want to welcome to the
2 meeting Vice-Chairman John Erlenborn, also.

3 Next we have, "Consider and act on the report
4 of the Board's Annual Performance Reviews Committee."
5 The chair of that committee, Tom Smegal, is not with us
6 today, as I mentioned at the beginning of the meeting.

7 We all were in attendance. The purpose of the
8 meeting was to meet in executive session with the
9 president. We have all been directed to fill out
10 questionnaires and to submit them by the end of this
11 week to further the process, and then the committee
12 intends to convene and write up a report that will then
13 be circulated to the board and to the president.

14 So I think that, in essence, sums up Tom
15 Smegal's report in absentia. If there any questions?
16 If there are not, then we'll go on to, "Consider and
17 act on the employment status of the Inspector General."

18 You all should have a memorandum from me
19 presenting a severance agreement with the inspector
20 general that he and I had signed at the beginning of
21 the day yesterday.

22 In essence, this agreement undertakes to

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1 provide to Mr. Quatrevaux six months' severance for his
2 nine years' service, the severance being composed of,
3 in essence, the various elements of his compensation
4 while acting as inspector general, including salary,
5 pension, and in this case, extended health care COBRA
6 costs, as well as permitting him to accrue vacation
7 time for those six months. But we will translate them
8 into a monetary equivalent, and compensate him for
9 that.

10 The agreement also has a mutual non-
11 disparagement provision in it for the life of the
12 contract, and also an undertaking not to disclose
13 confidential information to third parties, although it
14 does not restrict the inspector general's ability to
15 respond to questions from the congress. And is the
16 practice, it also includes a general release.

17 As I advised you, I was signing this, subject
18 to the approval by the board, for the inspector
19 general, as you just heard a few minutes ago, has
20 tendered his resignation.

21 M O T I O N

22 CHAIR EAKELEY: I recommend that we accept it

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1 and accept it on the terms presented here.

2 HON. BRODERICK: So moved.

3 MR. ASKEW: Second.

4 MS. MERCADO: I have a question.

5 CHAIR EAKELEY: Maria Louisa?

6 MS. MERCADO: Okay. On the provision, page
7 two, number four paragraph. How long is the term of
8 the agreement?

9 CHAIR EAKELEY: Six months.

10 MS. MERCADO: Okay, I'm sorry. I understood
11 it to mean longer than that. So it's only for the six
12 month period of time that he would have that?

13 CHAIR EAKELEY: Right.

14 MS. FAIRBANKS-WILLIAMS: It's at the bottom of
15 the paragraph on page one of the memorandum, "A six-
16 month severance package," it says.

17 MS. MERCADO: Well, I understand the package
18 is for that, but I mean, the agreement can be -- the
19 issue of the disparage faction could be for a longer
20 period of time --

21 CHAIR EAKELEY: It could be. Actually, he and
22 I discussed this. He offered to make it for a longer

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1 time, because he thought this was ambiguous. I
2 explained my reading of it was six months. I think --
3 I don't expect this to be an issue.

4 MS. MERCADO: Well, I think it's ambiguous. I
5 agree with the inspector general on that point.

6 CHAIR EAKELEY: Any other questions?

7 (No response.)

8 CHAIR EAKELEY: Hearing none, all those in
9 favor of approving, or ratifying the severance
10 agreement -- I'm sorry, agreement in general, say aye.

11 (Chorus of ayes.)

12 CHAIR EAKELEY: All those opposed?

13 (No response.)

14 CHAIR EAKELEY: The ayes have it.

15 M O T I O N

16 CHAIR EAKELEY: We are now at that point where
17 I will entertain a motion to go into executive session.

18 HON. ERLNBORN: So moved.

19 MS. FAIRBANKS-WILLIAMS: Second.

20 CHAIR EAKELEY: All those in favor?

21 (Chorus of ayes.)

22 CHAIR EAKELEY: Opposed?

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1 (No response.)

2 CHAIR EAKELEY: Oh, I'm sorry, Victor Fortunato
3 just reminded me that before we do that, we have a
4 resolution that was circulated that accepts the
5 resignation, and I just wanted to make sure that you
6 all have a copy of it, and it's resolution 2000-013.

7 But Victor, I think that's what we just --

8 MR. MCCALPIN: I think we should adopt this
9 resignation separately.

10 CHAIR EAKELEY: All right, well let us go to
11 that, then, while we're still in open session. And
12 this is, in effect, implementing the motion that we
13 just approved.

14 MS. FAIRBANKS-WILLIAMS: So moved.

15 CHAIR EAKELEY: Is there a second?

16 MS. WATLINGTON: Second.

17 CHAIR EAKELEY: All those in favor -- all
18 right, is there any further discussion?

19 (No response.)

20 CHAIR EAKELEY: All those in favor of adopting
21 resolution number 2000-013 say aye.

22 (Chorus of ayes.)

1 CHAIR EAKELEY: Opposed?

2 (No response.)

3 CHAIR EAKELEY: The ayes have it.

4 M O T I O N

5 CHAIR EAKELEY: Now, I would like to entertain
6 a motion to go into executive session.

7 MS. FAIRBANKS-WILLIAMS: So moved.

8 MS. WATLINGTON: Second.

9 CHAIR EAKELEY: With Ms. Fairbanks-Williams,
10 and Ms. Watlington's second, all those in favor?

11 (Chorus of ayes.)

12 CHAIR EAKELEY: Opposed?

13 (No response.)

14 CHAIR EAKELEY: We are now in executive
15 session. My -- for everyone's purpose, I would propose
16 that we don't take a break. Those who might need one
17 -- are you okay for -- I think this will take about 10
18 minutes in executive session, then we'll open back up
19 for one action item, and then public comment.

20 (Whereupon, at 11:32 a.m., the meeting was
21 adjourned to executive session.)

22 CHAIR EAKELEY: Okay, Ed, come in. He is

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1 welcome to join you at the table. I might also mention
2 that, at my request, Len brought in a copy of his
3 resume, and each member of the board has a copy at this
4 time, as well.

5 MR. QUATREVAUX: Well, let me begin by saying,
6 as the chairman and I began to discuss my departure, we
7 discussed transition, and what I thought was important
8 for maintaining the credibility of the organization as
9 an independent, objective unit.

10 One aspect of that is an interim inspector
11 general. We have, on our bulletin board at all times
12 in the office, a piece of paper which is -- outlines a
13 line of succession. And Len is first in that
14 succession.

15 So if you took no action, by default, Len
16 would be acting IG until such time as you provide a
17 replacement. But it would be my recommendation, as you
18 go about looking for a replacement, simply to allow Len
19 to continue to run the office.

20 It's -- well, it's a well-greased machine, and
21 it's going to run whether anyone makes it run or not.
22 You know, I'm not sure I had any -- very much influence

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1 with it.

2 But Len is a veteran of more than 30 years
3 working in federal offices of inspector general, 16
4 years at the Department of Commerce, and a somewhat
5 shorter amount at the Federal Emergency Management
6 Agency. He is more than qualified to take this role
7 on. So I recommend him to you.

8 I've also discussed with the chairman some --
9 and offered assistance, which he indicated he would
10 like to receive, in establishing some role for the IG
11 counsels in the selection process.

12 I pointed out to him that they're not going to
13 do a great deal, they have plenty enough work to do,
14 but I suggested to him that when you get to a short
15 list, or maybe not all that short, that those counsels
16 could provide an independent vetting of the
17 qualifications for the position.

18 I also indicated that we would assist the
19 director of human resources in ensuring an announcement
20 that would be distributed completely throughout the IG
21 community here in Washington, some 59 organizations
22 which would house the kind of people that would be

1 qualified for the position. And I'll just leave it at
2 that.

3 CHAIR EAKELEY: I think what I contemplated
4 was that we ask Ed -- I wanted Ed to let you know what
5 his thoughts were, and how the succession planning had
6 already been in place, and also if people had any
7 questions of Len, or wanted -- I thought it would be
8 appropriate to give Len an opportunity to say a few
9 words.

10 Then I thought we'd excuse Len and deliberate
11 without deciding, because the decision comes up in the
12 next action item in the open agenda, which is to -- the
13 proposal as to appoint Len as acting inspector general.

14 But I wanted to give the board an opportunity
15 to discuss that as a personnel matter before thrusting
16 it on the board in open session. I think that's, from
17 a parliamentary standpoint, all right. I'm looking at
18 my parliamentarian to my far right over here, but he
19 hasn't done anything other than grimace at the moment,
20 so --

21 Does anyone have any questions of Len or of
22 Ed? Len, do you want to say anything?

1 MR. KOCZUR: Yes, I would. I'd like to thank
2 Ed, first off, for hiring me. I guess it's been about
3 two-and-a-half years now. I've enjoyed my time working
4 here at LSC. I appreciate the confidence he's
5 expressed in me in nominating me for this job.

6 I would -- I'm sure that I can continue to
7 function as the acting IG and provide the kind of
8 oversight and audit support that can help the
9 corporation.

10 CHAIR EAKELEY: If there are any -- are there
11 any questions?

12 (No response.)

13 CHAIR EAKELEY: Victor, am I -- are we all
14 right in excusing Len and seeing whether there's any
15 executive discussion on this personnel matter?

16 MR. FORTUNO: At this point, there's not an
17 agenda -- an action item, I should say.

18 CHAIR EAKELEY: Well, it is an action item,
19 and it's on the agenda for -- it's -- I amended the
20 agenda at the beginning. I mean, we didn't --

21 MR. FORTUNO: Oh, I'm sorry. The executive
22 session agenda item?

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1 CHAIR EAKELEY: No, not -- yes, okay.

2 MR. FORTUNO: Because right now, that reads,
3 "Briefing by the Inspector General on the --"

4 CHAIR EAKELEY: Okay, you're right. We were
5 -- well, we've been briefed. Okay. Ed, does your --
6 did you have any other items for your report?

7 MR. QUATREVAUX: Yes.

8 CHAIR EAKELEY: Okay, okay. Let's proceed
9 with -- if we're -- if you've concluded and there are
10 no questions on your recommendation of Len, then let's
11 proceed with the rest of your report.

12 MR. FORTUNO: You could -- just a moment --
13 determine that corporate business requires the
14 amendment of the agenda to include this item as an
15 agenda item, and that no earlier notice was possible,
16 because the resignation had just taken place.

17 You could -- the vote -- the board, by a vote,
18 could amend the agenda to include it, and then we would
19 have the notice --

20 CHAIR EAKELEY: Let me ask the -- I don't
21 think we -- I don't sense a need to discuss this
22 internally before discussing it externally. And unless

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1 I'm mistaken, then we don't need to adjust the agenda.

2 I'll say this -- I'll wait and say it on the
3 public record, but Ed, go ahead.

4 MR. QUATREVAUX: I'd like to share with you a
5 comment I made to Bonnie Allen after hearing her
6 report. It's been long my observation that the
7 corporation and this program does not have a
8 constituency at the bottom, that most of the efforts
9 are aimed at lawyers, and perhaps businessmen.

10 But you miss a real opportunity, 1,000,000 a
11 year pass through legal services-funded office and
12 receive something of value. Not all of them are happy,
13 but a very high proportion are. And there's nothing as
14 effective as word-of-mouth advertising. It's a 12-to-1
15 payoff. Every person who is pleased with service will
16 tell, on average, 12 people. That gets you to
17 12,000,000 people very fast.

18 Every election year, when it comes around,
19 you're missing those people. They don't know who you
20 are, they don't know what good that you do. And so I
21 would just -- there are lots of ways to get at that.

22 Now, I also observed that in terms of branding

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1 and into these things now, that it's very hard to
2 establish a brand with 240 names. And to the degree
3 that you can, you need to pick a name, whether it's LSC
4 or LAC, or whatever it is. But present that one name,
5 as opposed to a collection of 240. That's it, for what
6 it's worth from someone who's not a professional
7 marketing person.

8 I'd like to say to the board that, despite
9 periodic disagreements, I have enjoyed this time. It
10 was quite a challenge, I thought. I have learned a
11 great deal in this process, and I think you have too,
12 and I would urge you to be open-minded about the
13 products you get in the future from the OIG.

14 And by that, I mean even if you disagree,
15 after all, all that office does is make
16 recommendations, which you can choose to ignore if you
17 choose.

18 I say that because there is some interesting
19 work coming. In my view, that organization is now --
20 now has the right mix of skills and capabilities. One
21 of the things in our planning for this year was to
22 initiate a review of competition, and not competition

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1 in the narrow sense that I think was associated with
2 the legislation, but in a broader sense.

3 There are preliminary research studies in
4 support of that project that are working their way
5 toward memorialization. They are serious academic
6 research studies. They discuss things such as who is
7 delivering legal services in America today, and they
8 don't just discuss it, they present the facts in great
9 depth.

10 So this is academically rigorous research,
11 which I think will accrue to the benefit of the
12 corporation in the future. But as you read them, just
13 remember, you are always free to disagree.

14 The other thing I would suggest for both you
15 and the president is to move with haste to establish
16 performance measures. That is something that will both
17 give you -- both identify the need for action on your
18 part, as well as provide the support for action. And
19 it's been a long time in the making, and it needs to
20 get done. And that's all I've got to say.

21 CHAIR EAKELEY: And isn't that -- well, it's
22 not surprising, but isn't it nice to end with a note of

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1 total agreement?

2 (Laughter.)

3 MR. QUATREVAUX: All right, very good. I
4 thank you all for all the good times that we've had.

5 CHAIR EAKELEY: Okay. Thank you, Ed, and Len,
6 don't go too far. You'll -- we'll hear our report from
7 the general counsel on litigation matters, and then
8 we'll go back into open session.

9 MR. FORTUNO: If I may, I'd -- one of my first
10 arguments before the supreme court in Pennsylvania, I
11 was midway through my argument when two of the justices
12 had a sidebar. And I took the dangerous step of
13 stopping my presentation until they realized that there
14 was absolute silence and turned and continued to follow
15 it.

16 If I may, I'd like to invite David Richardson
17 in so that we could very briefly update you on
18 insurance issues.

19 CHAIR EAKELEY: I'm sorry, I'm only -- I'm
20 rushing only because I have a chance to catch a plane
21 to catch my daughter before she leaves for France. And
22 if I can say goodbye to her, I'd like to do that.

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1 MR. FORTUNO: This will be very short.

2 CHAIR EAKELEY: But I'm going to -- but we'll
3 have a vice-chair here, so with everyone's
4 indulgence --

5 MR. MCCALPIN: Can I ask you whether the
6 severance package is funded out of the IG's budget or
7 the --

8 CHAIR EAKELEY: IG. Good morning, David.

9 MR. RICHARDSON: The insurance of the
10 corporation. We have been in contact with our brokers,
11 and we initially got a renewal notice from CHUB, our
12 insurance carrier, that they want to increase our
13 coverage from -- our insurance payments from \$55,000 a
14 year to \$85,000 a year. And they wanted to increase
15 our deductible from \$50,000 to \$200,000 a year.

16 So what we have done is, I've instructed our
17 insurance broker to go out and solicit additional bids.
18 He does have a couple of bids in that would be of
19 benefit to us, except now, since we're changing
20 insurance carriers, he's now trying to negotiate tail
21 coverage at the same time, which would pick up any past
22 acts that may -- that we would reveal in filling out

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1 the final application.

2 None of this is final at this point. We
3 continue to have CHUB, who bought Executive Risk last
4 year, and CHUB is the insurance carrier of record now.
5 We have continued the coverage so we will have some
6 type of financial impact for this first 60 days.

7 We're hoping to get this done by November 30th
8 to go to the next carrier, but that has not been
9 finalized yet, and CHUB will extend it another 60 days
10 if we have to, to get the additional insurance in
11 place.

12 CHAIR EAKELEY: David, the president of CHUB
13 is a friend of mine, former attorney general of the
14 State of New Jersey and sat on the board of Legal
15 Services of New Jersey, and he and I actually sit on
16 another board together.

17 Is this something that one could go to the
18 president of the company and say, "Could you look into
19 this for us, please?"

20 MR. RICHARDSON: Yes, I would think it would
21 not hurt. I was told that they had \$200,000 in
22 outstanding bills that we had submitted to them that

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1 they were looking at paying part of it to us and part
2 to the litigators that we have -- the firms that we
3 have hired. So there is a substantial amount of
4 outstanding bills that they have to pay at this point.

5 CHAIR EAKELEY: But no coverage issue?

6 MR. RICHARDSON: Excuse --

7 CHAIR EAKELEY: No coverage issue? They're
8 supposed to pay --

9 MR. RICHARDSON: No.

10 CHAIR EAKELEY: -- they're just slow?

11 MR. RICHARDSON: That's correct.

12 HON. ERLBORN: There are no outstanding
13 coverage issues at this point?

14 MR. RICHARDSON: No.

15 CHAIR EAKELEY: Maybe somebody could send me
16 an e-mail with the details, and I could follow up.

17 MR. RICHARDSON: Okay. That is -- Vic has
18 just asked me -- this is the director's and officer's
19 liability insurance, which covers this act.

20 The comprehensive liability package they've
21 not come back with a revised quote at this point. So
22 it -- from what he had told me, it was pretty much the

1 same. So as soon as we do get additional information,
2 we will certainly pass it on, and hopefully at the
3 January board meeting, we'll give you a full report as
4 to the outcome of our search for additional insurance.

5 MR. FORTUNO: The claims experience of our
6 comprehensive general liability carrier for us has been
7 different than that of our director's and officer's
8 liability carrier.

9 Obviously, it's that claims experience that
10 influences their decision to revise the terms in any
11 renewal. If there's nothing more --

12 HON. ERLBORN: Could I ask, what kind of
13 claims were there -- would be in --

14 MR. FORTUNO: Oh, these are -- if you'll look,
15 I've got a report in the litigation report part of the
16 agenda.

17 On -- I think at the last meeting, Mr.
18 McCalpin asked about a practice that we had in the past
19 of providing a summary of our experience, costs -- what
20 remained of our budget, consulting line, and any
21 reimbursements by insurance carriers. We're providing
22 that information in a packet that you should have

1 gotten this morning.

2 It's labeled, "Litigation Report Appendices
3 November 2000." That has that kind of information, and
4 I think if you go through that, you'll see the cases in
5 which we have received or are expecting reimbursement,
6 either reimbursement to us for payments we've made, or
7 direct payments to outside counsel.

8 And it's mostly the cases we've got pending
9 right now. Lash is over with, but we've still got
10 Valezquez, we've got the O'Donnell case, which is now
11 on the fourth circuit. The challenge to state planning
12 in Virginia, which was ruled in our favor, but now has
13 been taken up to the fourth circuit.

14 HON. ERLNBORN: Now, in those cases, are
15 officers and directors individually named?

16 MR. FORTUNO: No, but we -- the wording, you
17 know, I think better than I what governs is the scope
18 of the provisions and the D&O policies. And we were
19 fortunate in having policies that are sufficiently
20 broadly worded that they, in fact, do cover these.

21 It's considered our director's and officer's
22 liability policy, but it covers instances where

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1 directors and/or officers are not named in the
2 complaint. So we've been able to get, in fact, far
3 more coverage from our D&O carrier than from our
4 comprehensive general liability carrier.

5 HON. ERLENBORN: Thank you for your
6 explanation. I don't want to take lots of time.

7 MR. FORTUNO: What we do, so that it's clear,
8 is at the outset, as soon as we are served with
9 process, or when we become aware of a potential claim,
10 we notify our carriers, as we're obligated to do under
11 the contract of insurance. And we've been very
12 successful in getting them to provide for defense.

13 And there are all sorts of mixes. Because of
14 the \$50,000 deductible, we try to obtain pro bono
15 representation, and enter into an agreement with the
16 carrier that once that representation reaches what
17 would have been \$50,000, the bills start to come in,
18 and we're reimbursed by the carriers, so that we don't
19 have to pay out-of-pocket the \$50,000 deductible.

20 All sorts of negotiations, including what
21 rates the carrier is willing to pay for counsel, and --
22 but we've had some measure of success. And that,

1 unfortunately, is reflected in the fact that they've
2 paid out a fair amount of money and now want to
3 increase our rates and the deductible.

4 So if I may, David will excuse himself, and
5 I'll turn to the litigation report.

6 I think everyone on the board received in
7 advance of the meeting, a written report which,
8 unfortunately, was dated October the 6th; it should
9 have been dated November the 6th.

10 With that one revision, there is really
11 nothing to report, beyond what already appears in the
12 litigation report. The -- you have the appendix, which
13 will be appearing regularly now as part of the report
14 itself.

15 We will try to keep you appraised of what
16 we're spending, starting out with what our consulting
17 line is, which is the line from which we pay for
18 outside counsel. What -- our consulting line is what
19 we're being billed, what we're paying out, how that's
20 impacting on our consulting line, and also some
21 indication as to where insurance stands. That is,
22 whether we're receiving insurance reimbursement and if

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1 so, at what rate.

2 So that should keep you fairly current as to
3 where we are in terms of not just litigation, but our
4 financing of it.

5 I don't have a report to make on the subpoena
6 matter. I do understand, however, that there has been
7 a request for the Covington & Burling opinion. My
8 understanding is that the urgency for that is that the
9 Department of Justice has asked to see that before they
10 proceed with enforcement.

11 CHAIR EAKELEY: Oh, that's the first time I've
12 heard that was the reason for the renewed request --

13 MR. FORTUNO: My understanding --

14 CHAIR EAKELEY: It just so happens we had a
15 final memorandum delivered at the end of the day,
16 yesterday.

17 MR. FORTUNO: Well, my understanding is that
18 the Justice Department has been nudged to move forward,
19 but has held off until such time as they concede a
20 Covington opinion.

21 CHAIR EAKELEY: Well, I've asked Victor to
22 share that opinion with the board members and with the

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1 OIG counsel.

2 MR. FORTUNO: That -- there is one other piece
3 of information on litigation I should add, which came
4 to me at the last minute. We do have a briefing
5 schedule in the LSNY appeal of the enforcement decision
6 in the earlier case.

7 On December the 12th, LSNY files its opening
8 brief, on December the 27th, amicus briefs are due --
9 amicae -- on January the 26th, the governments/LSC's
10 OIG brief is due, and on February the 9th, LSNY has --
11 that's the deadline for LSNY submitting a reply brief.
12 And then oral argument has been scheduled for April the
13 10th.

14 So while that's not reported on in the written
15 report --

16 MR. MCCALPIN: Second circuit --

17 MR. FORTUNO: This is the -- it's the D.C.
18 circuit case. Because, as you'll recall, the matter
19 was litigated here in the District of Columbia, Judge
20 Robertson. So the appeal has been taken by LSNY, but
21 it's been noticed here, in the District of Columbia,
22 and is being handled here. That's the briefing

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1 schedule on that case.

2 CHAIR EAKELEY: Any other questions?

3 MS. FAIRBANKS-WILLIAMS: the one question I
4 had -- you went a little fast here, when talking about
5 outside counsel and expenses --

6 MR. FORTUNO: Sorry about that, I'm from New
7 York.

8 CHAIR EAKELEY: And I was pushing him.

9 MS. FAIRBANKS-WILLIAMS: Legal services and
10 Carmen Valezquez, or however you say it, you have
11 listed discounted rates from all the other lawyers.
12 When you look at this -- see pro bono representation,
13 but total expenses are way high.

14 MR. FORTUNO: Yes. The -- they are providing
15 representation on a pro bono basis. This is, they're
16 not charging us for lawyer time. Some of these rates
17 are -- one of the partners involved in this case, I
18 think, his hourly rate is \$475. They're not charging
19 us for that.

20 They are, however, charging us for expenses.
21 And so transportation, phones, faxing, legal research,
22 much of this -- and this is somewhere in the range of

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1 \$105,000, if I recall --

2 MS. FAIRBANKS-WILLIAMS: Yes.

3 MR. FORTUNO: Much of this is legal research,
4 much of it is travel down to Washington. For example,
5 they were down here recently for the argument before
6 the Supreme Court.

7 It's high. Some might say that New York firms
8 tend to be a little higher than most, even on expenses.
9 It is high, but the fact is it would have been a great
10 deal higher if we'd been paying for the attorney time,
11 as well.

12 And again, bear in mind that this is a matter
13 that went through the district court, the court of
14 appeals, U.S. Court of Appeals for the second circuit,
15 and is now before the U.S. Supreme Court.

16 I spoke at some length, on numerous occasions,
17 with Alan Levin, who argued the case for us in the
18 Supreme Court -- and now, for example, the last month
19 before the argument, he was managing partner of the
20 firm -- worked on nothing but this. So good value
21 received.

22 CHAIR EAKELEY: Any other questions?

1 (No response.)

2 M O T I O N

3 CHAIR EAKELEY: All right, motion to go back
4 into public session.

5 MR. ASKEW: So moved.

6 MS. MERCADO: Second.

7 CHAIR EAKELEY: All those in favor?

8 (Chorus of ayes.)

9 CHAIR EAKELEY: Opposed?

10 (No response.)

11 CHAIR EAKELEY: We're back in public session,
12 and Victor, if you could welcome back our public?

13 (Whereupon, at 12:00 p.m., the meeting was
14 adjourned to open session.)

15 MR. MCCALPIN: May I ask -- in a sense, go
16 back to the item that we had just before we went into
17 executive session and say to you that although we
18 received a resignation from the inspector general,
19 acting on that, I believe that the better reading of
20 the Inspector General Act is that you should, as chair
21 of the board which is the head of the agency, notify
22 the congress of his removal from office.

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1 I have drafted a letter to that effect which I
2 have given to the general counsel, but I think that it
3 is appropriate that we send that notice that the
4 Inspector General Act calls for --

5 CHAIR EAKELEY: Yes, understood. But thank
6 you for the assist. We need to do that, I agree.

7 We also need to appoint an acting inspector
8 general. And the inspector general has informed us
9 that there is a succession plan posted at all times in
10 his office, and that plan contemplates, in the event
11 that Mr. Quatrevaux shall no longer serve as inspector
12 general, that the assistant inspector general for
13 audits, Leonard Koczur, succeed him as acting inspector
14 general. That is, in fact, the recommendation that Mr.
15 Quatrevaux has made to us.

16 The board has Mr. Koczur's resume, and it also
17 recalls that he's been with us for the last two-and-a-
18 half years, tapping a long career of public service. I
19 have checked him out a little bit more on my own, and
20 came back with the conclusion that this was someone who
21 was truly and thoroughly professional, and I am very
22 comfortable in making the recommendation that the board

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1 act favorably, and appoint Leonard Koczur as acting
2 inspector general.

3 With that should come, under our personnel
4 policy, as I understand it, a seven percent increase in
5 his salary as he moves up to the next whatever it's
6 called -- pay period -- thank you, Alice -- pay band,
7 which would take his compensation from something like
8 \$93,000-and-change up to about or almost exactly
9 \$100,000.

10 So, my proposal would be that the board
11 appoint Leonard Koczur as acting inspector general with
12 the understanding also that in accordance with our
13 personnel policies, his salary would experience a
14 commensurate

15 M O T I O N

16 MR. MCCALPIN: Mr. Chairman, I would move
17 resolution 2000-014, as presented to us with two very
18 minor typographical --

19 CHAIR EAKELEY: You'd take the "D" out of
20 "and."

21 MR. MCCALPIN: Pardon?

22 CHAIR EAKELEY: You're going to take the "D"

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1 out of "and."

2 MR. MCCALPIN: Yes, and take the "all" out of
3 the next sentence.

4 MS. FAIRBANKS-WILLIAMS: I have 2000-015, you
5 said 2000 --

6 CHAIR EAKELEY: No, this is another one, but
7 you should have 2000-014, Edna.

8 MS. MERCADO: Not five?

9 CHAIR EAKELEY: No. Where is the "all?"

10 MR. MCCALPIN: In, "To maintain continuity --"

11 CHAIR EAKELEY: Oh, right, right. Okay, this
12 is the resolution appointing Leonard Koczur as acting
13 inspector general. Does everyone have -- is there a
14 second to the --

15 HON. ERLNBORN: Second.

16 MS. WATLINGTON: Second.

17 CHAIR EAKELEY: Is there any discussion? Any
18 questions?

19 MR. MCCALPIN: Well, Mr. Askew has pointed out
20 that the word "and" is missing after the second
21 "whereas," though it appears after all the others.

22 MS. MERCADO: Now, what? Where?

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1 MR. ASKEW: I'm in a state of depression. Mr.
2 McCalpin missed that.

3 (Laughter.)

4 MS. MERCADO: I see, I see.

5 CHAIR EAKELEY: Victor, do we need to amend
6 this to include the seven percent salary increase, or
7 does that happen, Alice, when Mr. Koczur goes up to the
8 next salary band?

9 Okay, let's act on resolution 2000-014. All
10 those in favor?

11 (Chorus of ayes.)

12 CHAIR EAKELEY: Opposed?

13 (No response.)

14 CHAIR EAKELEY: The resolution passes.
15 Leonard, congratulations.

16 M O T I O N

17 CHAIR EAKELEY: Next, the board will entertain
18 a motion to ratify, affirm, approve the salary
19 adjustment to be made in accordance with our personnel
20 policy, given that Mr. Koczur has now been appointed
21 acting inspector general.

22 HON. BRODERICK: So moved.

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1 MS. MERCADO: Second.

2 CHAIR EAKELEY: Any further discussion?

3 (No response.)

4 CHAIR EAKELEY: All those in favor?

5 (Chorus of ayes.)

6 CHAIR EAKELEY: Opposed?

7 (No response.)

8 CHAIR EAKELEY: The ayes have it.

9 My intention was to ask the board to authorize
10 me to appoint a search committee. I'd like to consider
11 -- in fact, I think we will go ahead with that
12 authorization, but I want to talk to people about the
13 process moving forward and -- or, we can defer that
14 until the January meeting, given the fact that we have
15 the holidays and the election and an as-yet -- well --

16 MR. MCCALPIN: My own feeling is we we're well
17 off -- well enough along. Let us move forward. We
18 have a new acting inspector general and I think we can
19 afford to take our time worrying about a full-blown
20 search.

21 CHAIR EAKELEY: My proposal would be to defer
22 that to the January meeting, if that's acceptable to

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1 you. I suspect Leonard would be comfortable with that
2 also, so -- all right. Well, with that, I have to bid
3 you farewell so that I can bid my daughter farewell
4 before she departs to take up residence in another
5 country.

6 So I will turn the meeting over to Vice-
7 Chairman John Erlenborn, and wish you all a happy
8 Thanksgiving.

9 PARTICIPANT: Same to you.

10 MS. MERCADO: And Christmas.

11 HON. ERLENBORN: The next item on the agenda
12 is to consider and act on other business. Is there any
13 other business to consider?

14 MR. MCCALPIN: No.

15 HON. ERLENBORN: Hearing none, the last item
16 is public comment. Is there anyone from the public who
17 would like to comment?

18 PUBLIC COMMENTER: Yes.

19 HON. ERLENBORN: Please come up and identify
20 yourself.

21 MR. HULL: My name is Kent Hull. I'm an
22 attorney from South Bend, Indiana. I'm appearing here

1 today individually and personally. But for purposes of
2 identification alone, I am supervising attorney of the
3 Older Adult Impact Project of the legal services
4 program of northern Indiana and South Bend. I'm also
5 an adjunct associate professor at the Notre Dame Law
6 School.

7 HON. ERLENBORN: Can I interrupt for just a
8 minute? Have you a card you could leave for the court
9 reporter?

10 MR. HULL: I'm sorry, I didn't bring a card
11 with me.

12 HON. ERLENBORN: Would you give us your name
13 again? It's spelled --

14 MR. HULL: Sure.

15 HON. ERLENBORN: -- for the record.

16 MR. HULL: It's Kent, K-e-n-t Hull, H-u-l-l.

17 HON. ERLENBORN: Thank you.

18 MR. HULL: Okay. I asked to speak at the
19 public meeting, or at the public portion of this. I'll
20 try to be as brief as I can, because I realize you're
21 coming to the end of a long meeting.

22 Since arriving here yesterday, and listening

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1 to some of the committee reports and the meetings
2 today, I've sort of changed what I was going to say,
3 and I've kind of thrown away what I was going to say,
4 because some of what you've said changed my perspective
5 on some things.

6 What really drew me here initially -- and I
7 should say that I'm not just here alone, but on behalf
8 of a group called The Committee for Effective Legal
9 Services, which is kind of an ad hoc group that some of
10 us concerned about legal services in Indiana have
11 formed, particularly in relation to the issue of merger
12 and mandated merger -- but what drew me here was
13 actually Mr. Askew's article that appeared about
14 merger. I think it was in the management exchange
15 newsletter. And I want to get to that in just a
16 minute.

17 More recently what brings me to talk with you
18 is something which I heard Justice Broderick say here
19 this morning which, as he was talking to the inspector
20 general, which is that even though they may have
21 disagreed from time to time, it has been a principled
22 disagreement.

1 And that sort of says, in essence, what I
2 would like to convey to the board about some of the
3 things that have happened in Indiana over the last
4 year, year-and-a-half, maybe even two years. There
5 have been some principled disagreements.

6 I was very interested to hear, by the way,
7 your -- the comments about bringing corporate lawyers
8 and corporate in-house counsel into the public interest
9 sector, and I thought I heard Mr. Askew refer to the
10 Coca-Cola lawyers -- not quite sure how much they were
11 doing -- which reminded me that Father Hesberg, of
12 Notre Dame, as our president emeritus before he
13 retired, wanted to invite the CEO of Coca-Cola, who I
14 think his name is Mr. Keough, to be the president of
15 the board of trustees of Notre Dame.

16 And Mr. Keough said he was just too busy to do
17 it, so Father Hesberg flew down to Atlanta, took him
18 out to lunch and said, "I want to tell you something.
19 When you meet St. Peter at the pearly gates, he's going
20 to ask you what you did on earth. And if you tell him
21 that you were CEO of Coca-Cola, he's going to say, 'I
22 don't know what Coca-Cola is, and that doesn't mean

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1 anything to me.'

2 "But if you tell him that you were president
3 of the board of trustees of Notre Dame, he will let you
4 through the gates right away." And so that's probably
5 one reason why Father Hesberg was able to raise as much
6 money as he has for the endowment of Notre Dame, but
7 Mr. Keough joined the board of trustees shortly
8 thereafter.

9 I was going to suggest that when I get back to
10 South Bend, maybe we could enlist Father Hesberg and
11 send him down to the corporate legal department there
12 to talk to the lawyers.

13 But anyway, you may have heard indirectly
14 about what's been going on in Indiana, or different
15 versions of what's been going on. And this has been a
16 very, very difficult time for those of us who are in
17 legal services.

18 I have been in my present position of
19 supervising attorney of the Older Adult Project for 15
20 years -- actually, a little bit longer. I have been a
21 practicing attorney for 28 years. I have been an
22 adjunct faculty member at the Notre Dame Law School

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1 since about 1992, I think. And this has been, I think,
2 the most difficult professional experience I've ever
3 been through.

4 To many people from the outside looking in
5 from the outside, it probably appears to be something
6 in the way of a personality clash, a turf clash, that
7 kind of thing, kind of the bureaucratic arguments that
8 people have from time to time. Of course, there are
9 those elements in it, because we're all human.

10 But those of us who have been the centers, I
11 guess, in this debate about merger in Indiana have, I
12 think, tried to keep our arguments on a principled
13 basis, and that's what I was thinking about earlier.
14 We could have engaged in the personality attacks, but
15 we didn't, and I'm not interested in doing it now.

16 To make this -- what may be a little abstract
17 right now, to make it a little more concrete, let me
18 tell you that about two months ago in our office in
19 South Bend, we lost the best receptionist that we've
20 ever had, a young African-American woman who just
21 probably should have been working for the State
22 Department, given the way that she could handle the

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1 incoming calls, and the people who think that it's sort
2 of like calling Dr. Ruth to get advice. And of course,
3 we can't do that, but she was very diplomatic. I don't
4 think I ever heard her raise her voice, which is
5 something I've never been able to claim.

6 But she left, and she told me she left because
7 of all the uncertainty related to merger. You can ask
8 her directly, I can give you her name and phone number.
9 She would tell you that. She went to work for the
10 prosecutor's office in our county.

11 Just about the same time, not in our office
12 but in another office in Indiana, a young woman who had
13 been a legal services attorney for about six years,
14 from the day she got out of law school, and had done
15 great work in terms of Social Security, disability,
16 very successful, called me to tell me that she was
17 leaving her job.

18 And she said, "I'm leaving because of the
19 merger situation." And she said, "I'm leaving because
20 what we're going through every year for the past five
21 or six years, it has been more and more uncertainty."
22 "I went into legal services," she said, "with the --

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1 not with the idea that I was ever going to become a
2 millionaire, I fully expected to retire from legal
3 services." But she says, "I have to have some kind of
4 security, some kind of stability. I cannot work in
5 chaos." And that's not a direct quote, but that's the
6 essence of what she was saying to me, and I think it's
7 a fair essence of what she was saying to me.

8 So I -- what brings me to talk with you -- and
9 this is from what you wrote, Mr. Askew, in your
10 article, and what -- you just talked to the project
11 directors in the southeast part of the country.

12 You said, "I want you to stop focusing on LSC
13 motives and analyzing us every move, and concentrate
14 primarily on what you know about your state, the
15 delivery system there, and perhaps uncomfortably, on
16 the deficiencies in the system. Focus on what you know
17 needs to be done, how best to get it done, and then fit
18 that into the LSC directives."

19 That's really the way it should go, but it
20 hasn't gone that way in Indiana. It has been enormous
21 turmoil. There's no doubt in my mind we're going to
22 have a merge program, because only one program

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1 submitted a proposal.

2 But I think you should also understand that
3 those of us who have voiced dissent, the principles and
4 the concerns we've had are matters of which you should
5 be aware in your thinking about legal services in
6 general.

7 You may know or remember that I was one of the
8 people who raised questions about client
9 confidentiality, and the authority of the corporation
10 to look at client files. I did -- and this was not in
11 relation to the data call arrangement, this was with
12 the so-called independent auditors.

13 I did so after the executive director of our
14 state disciplinary commission, which is an arm of the
15 supreme court, which is the arm that basically
16 recommends disbarment and discipline said to me, "Don't
17 show them your files."

18 And he's a former legal services lawyer, his
19 name is Don Lindberg. He was director of litigation
20 for, I don't know, 10 years or so with the Legal
21 Services Organization of Indiana in Indianapolis.

22 We presented a petition to our supreme court

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1 asking them to rule on the question and they declined
2 to rule, saying that they did not want to exercise
3 jurisdiction under these circumstances, and told us
4 that we might consider some other things like federal
5 lawsuits, or negotiation, and that sort of thing.

6 But about a month after that happened -- and I
7 thought we'd just kind of lost -- but a month after
8 that happened, the chairperson of the ethics committee
9 of the Indiana State Bar Association said in the
10 state's largest newspaper, "We told the legal services
11 lawyers not to show our files to people -- their files
12 to the auditors."

13 So his position, apparently, remained what it
14 was, because I had also talked to him after I talked to
15 Lindberg.

16 We also talked to senior lawyers in the
17 largest law firms of our state, who gave us letters
18 saying, "Don't release your files."

19 We talked to Professor Thomas Schaeffer,
20 former dean of the Notre Dame Law School, and a
21 nationally recognized authority on legal ethics.
22 Unequivocally, Schaeffer said -- Professor Schaeffer

1 said, "Don't show your files."

2 My view on this matter was that there were
3 arguments going both ways. I recognized and tried to
4 understand what I thought the corporation's position
5 was, which was that the auditors work for the local
6 programs, they fall within the attorney-client
7 privilege, and it occurred to me that very likely a
8 court could say that's exactly right.

9 I should also add that our malpractice insurer
10 told us that there would be a serious question about
11 whether or not our insurance would cover us if we
12 permitted the auditors to look at them.

13 So to me, when you're faced with that
14 situation as a lawyer, what you do is you go to a court
15 and you ask for something like a declaratory judgement.
16 You say there's just an honest dispute here. Please
17 rule, please tell us what to do.

18 And that action, apparently, was sort of
19 regarded as treasonous by some people in Indiana. But
20 anyway, that's what happened there. I still feel the
21 same way I do (sic) -- in fact, I feel more so now than
22 I did then.

1 One thing that has motivated me as -- when we
2 first talked about this, we contacted Professor Jerry
3 Sinkton, who I was told was connected with the Harvard
4 Law School -- I don't know if he is, or not -- he
5 advised us that the corporation was correct.

6 On October 2nd of this year, we got an e-mail
7 from him indicating that apparently he's changing his
8 position, apparently indicating that he -- well, I'm
9 not sure if I understand it, you can read it yourself,
10 but it certainly is not the unequivocal position that
11 he gave us before.

12 All of this led me to believe that whatever a
13 court would ultimately say, I did not think that
14 lawyers should have to risk any -- should risk their
15 careers. And more importantly, in our state, our
16 supreme court has held very clearly that even an
17 inadvertent waiver of the attorney-client privilege
18 results in the file becoming open.

19 So I can imagine, in a hypothetical, that in a
20 domestic violence case, if that file had been looked
21 at, the opponent could then discover the file and
22 information that shouldn't be available in domestic

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1 violence cases would become available.

2 That was one of our principle bases of
3 disputes in Indiana. Another one, though, I think has
4 become this whole idea for us, some of us, that right
5 now -- you know, there are some people in Indiana who
6 think that those of us who are working here in legal
7 services do so because we cannot find employment
8 elsewhere.

9 That's not right, but to me, the principal
10 question is not who is working where, or what, but how
11 we're going to protect our clients in this situation,
12 through -- if there is a merger, if there is a
13 transition, how do we make sure that clients are served
14 in a way they should be served?

15 And when I hear people talk about the
16 importance of judicial independence, and with the ABA
17 projects, that kind of thing, it seems to me that the
18 independence of legal services lawyers is just as
19 critically important.

20 I'll be very frank. I'm here because a number
21 of people chipped in to buy me a ticket on an Amtrak to
22 send me to Washington. And I'm going to go back on an

1 Amtrak tomorrow afternoon, and then I'm going to think
2 a long time as I go through the Ohio prairie about
3 whether or not we need to ask a court in Indiana to
4 supervise the merger process. I don't know, it's just
5 a thought, but it occurs to me.

6 I'm also concerned, as I listened to some of
7 the discussions yesterday -- and I came into the middle
8 of this, so I didn't hear everything -- but there's
9 been so much emphasis with respect to compliance.

10 I don't have any problem with the idea of our
11 complying with the laws that Congress imposes, at least
12 if they're upheld by the courts, but I do have trouble
13 with the idea, number one, that in the compliant
14 procedure we create a perception that legal services
15 lawyers are sort of like unruly children out there, and
16 that they have to be restrained.

17 I think we're quite responsible. I think if
18 you went to the judges before whom our lawyers
19 practice, they would tell you that we're quite
20 responsible. I don't know anybody in legal services in
21 Indiana who has ever been sanctioned in any way
22 whatsoever. I can't say that about any other group of

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1 lawyers in the state.

2 I'm also concerned with respect to compliance
3 in the sense that it seems to me that enforcement is on
4 a selective basis. I could be wrong about this, but
5 when I hear so much concern about, "Do we have
6 citizenship cards, or client retainer agreements in the
7 files," and, "We want to see those files," that's
8 important for sure, because that's the law, but for
9 example, is there any enforcement of compliance for
10 local programs to make sure that they're acting
11 consistently with the Americans with Disabilities Act?

12 I don't know. I've talked informally with
13 some of your staff members who have given me some
14 information in the last day or so, so I've got some
15 general information, but wouldn't it be interesting if
16 compliance with the ADA by local programs became just
17 as important for the inspector general, or whoever is
18 doing it, as compliance with the citizenship
19 requirement? Many, many of our clients are disabled,
20 and so this is quite important.

21 So that's basically what I'm here to say. I
22 have appreciated listening to these discussions, and

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1 the presentations by the ADA representatives and NLADA
2 representatives.

3 I think this report that we heard about this
4 morning on public perception is one of the most
5 encouraging things I've heard about, and I certainly
6 hope this information is disseminated to the field. It
7 reinforces my own gut feeling about the public's
8 perception of what we do.

9 But at the same time, I have to say -- well,
10 for example, my program, unfortunately, decided to
11 withdraw from NLADA because, I guess, we just had to
12 spend the money on something else, I think that was
13 unfortunate.

14 But it may also be time for some of us to
15 present new voices, new points of view in this process,
16 in addition to the points of view that you're hearing.
17 And so you may hear from us.

18 So I just wanted to say this before you, and
19 explain what's going on, and that's basically all I
20 have to say. I thank you for your attention.

21 HON. ERLENBORN: Maria?

22 MS. MERCADO: Yes. I was taking notes as you

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1 were talking, and I'm -- maybe I missed it, I'm sorry,
2 but I think you started talking about your concerns
3 with the merger in Indiana, and whatever else, but you
4 never actually talked about what the problem --

5 MR. HULL: I'm sorry --

6 MS. MERCADO: -- what problems you
7 specifically had with the issue of merger. I mean, you
8 didn't go into that. You started to talk about it, but
9 then --

10 MR. HULL: Okay.

11 MS. MERCADO: -- we didn't get a sense of what
12 problems it was that you had. I know you mentioned Mr.
13 Askew's article, but I still wasn't very clear as to
14 what the difficulty was that you were having in
15 Indiana.

16 MR. HULL: Well, let me mention a couple
17 things. And again, this is my own perception, but I
18 think it would reflect what other people would say.

19 I think that the principal problem with merger
20 in Indiana was that the impetus came from outside the
21 state.

22 Now, I'm not concerned that somebody -- the

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1 corporation says, you know, "Gee, you could do it
2 better if you could be more cooperative. You could
3 save some money, you could eliminate, whatever, some
4 inefficiencies."

5 That doesn't bother me at all. I think that's
6 part of your job. But I mean, I -- if Mr. Eakeley were
7 here, I would say I was going to pick on him for just a
8 minute, because I think I heard at some point somebody
9 say that there are still going to be 14 separate
10 programs in New Jersey.

11 MS. MERCADO: That's correct.

12 MR. HULL: And said that they're well-
13 integrated.

14 Now to me, you know, I thought our programs in
15 Indiana -- we have four of them -- I thought they were
16 relatively well-integrated. Certainly we never had the
17 kind of problems that we seem to be having right now.
18 So one problem was, I think, this impetus from the
19 outside.

20 At the same time, another second problem was,
21 I think there was an attempt to, frankly, manipulate
22 the process. Some of us who had strong feelings about

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1 this wanted to be heard and were more or less excluded
2 from the process. Committees were set up, task forces
3 were set up, and the functions of some of those
4 committees and some of those task forces just simply
5 rubber-stamped what some people wanted.

6 So if you want people with you, as somebody
7 said in the recent election, if you want people with
8 you on the landing, you've got to have them with you on
9 the take-off. And we weren't with them on the take-
10 off. That was part of the problem.

11 MS. MERCADO: But you're not saying that LSC
12 and the national office set up these committees and
13 these task forces, are you?

14 MR. HULL: Well I don't -- no. I think -- I
15 don't know.

16 MS. MERCADO: I mean, isn't this set up in
17 Indiana?

18 MR. HULL: Well, let me put it like this. I
19 mean, I frankly don't know how they were set up. I do
20 know the first time I met John Orango was about
21 December 4th of last year, when he came to South Bend
22 with a representative of one of the other programs, the

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1 largest program, and he was introduced to us as a
2 facilitator.

3 To me, a facilitator is like an outside
4 person, a mediator, an arbitrator, someone who is
5 coming in to give you an objective view of all this. I
6 later found out that basically he was an employee of
7 the corporation. But then --

8 MS. MERCADO: No, he's not an employee of the
9 corporation.

10 MS. WATLINGTON: And he is a trainer.

11 MS. MERCADO: He's a trainer and consultant,
12 and a lot of programs hire him independently to consult
13 in their state planning programs, or anything else.

14 MR. HULL: So --

15 MS. MERCADO: But the LSC didn't hire him. I
16 just wanted you to know that, for the record.

17 MR. HULL: So he's not being paid by contract
18 by LSC at all?

19 MS. MERCADO: He's not our employee, no.

20 MR. HULL: Well, is he a contractor?

21 MS. MERCADO: I don't know whether he's a
22 contractor in some situations or in some situations

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1 not. Some states hire him independently as a
2 consultant to help them do state planning.

3 MS. WATLINGTON: In Pennsylvania, we have
4 hired him -- counsel -- to do training.

5 MR. HULL: Well, somehow he was getting a
6 substantial amount of -- we understood -- of LSC money.
7 Now, I don't -- I mean, again, I don't know.

8 MS. MERCADO: Yes, go ahead. That's fine.

9 MR. MCKAY: If I may, Mr. Chairman, my
10 understanding of that relationship is that through the
11 technology assistance funds requested initially by
12 NLADA, we agreed to fund Mr. Orango as a consultant to
13 Indiana after he was recommended to us by the group
14 working in Indiana. So they designated Mr. Orango, and
15 in support of their state planning efforts, we paid for
16 him.

17 MR. HULL: That's kind of what I -- something
18 like -- I mean, I didn't know the exact arrangement.

19 I think it would have been helpful -- for
20 example, I asked him at the time he came in, because
21 his name was listed with the ADA Equal Justice Project.
22 On their Website he's listed as a consultant with them,

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1 and he told me that he was not connected with them
2 anymore.

3 The last time I looked at the Website, his
4 name is still listed there, so I don't know what's
5 going on. But whatever happened there -- and I don't
6 know what the arrangement was -- it created a problem
7 in terms of perception.

8 We created -- or, we didn't create -- I guess
9 the four executive directors created a state support
10 center, appointed an attorney to it, and there was
11 never any competition for the job. She was just
12 appointed, and they called her an interim director.
13 She's been interim for a year-and-a-half or two years.
14 That raises questions in my mind. So those kinds of
15 things occurred.

16 MS. MERCADO: But I mean, that's -- I guess
17 I'm trying to figure out decisions that are being made
18 by your state, by your people, and that are
19 stakeholders, including legal services programs and the
20 delivery of legal services to the poverty community in
21 Indiana, and I'm not sure that that is a function that
22 we had in making that decision. I mean, I don't think

1 we're involved in who locally hires whomever to do any
2 of the programs, or statewide programs.

3 MR. HULL: Well, you've got a regulation 45CFR
4 part -- section 1630 that talks about hiring of
5 attorneys. It's very specific. It's an LSC reg --
6 rule, and it talks about posting job descriptions and
7 inviting competitive --

8 MS. MERCADO: But that's something that your
9 state is doing. I mean, you're not saying that LSC
10 went and hired this woman --

11 MR. HULL: No.

12 MS. MERCADO: -- and had her be the interim
13 director of the state planning, is that --

14 MR. HULL: No, what I am saying is LSC was
15 aware of -- or, these people in LSC were aware of the
16 way things were being set up in that regard.

17 MS. MERCADO: Is -- those are some of the
18 problems that you were talking about, as far as
19 mergers?

20 MR. HULL: Pardon me?

21 MS. MERCADO: So that is the problem that you
22 were talking about, as far as the merging of the

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1 programs?

2 MR. HULL: Well yes, as well as the overall
3 fact of for example, all right, say we try to talk
4 about the merits.

5 The first question that we asked when John
6 Orango came in was, you know, "What experience has it
7 been in other states?" You know, "Do clients get
8 served better? Do things work better? In some way are
9 programs more efficient?"

10 And what he said to me was that we don't know.
11 And basically he said LSC doesn't care.

12 MS. WATLINGTON: I'll say I've trained with --
13 and worked with John Orango for many, many years. I
14 can't see -- of anybody, I can't picture John Orango
15 having that type of personality. He doesn't come in
16 and tell you, he just works with you to work well with
17 yourself.

18 There's not -- that's not his style, and I
19 just can't picture him saying that to someone.

20 MR. HULL: Well, I can see we've had different
21 experiences, then.

22 MS. WATLINGTON: Yes, very much so.

1 HON. ERLENBORN: Any further questions?
2 Comments? If not, let me thank you, Mr. Hull.

3 MR. HULL: Thank you for your time.

4 MR. ASKEW: Let me just briefly comment.

5 HON. ERLENBORN: Bucky?

6 MR. ASKEW: We don't know each other, Mr.
7 Hull.

8 MR. HULL: No.

9 MR. ASKEW: Whenever I say anything or write
10 anything, I make my fellow board members incredibly
11 nervous, and probably the audience gets incredibly
12 nervous.

13 But the speech I gave in St. Petersburg, which
14 ended up being the article in the journal, you did
15 quote that correctly.

16 And I cited John Orango in that speech as a
17 person that I admired and respected greatly, and who
18 had some very cogent things to say about state planning
19 in an article he also wrote in the journal that I
20 quoted from in my speech, because I knew that those
21 program directors in the South, as well as people who
22 work for the Legal Services Corporation admire him

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1 immensely, and the work that he does.

2 He was working for the programs, he wasn't
3 working for us, regardless of who paid him. He was a
4 consultant to them to do as they wanted done.

5 My understanding is that a plan has been
6 adopted in Indiana that has been agreed to by the state
7 planners in that state, and you're essentially
8 dissenting from that plan, and don't agree with the
9 outcome of that plan, which I understand.

10 I think you did a mailing to the board last
11 year, which I read. Quite extensive, you're quite a
12 good advocate. I'm sure you have won a lot of cases,
13 and you've probably lost a few cases. And you know
14 that in an advocacy situation sometimes you don't
15 prevail.

16 It sounds like in this case, that your view of
17 the particular issue of merger and consolidation and
18 how the state plan should be developed in Indiana, you
19 did not prevail.

20 And I understand that, and I appreciate your
21 views, but it sounds like the planners in Indiana have
22 now made their decision and it's going forward. It's

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1 consistent with the requirements of our program letters
2 to them in terms of what they were required to do.

3 That's essentially the outcome, is that
4 correct?

5 MR. HULL: Well, it's -- I guess it would only
6 be partially correct. It depends on what you mean by
7 planners. The best answer I could give to you is the
8 statement made by one of our board members, who is
9 another professor Notre Dame, and has been there for
10 over 50 years, who said in December at the board
11 meeting, "We're doing this because we have a gun at our
12 head."

13 So if you want to say that the planner agreed
14 to it, they did. But that's what he said.

15 MR. ASKEW: Okay. If the gun was those
16 program auditors, if that's what they mean by gun, then
17 every state in the country essentially had a gun at
18 their head, because we ask every state in the country
19 to do what Indiana was asked to do, and they are now in
20 the various stages of doing that, all over the country.

21 MS. MERCADO: And that has been going on for
22 about 35 months, which is almost 3 years. So it isn't

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1 something that just happened within the last couple of
2 months. It's been ongoing for quite some time, giving
3 the states the opportunity to come up with their own
4 plan, with what works best for them.

5 And obviously, as Bucky said, in those
6 situations, unfortunately, there's not going to be 100
7 percent agreement between all those programs. And
8 there's some compromises, there's a consensus that
9 finally is reached by them.

10 But by no means have I taken -- at least in
11 the 35 months that we've been working with state
12 planning, as board of directors -- you know, we're
13 trying to cram things down people's throats. That has
14 been the opposite, in trying to give as much leeway to
15 bring as many partners into that decision for that
16 state, as to how best to deliver legal services.

17 HON. ERLENBORN: I think it's important to
18 note that what the corporation has mandated is a
19 process, not the outcome. And you seem to have the
20 feeling that we have somehow or another mandated the
21 outcome.

22 MR. HULL: I think you've exactly stated the

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1 point, which is that I think the process didn't work
2 the way you all think it works. And you're right, I
3 mean, when you go to law school, you learn to separate
4 the process from outcome and process from result, and
5 we all -- legally, you want to achieve a result, but
6 you've got to go through a certain process.

7 And I guess my point in coming here is not
8 just simply to rail about what may or may not have
9 happened. I mean, I don't want to attack John Orango
10 personally, I mean, you know, whatever, I'm just saying
11 what my perception was.

12 But I can tell you that as you work with this
13 across the country and other states and other
14 jurisdictions, don't replicate the Indiana experience.
15 Do it differently and do it better.

16 Because otherwise, that receptionist and that
17 lawyer that went out the door -- the phones are going
18 to be there ringing, and nobody is going to be there
19 answering them, so you need to think about how this can
20 be much better improved. I guess that's what I want
21 you to understand.

22 HON. ERLBORN: Just for clarification, you

1 said that you recognize that it was a process, but in
2 Indiana the process broke down. By that, do you mean
3 that the process finally turned into a mandate by the
4 corporation, or was it within Indiana that it broke
5 down?

6 MR. HULL: In -- well, first of all, I was
7 outside the process. There were board members who
8 could tell you more about that, and might very well
9 tell you. I mean, so when I -- to say the process
10 broke down, I think one way it broke down was the
11 exclusion of some people who should have been heard in
12 some way. But --

13 HON. ERLENBORN: Now, was that an LSC
14 decision?

15 MR. HULL: No, I don't think it was an LSC
16 decision. I think that was --

17 HON. ERLENBORN: All right. I'm trying to
18 find out from you, really, very frankly, your
19 disagreement with what the LSC did. Now, you may be
20 disagreeing with the planning group in Indiana, but --

21 MR. HULL: Well --

22 HON. ERLENBORN: -- again, we didn't mandate

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1 what they would do.

2 MR. HULL: And that's what I'm trying to get
3 to, which is that the LSC connection in the process, in
4 my opinion, is that whenever questions were raised by
5 anybody in the process that went against merger, the
6 answer seemed to come back we don't have a choice, we
7 have to do it, we have a gun at our heads, that kind of
8 thing. That wasn't done by people in Indiana.

9 HON. ERLENBORN: I don't think we can be
10 responsible for those comments.

11 MR. HULL: Well, then maybe somebody
12 misrepresented --

13 HON. ERLENBORN: You know, I would be very
14 surprised if those comments were accurate. Because
15 again, we were not mandating outcomes. And apparently,
16 you had -- it was the group within Indiana that came up
17 with the conclusion that was different than what some
18 other people thought it ought to be.

19 But all the corporation did was to say it
20 would be well -- that we wanted every state to consider
21 a plan for the state to see that there is cooperation,
22 there isn't overlapping, and so forth. I don't know

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1 any instance where we went into a state and said, "You
2 have to go from four to two programs."

3 MR. HULL: Well, you know, I guess there are
4 people in Indiana, certainly in the Fort Wayne program
5 -- and to some extent in the Gary program that would
6 disagree with that perception.

7 I do not think the corporation was seen as
8 being that removed, or that objective, but I'm just
9 telling you what I know. Thank you for your attention.

10 HON. ERLENBORN: Thank you, again. Any other
11 people from the general public who would like to make a
12 statement?

13 (No response.)

14 M O T I O N

15 HON. ERLENBORN: If not, I think that the
16 motion to adjourn is in order.

17 MS. FAIRBANKS-WILLIAMS: So moved.

18 MS. WATLINGTON: Second.

19 HON. ERLENBORN: So, moved and seconded, we
20 may adjourn. All those in favor, say aye.

21 (Chorus of ayes.)

22 HON. ERLENBORN: It's unanimous.

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1 PARTICIPANT: Good job.

2 (Whereupon, at 12:37 p.m., the meeting was

3 adjourned.)

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