

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

PROVISION FOR THE DELIVERY OF
LEGAL SERVICES COMMITTEE

Friday, January 27, 2006
1:33 p.m.

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

COMMITTEE MEMBERS PRESENT:

David Hall, Chairman
Bernice Phillips
Florentino A. Subia
Ernestine Watlington (by phone)
Frank Strickland, ex officio

OTHER BOARD MEMBERS PRESENT:

Lillian R. BeVier
Thomas A. Fuentes
Herbert S. Garten
Michael D. McKay
Thomas R. Meites

STAFF AND PUBLIC PRESENT:

Helaine Barnett, LSC President
Karen Sarjeant, LSC, V.P., Programs & Compliance
Luis C. Jaramillo, LSC Acting Special Counsel
Danilo Cordova, LSC
John C. Idleman, LSC Acting Deputy Director
Mattie Condray, LSC Sr. Ass't. General Counsel
Lynn A. Bulan, LSC Sr. Assistant General Counsel
Treefa Aziz, LSC Government Affairs Representative
Charles Jeffress, LSC Chief Administrative Officer
John C. Meyer, LSC Director, Office of Information Mgt.
Wendy Burnette, LSC Executive Assistant
Charles M. Crittendon, LSC Program Analyst
Karen M. Dozier, LSC Executive Assistant to the President
David Maddox, LSC Assistant IG for Resource Management
Laurie Tarantowicz, LSC Assistant IG and Legal Counsel

(Continued)

STAFF AND PUBLIC PRESENT (continued):

Sarah Singleton, Nominee, LSC Board of Directors
Victor M. Fortuno, Vice President for Legal Affairs,
General Counsel & Corporate Secretary
Patricia D. Batie, Manager of Board Operations
Richard (Kirt) West, LSC Inspector General
Ronald Merryman, LSC Acting IG for Audit
Alice Dickerson, LSC Director, Human Resources
Daniel Richardson, LSC Comptroller/Treasurer
Steven Sandler
Jessica Glynn
Esther Lardent, Pro Bono Institute
Charles Lester, Sutherland, Asbill & Brennan
Neil McBride, LSA of Middle Tenn./Cumberlands
Jonathan Ross, ABA-Pro Bono Committee
Steve Scudder, ABA-Pro Bono Committee
Robert Weiner, Arnold & Porter
Michael Lenn, House Judiciary
Bob Henderson, LAW
Charles Wynder, Jr., NLADA
Julie Clark, NLADA
Don Saunders, NLADA
Linda Perle, CLASP
Bill Whitehurst, SCLAID/ABA
Terry Brooks, SCLAID/ABA

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P R O C E E D I N G S

(1:33 p.m.)

CHAIRMAN HALL: I'd like to call to order the Provisions Committee meeting, and welcome to all of you here.

We'll have a introduction of our guests shortly.

The members of this committee are Bernice Phillips, Florentine Subia, Ernestine Watlington, who is on the phone with us, Tom Fuentes, Herb Garten, and Sarah Singleton will be joining this committee once she is confirmed, and we also have present some of our other board members, as well.

M O T I O N

CHAIRMAN HALL: To get started, I would ask for an approval of the agenda that is on page 24.

A PARTICIPANT: So moved.

CHAIRMAN HALL: Second?

A PARTICIPANT: Second.

CHAIRMAN HALL: All in favor?

(Chorus of ayes.)

CHAIRMAN HALL: Any opposed?

(No response.)

CHAIRMAN HALL: The agenda is approved.

1 We have in our book some committee
2 meeting -- minutes from the committee meeting of October 28,
3 2005. Could I get a motion to approve those minutes?

4 M O T I O N

5 A PARTICIPANT: So moved.

6 CHAIRMAN HALL: Second?

7 All in favor?

8 (Chorus of ayes.)

9 CHAIRMAN HALL: Any opposed?

10 (No response.)

11 CHAIRMAN HALL: Okay.

12 Thank you.

13 We have one major topic before the committee, and
14 it is a very important topic, and I think we have a very
15 special committee meeting today.

16 For some time, various members of this committee
17 have been interested in exploring the role that pro bono
18 plays in addressing the legal needs of the poor, and we
19 deeply believe that this equal justice mandate that is so
20 fundamental to this country and to this legal system is a
21 shared responsibility, and certainly, the Federal Government

1 plays a tremendous role in that, as evident by the support of
2 the Legal Services Corporation.

3 State government plays a role. Private
4 contributors play a role. But the legal profession itself,
5 and members of the profession, certainly play an especially
6 critical part in carrying out this mandate of equal justice.

7 This ideal, as we know, is certainly codified in
8 the ABA rules of professional responsibility, but it's also
9 reflected even in the LSC rules and regulations which we know
10 as the private attorney involvement requirement, and so, the
11 committee asked management to pull together a group of
12 individuals who could help us to better understand how LSC
13 can play a role and how the board can play a role in
14 enhancing the involvement of the private bar in trying to
15 achieve this goal of equal justice and trying to make sure
16 that poor people are given the respect and dignity that they
17 deserve.

18 Karen Sarjeant, along with Helaine, has been
19 working to try to bring with us a distinguished group of
20 individuals who can give us a better insight into this whole
21 issue but also hopefully give us some strategies that the

1 board can use in trying to enhance private attorney
2 involvement with our programs, but in general, because the
3 needs of the poor are critical and broad, and we need members
4 of the profession to take it very, very seriously.

5 So, I will, for right now, turn it over to Karen
6 Sarjeant, who will give us a kind of overview, but also
7 introduce the distinguished members of the profession who she
8 and Helaine have been able to assemble for us.

9 So, Karen?

10 MS. SARJEANT: Thank you, Mr. Chairman.

11 Good afternoon.

12 My name is Karen Sarjeant, and I'm the vice
13 president for compliance and -- for programs and compliance
14 at the Legal Services Corporation. I am pleased to appear
15 today to participate in this very important discussion about
16 private attorney involvement in legal services programs.

17 The national legal services delivery system has
18 been marked by continued evolution, increasing
19 sophistication, complexity, diversity in delivery methods,
20 and as shown by our recent justice gap report, a continuing,
21 growing unmet need for services.

1 One of the ways that this growing need is being
2 addressed is through the involvement of private attorneys in
3 the delivery of legal services.

4 As you know from your review of the materials in
5 your board book, LSC's efforts to engage the private bar in
6 the work of LSC programs began in earnest in 1981 and grew
7 out of a tumultuous time, when the very existence of LSC was
8 in serious jeopardy.

9 Although there was much debate at that time about
10 the value of devoting limited Federal funds to involving the
11 private bar in legal services delivery to low-income persons,
12 a review of that requirement, with the benefit of hindsight,
13 demonstrates the wisdom of promoting and encouraging
14 partnerships with the private bar in the quest for equal
15 access to justice.

16 There are panelists and audience members with us
17 today, including Jonathan Ross, Bill Whitehurst, Esther
18 Lardent, and others, who stepped forward 25 years ago to
19 encourage these partnerships.

20 Their leadership helped to ensure an abiding source
21 of support for the continued existence of the Legal Services

1 Corporation.

2 Over the ensuing years, and continuing today,
3 private attorney involvement allows programs to leverage
4 Federal dollars and enhance the range and quality of services
5 available to clients through the special skills and expertise
6 of private attorneys.

7 It has also brought legal aid attorneys and private
8 bar attorneys together in ways that allow both to develop a
9 mutual respect for what each brings to the cause of justice.

10 One of the most significant results of private
11 attorney involvement is the number of legal aid attorneys who
12 are in active leadership roles within local and statewide bar
13 associations.

14 At the same time, the pool of private attorneys who
15 understand and effectively advocate the legal needs of
16 low-income persons continues to grow.

17 Private attorney involvement in the delivery of
18 legal services by LSC-funded programs presents our community
19 with massive potential for addressing the legal needs of
20 low-income persons and communities. One reason for our
21 discussion today is that we have not yet realized that full

1 potential, and we want to explore ways in which to do so and
2 the role that LSC can play.

3 Today's panelists will speak to you from their own
4 personal experiences on the opportunities and challenges
5 confronted by law firms and their attorneys in working with
6 LSC-funded programs to deliver services to low-income people.

7 Not surprisingly, they can point to their own and
8 others' many successes over the past 25 years.

9 There is, nonetheless, still room for us to improve
10 upon and expand our partnerships with the private bar.

11 Today's panelists draw on their considerable
12 experience and commitment to equal access to justice to tell
13 us what has worked, to tell us what we might do differently,
14 and to share their general and specific recommendations on
15 ways in which LSC can be more effective in encouraging and
16 supporting the work of our programs with private attorneys.

17 At this time, I am pleased to introduce our very
18 distinguished panel to the Provisions Committee.

19 To my right, my immediate right, is Esther Lardent,
20 president of the Pro Bono Institute. Ms. Lardent is an
21 internationally recognized expert in the field of access to

1 justice, legal services and legal aid, and pro bono, with an
2 emphasis on program assessment and the development of new
3 strategies and delivery systems.

4 Ms. Lardent, who was involved in the early
5 formulation of the private attorney involvement program for
6 the Legal Services Corporation, has been and continues to be
7 a visionary innovator in the field of pro bono.

8 As president of the Pro Bono Institute, Ms. Lardent
9 has been pivotal in the development of several projects and
10 initiatives that are taking the delivery of legal services to
11 low-income clients by law firms to new levels.

12 Let me just share with you a few of those projects
13 that the Pro Bono Institute is currently operating.

14 The Law Firm Pro Bono Project provides a wide range
15 of services to large law firms that enable those firms to
16 strengthen, institutionalize, and expand their pro bono
17 culture and service.

18 Then there is the Law Firm Pro Bono Challenge,
19 which focuses on an institutional commitment to pro bono and
20 articulates a unique global aspirational pro bono standard
21 for the world's largest law firms.

1 Another project is Corporate Pro Bono, a joint
2 initiative of the Pro Bono Institute and the Association of
3 Corporate Counsel, designed to substantially increase the
4 amount of pro bono work done by in-house counsel and to
5 enhance the pro bono culture of in-house counsel.

6 There is another project that they operate entitled
7 "Reinventing Pro Bono Project," which provides strategic
8 advice to public interest organizations that address the
9 legal problems of the poor and disadvantaged.

10 There is also the Pro Bono Institute Annual
11 Seminar, which is an opportunity for law firms, corporate pro
12 bono leaders, national and international public interest
13 leaders to meet with and learn from each other and develop
14 new partnerships, and a new project that is just getting
15 started is called the Second Acts Project, and this is second
16 acts in the lives of lawyers, looking to develop a volunteer
17 career as a public interest lawyer, taking full advantage of
18 the extraordinary skills and experiences that they bring from
19 their private bar practice.

20 Our next panelist is Charles Lester, a partner in
21 Sutherland, Asbill & Brennan, and co-chair of his firm's Bar

1 and Public Service Committee.

2 Mr. Lester has over 30 years' experience in major
3 antitrust litigation, significant construction law
4 experience, and serves as a commercial and construction
5 arbitrator and mediator for the American Arbitration
6 Association.

7 He is a past president of the State Bar of Georgia,
8 a past president of the Young Lawyers Division of the State
9 Bar, a past president of Atlanta Legal Aid, one of our LSC
10 programs, and he has served as an officer and director of
11 Georgia Legal Services, another one of our LSC programs, and
12 he is a founder and co-chair of the state bar's diversity
13 program.

14 As co-chair of his firm's bar and public service
15 committee, Mr. Lester models his leadership and commitment by
16 devoting significant amounts of his time to pro bono.

17 He has been recognized for his extensive pro bono
18 work through the simple gratitude of his clients and by
19 numerous awards, including the State Bar of Georgia
20 distinguished service award, the State Bar of Georgia H. Saul
21 Clark pro bono service award, and the Whitney North Seymore

1 award from the Lawyers Committee for Civil Rights Under the
2 Law.

3 Sutherland, Asbill & Brennan has a long and
4 distinguished history of public service and significant pro
5 bono commitment and has been recognized in the magazine, the
6 American Lawyer, as a pro bono powerhouse.

7 The firm is ranked 14th nationally for its pro bono
8 activity, and in 2004, received the national public service
9 award from the ABA's section of business law committee on pro
10 bono.

11 The firm is a signatory to the Law Firm Pro Bono
12 challenge operated by the Pro Bono Institute and has
13 committed to contribute annually, at a minimum, 3 percent of
14 billable hours to pro bono work.

15 Additionally, Sutherland, Asbill & Brennan has
16 adopted a policy of a minimum goal of an average of 50 hours
17 per attorney per year to be spent on pro bono matters.

18 Our next panelist is Neil McBride, general counsel
19 to the Legal Aid Society of Middle Tennessee and the
20 Cumberlands, one of our LSC programs.

21 For 25 years, Mr. McBride was the executive

1 director of a rural legal aid program that served the
2 Appalachian coal fields of Tennessee. After the organization
3 merged in 2002, he became general counsel of the Legal Aid
4 Society of Middle Tennessee and the Cumberlandds based in
5 Nashville.

6 Although his legal specialty is representing
7 nonprofit corporations, Mr. McBride is well known throughout
8 the legal aid community for his work on program evaluations
9 and peer reviews.

10 Through this work, he has visited more than 80
11 legal aid programs in 20 states throughout the country, and
12 has provided invaluable assistance to programs as they
13 transform into larger, more complex legal aid organizations.

14 He is past president of his county bar association,
15 and is currently a member of the Tennessee Bar Association's
16 house of delegates.

17 From 1995 to 1998, he was chair of the ABA's L
18 Litigation Assistance Partnership Project Subcommittee of the
19 Litigation Section's Pro Bono Committee. LAP, as it is
20 known, places complex public interest cases with private law
21 firms. He now works with LAP in its communications

1 committee.

2 Jonathan Ross is the chair of the ABA's Standing
3 Committee on Pro Bono and Public Service, and a partner in
4 the law firm of Wiggin & Nourie in New Hampshire.

5 Mr. Ross is known within the ABA and within the
6 legal services community as a champion for justice for
7 low-income people. Much of his career has been spent
8 assuring that low-income people have access to the legal
9 system.

10 In 1986, at a time when leadership on behalf of the
11 poor was not generally accepted as a responsibility of the
12 legal profession, Mr. Ross was a co-founder of Bar Leaders
13 for the Preservation of Legal Services for the Poor, the
14 group formed to act as a unifying voice of the organized bar,
15 to advocate and lobby for the continued existence of legal
16 services.

17 In recognition of this leadership and commitment,
18 he was a recipient of the Arthur Von Breesen award in 1986.

19 In 1985 and 1986, Mr. Ross served as the president
20 of the New Hampshire Bar Association, and he was president of
21 the New England Bar Association from 1986 to 1988.

1 In 2001, Mr. Ross served on the LSC state planning
2 task force and provided thoughtful assistance to LSC as it
3 considered and helped to guide substantial change within the
4 national legal services community.

5 With over 35 years' experience in complex domestic
6 relations litigation, Mr. Ross has been listed in the Best
7 Lawyers in America every year since 1983.

8 As chair of the Standing Committee on Pro Bono and
9 Public Service, Mr. Ross is at the helm of the ABA's center
10 of activity for the development and promotion of pro bono
11 policies and initiatives. The committee has been actively
12 involved in the policy arena, and lists as a few of its
13 initiatives the work done on the ABA model rule 6.1, the
14 development of standards for programs providing civil pro
15 bono legal services to persons of limited means, developing a
16 report on state pro bono reporting, a guide for bar leaders
17 and others considering strategies for expanding pro bono, and
18 working on the ABA's law school accreditation standards,
19 drafting language pertaining to pro bono work, and as a
20 sponsor of the annual Equal Justice Conference.

21 Our final panelist is Robert Weiner, who is a

1 partner with Arnold & Porter.

2 Mr. Weiner is head of the litigation practice group
3 at Arnold & Porter in Washington, D.C.

4 A former clerk to U.S. Supreme Court Justice
5 Thurgood Marshall, Mr. Weiner has also served as former
6 senior counsel to the counsel to the President of the United
7 States.

8 He is a past chair of the ABA's Standing Committee
9 on Pro Bono and Public Service. He has chaired the Standing
10 Committee on Pro Bono Legal Services of the Judicial
11 Conference of the District of Columbia Circuit and the Pro
12 Bono Committee of the District of Columbia Bar.

13 Arnold & Porter is a firm with a very rich history
14 of pro bono involvement.

15 Their firm website lists over 13 page views giving
16 a sample of the variety of pro bono work undertaken by the
17 firm.

18 It shows a range of involvement from handling
19 individual pro bono cases on referral from legal aid offices
20 to handling complex, major class action litigation.

21 Notably, the firm has established a rotating loaned

1 associate program that allows associates to spend six months
2 working full-time for a poverty law or public interest law
3 organization serving the legal needs of low-income persons.

4 Among the many awards and recognitions for its pro
5 bono work, Arnold & Porter has received -- and I've pulled
6 out only a few, because it was another page-and-a-half on the
7 website -- the 2005 honor from the Chief Judges of the Local
8 Federal Courts for Pro Bono, the 2005 Pro Bono Publico award
9 from the ABA, and in 2004, 2003, and 2002, Arnold & Porter
10 received the top three -- was in the top three pro bono
11 ranking by the American Lawyer.

12 Mr. Weiner's leadership is imprinted on his firm's
13 pro bono work everywhere you look.

14 At this time, I'd like to just give you a very
15 brief overview of private attorney involvement in LSC-funded
16 programs.

17 The framework for LSC programs' work with private
18 attorneys is 45 CFR 1614. A copy of that regulation is your
19 materials.

20 As you know from your review of the background
21 materials, the dollar amount that programs must devote to

1 private attorney involvement began in 1981 at 10 percent of
2 the basic field grant, and has been at 12.5 percent of the
3 basic field grant since 1983.

4 In 2004, that amounted to approximately \$37 million
5 that was available to be spent on private attorney
6 involvement.

7 In 2004, LSC programs closed over 900,000 cases,
8 including over 102,000 cases handled by pro bono attorneys.

9 The majority of these pro bono cases were family
10 law, consumer, and housing cases.

11 LSC receives PAI, private attorney involvement,
12 plans from programs during the proposal submission process
13 for competitive grants.

14 Most programs submit a new grant proposal every
15 three years.

16 In the intervening grant renewal years, LSC asks
17 for information updating a program's legal services delivery
18 plan, including their private attorney involvement plan.
19 Additionally, private attorney involvement case statistics
20 are reported to LSC annually in March.

21 During on-site program visits, the Office of

1 Program Performance will assess the work being done through
2 private attorney involvement, including an assessment of the
3 administrative and technology systems being used to operate
4 the private attorney involvement components of local legal
5 services programs. Technical assistance on the development
6 and operation of these programs may be provided by LSC staff
7 during these visits, and through participation in workshops
8 at national conferences, where we try to share the best
9 practices that we see from our various programs.

10 We provide information on successful private
11 attorney involvement programs and initiatives through our
12 website at the LSC resource library. Other guidance is
13 provided through the Office of Legal Affairs in opinions.

14 We also encourage programs to take advantage of the
15 high-quality technical assistance visits provided by the
16 ABA's Center for Pro Bono peer consulting project.

17 The LSC Office of Compliance and Enforcement has
18 the responsibility for receiving and approving requests for
19 waivers of compliance with the 12 1/2-percent PAI expenditure
20 by programs. Additionally, in the course of regular
21 compliance reviews, staff assesses a program's compliance

1 with all of the rules and procedures for private attorney
2 referrals and how to count such cases.

3 LSC programs use a wide range of private attorney
4 delivery models and cooperative relationships with the
5 organized bar to serve clients.

6 What continues to be true from the advent of
7 private attorney involvement with LSC-funded programs is that
8 there is no single best approach. Private attorneys are
9 working with programs in a variety of ways.

10 They co-counsel cases.

11 They provide individual legal services in urban and
12 rural areas.

13 They provide community legal education to
14 low-income individuals.

15 They train program attorneys in specialty areas of
16 the law.

17 They provide research support to programs.

18 They participate in intake and brief advice
19 sessions at various community sites.

20 They assist programs in writing and revising
21 publications.

1 And they raise funds to support legal services.

2 These are just some of the ways that private
3 attorneys work with our programs.

4 I would like to take just a few more minutes to
5 share with you a few specific examples of LSC programs and
6 how they are working with private attorneys.

7 Atlanta Legal Aid, in cooperation with the Atlanta
8 Volunteer Lawyers Foundation, operates a Saturday morning
9 intake program staffed by private attorneys at its downtown
10 office.

11 Cases are referred to the Saturday attorneys, and a
12 legal aid attorney is always in attendance at the Saturday
13 morning session.

14 They provide them with a form detailing the facts
15 of the case, what needs to be done, what's most likely is
16 needed to be done, a short description of the applicable law,
17 and the name of the legal aid staff attorney who is available
18 for further backup to the private attorney, if needed.

19 Atlanta Legal Aid also has an associates fellowship
20 program with seven private law firms by which firms send a
21 second- or third-year associate to work with legal aid for

1 four to six months.

2 The associate is paid by the firm but spends
3 full-time representing legal aid clients.

4 It is reported to us that fellows are extremely
5 valuable even in a short period of time. They work in
6 limited areas such as eviction defense or family so they can
7 be quickly trained. Since they work as full-time staff,
8 unlike other volunteers, they can be expected to handle
9 emergencies and other cases with short deadlines.

10 We are also told that firms have made their
11 fellowships a reward for their best and brightest associates.

12 Legal Aid of Eastern Tennessee also operates a
13 Saturday bar clinic staffed by private attorneys in two
14 different regions of the state.

15 In Maine, Pinetree Legal Assistance is working with
16 pro bono counsel from a major Minnesota law firm to help them
17 litigation a cyber-squatting case where a for-profit entity
18 is using the Pinetree Legal Assistance internet address to
19 direct unsuspecting people who are trying to reach our
20 provider, Pinetree Legal Assistance, to a profit firm called
21 Legal Match.

1 The claims in this case are based on Federal
2 trademark infringement, state trademark infringement, state
3 unfair competition and deceptive trade practices, common law
4 trademark infringement, common law unfair competition, and
5 unjust enrichment.

6 These are not areas that our programs generally
7 work in, and so, the use of private attorneys to help them on
8 this very important case is exactly, I think, what the
9 private attorney involvement rule and regulation was designed
10 to make happen.

11 In Maryland, the Legal Aid Bureau is working with
12 pro bono counsel to challenge the governor's decision to cut
13 legal immigrant children from the state's Medicaid program.

14 In Iowa, Iowa Legal Aid works with local bar
15 associations to operate three volunteer lawyers projects that
16 closed almost 2,100 cases in 2004, donating over 15,500 hours
17 to clients, valued at just under \$2 million.

18 Additionally, they involve volunteer attorneys on
19 their advisory counsels that tell them how they should set up
20 their private attorney, suggest changes and revisions to
21 their private attorney involvement plans.

1 In northwest Texas, Legal Aid's Equal Justice
2 Volunteers program is the most comprehensive pro bono program
3 in northwest Texas and the largest pro bono program in the
4 state. They operate 57 monthly neighborhood clinics at
5 dozens of locations in Legal Aid's vast service area.

6 Volunteer legal secretaries, paralegals, law
7 students, and others help with pre-screening clients for
8 eligibility, and volunteer attorneys provide legal advice,
9 brief service, and accept cases for representation.

10 Law firms, bar associations, and solo practitioners
11 staff the clinics.

12 In Dallas, one of the monthly pro se divorce
13 clinics where volunteer judges and court reporters hold court
14 at the legal aid offices so that pro se participants can
15 finalize their uncontested divorces in a friendly
16 environment.

17 The Texas program also operates a mediation program
18 with volunteer attorneys.

19 There are two other programs I'd like to quickly
20 tell you about.

21 The Legal Assistance Foundation of Los Angeles

1 participates in a range of private attorney involvement
2 activities, including supervision by a private attorney of a
3 program staff paralegal at a homeless veterans clinic,
4 helping veterans with a range of legal issues. They also
5 have two private attorneys who receive referrals, and counsel
6 and represent clients in English and Spanish for bankruptcy
7 cases.

8 The Santa Monica office holds evening clinics that
9 use private attorneys and law schools when the -- law
10 students -- when the law schools are in session. They have a
11 community economic development unit that conducts training
12 for individuals who are starting nonprofits and
13 micro-businesses, using volunteer attorneys to write the
14 training materials and conduct parts of the business law
15 training.

16 They also have the Asian-Pacific Islander outreach
17 unit of Los Angeles -- Legal Aid Foundation of Los
18 Angeles -- that conducts clinics in Korean, Japanese, and
19 Chinese throughout the community using volunteer private
20 attorneys to give counsel and advice.

21 The final program I wanted to highlight for you is

1 Appalachian Research and Defense Fund, which serves an
2 isolated 37-county mountainous area in eastern Kentucky.

3 The program's use of private attorneys is vital to
4 the challenging topography of the service area, where driving
5 across the single county can take hours.

6 The PAI panel has about 375 pro bono attorneys on
7 it.

8 Additionally, the program employs two part-time
9 private attorneys to operate their centralized hot-line
10 telephone intake unit. These attorneys are paid \$30 an hour,
11 which is substantially less than the 90 to 95 dollars per
12 hour that is made by private attorneys in that area.

13 These are just a few of the many successes that LSC
14 programs have developed in concert with the private bar.

15 We look forward to hearing the panel's thoughts and
16 recommendations to LSC on how we can assist our programs in
17 expanding the role of private attorneys in the delivery of
18 legal services to low-income clients.

19 CHAIRMAN HALL: Thank you, Karen, for that very
20 thoughtful overview of what's going on right now, and
21 clearly, based on my knowledge before you introduced them,

1 but certainly after hearing all you had to say about them, we
2 have quite a distinguished group of individuals, and I'd like
3 to thank each one of them on behalf of the committee, and the
4 entire board, for you taking the time and coming and being
5 here, and with all of this experience and brain power in the
6 room, if we can't figure this thing out today, I don't think
7 we ever will.

8 But I think the way we would like to proceed is to
9 have each one of the panelists give us some opening remarks
10 about this kind of fundamental question, which is how do we
11 increase the amount of private attorney involvement in LSC
12 programs, but in general.

13 You know, Karen has given us a good sense that it
14 is working, and we are doing a lot of good things, but I
15 think all of us know that there is a lot more to be done.

16 So, we are very excited to have you here and look
17 forward to your remarks.

18 So, Esther, would you like to begin?

19 MS. LARDENT: Thank you, Mr. Chair, members of the
20 board.

21 I'm delighted to be here.

1 What I want to do is to talk to you about several
2 particular segments of the bar, the groups that we work most
3 closely with, give you a sense of what's going on in that
4 area, and then perhaps give you some recommendations about
5 LSC grantees, and those segments are large law firms -- that
6 is, firms with more than 50, probably 100 lawyers.

7 That's a small segment of the profession. It's
8 less than 20 percent of the profession but a very important
9 resource for a number of reasons, including the fact that
10 you're able, if you think about this resource
11 institutionally, to get at a large number of attorneys in one
12 time and to take advantage of the infrastructure of the firms
13 themselves.

14 Also, because quite frankly, if the wealthiest
15 segment of the profession is not actively doing pro bono, I
16 think it sets a signal for the rest of the profession.

17 So, very important.

18 The second group that I want to talk to you about a
19 little more briefly are in-house corporate attorneys, a very
20 new area for pro bono but I think a very important and
21 potentially very promising area, and then, finally, I just

1 have a couple of comments I want to say about students,
2 because I am housed at a law school, and I just have some
3 thoughts about that.

4 With respect to large law firms, I think it's
5 important to put this in context, and you will hear from
6 people who work in those firms about their perceptions, but
7 we work with lots of firms.

8 I think it's important to note that, despite the
9 fact that, in many respects, pro bono should be more
10 difficult, and in some ways is more difficult for large
11 firms, busier schedules, a more competitive environment, and
12 lots and lots of economic pressures, as you've noticed, the
13 fact is that, among large law firms, the largest firms, the
14 top 200 firms, for example, pro bono performance has
15 increased significantly -- that is, in the double
16 digits -- over the past five years.

17 We don't have the statistics yet, obviously, for
18 2005, but all indications are that 2005 will also be a very
19 good year for pro bono.

20 So, I think that it's important to understand that
21 pro bono at large firms is growing and becoming stronger.

1 More importantly is the fact that there has been a
2 sea change with respect to pro bono at larger law firms.

3 Pro bono is far more visible. It's far more
4 structured and formalized.

5 Firms are thinking more creatively about how to use
6 their resources.

7 They're looking to public interest groups for more
8 structured, preferred, long-term partnerships, not thinking
9 one matter or one client at a time, and they are striving to
10 use the talents of all of their lawyers, their transactional
11 lawyers, as well as their litigators, their more senior
12 partners, as well as young associates, and there are lots of
13 reasons for that, which I could go into, but I think, in the
14 interests of time, I won't.

15 I want to give you a few examples of the kinds of
16 things that firms are doing and then talk about why it is
17 that, for the most part, LSC programs have not really had the
18 opportunity to take full advantage of this growth in pro bono
19 and the increasingly creative and exciting ways that firms
20 are getting involved.

21 The first area is the area of signature or thematic

1 projects. What firms are doing is taking a single client
2 group, community, or area of the law, and focusing on it in a
3 way that involves lawyers in the firm, and other staff, as
4 well, regardless of seniority or practice group, and I'll
5 give you just two examples that I think indicate the promise
6 of these.

7 One is a firm that undertook as a signature
8 project -- they undertook the issue of special education in a
9 major metropolitan area, special education of children, and
10 they've done a number of things with respect to that project.

11 The first is, not surprisingly, that many of their
12 lawyers, on a pro bono basis, represented families whose
13 children were seeking special arrangements -- IEPs, for
14 people who know about special education -- and had been
15 denied those or had been given plans that simply the families
16 felt didn't work for them, and that's a very important area,
17 because it's very complex litigation.

18 The second, however, was that they also undertook,
19 in conjunction with a public interest program, not an
20 LSC-funded program, a review of the special education effort
21 in that city, what it cost, the quality of representation,

1 looking at and analyzing the decisions, and then compared it
2 nationally with other programs to find that this program was
3 both the most expensive and, sadly, one of the least
4 effective in the country, and they are now working with the
5 city government to develop recommendations and policy
6 recommendations with respect to that.

7 A second model of the signature or thematic project
8 is a firm that has chosen to open what I would call a local
9 legal aid office in the poorest, most diverse neighborhood of
10 a major city. They have done that in conjunction with a
11 health clinic in the city that has lots of clients coming in,
12 and what they've done -- in this case, they have worked with
13 the local legal services program, which has helped to train
14 their lawyers, but they have about 80 percent of their
15 attorneys participating in the clinic, taking cases from the
16 clinic.

17 They also write know-your-rights pieces for the
18 local newspaper.

19 They represent local nonprofit organizations.

20 They've done a lead paint poisoning project in the
21 community.

1 They have a presence in that community that is very
2 strong and very powerful.

3 That's only two examples of lots and lots of
4 signature projects, projects that involve the firm as an
5 institution and that use all of the talents of the firm's
6 people to look at and focus and specialize in a particular
7 issue. So, it's a very powerful model.

8 The second thing is something that Karen mentioned
9 and that several of the firms represented here already do,
10 rotation programs. Sometimes they're called -- they're
11 called fellowships in Atlanta. They're called externships in
12 New York.

13 We call them rotation programs, in which lawyers at
14 the firm are detailed to a public interest organization for,
15 typically, somewhere between three and six months, although
16 it can be as much as a year, paid fully by the firm, working
17 full-time in that organization.

18 For many firms, they undertake these rotation
19 programs not simply because of pro bono but because they
20 provide a very effective training component for their
21 lawyers.

1 If you are a young associate in a major law firm
2 and you want to become a litigator, the opportunities for you
3 to actually do on-your-feet litigation are few and far
4 between. If you go into a public defender office, a
5 prosecutor's office, or a legal services program, for
6 example, handling eviction defense work, you will have that
7 opportunity.

8 Over the last 10 years, the number of rotation
9 programs -- and the oldest rotation program, by the way, was
10 created in D.C. with the Neighborhood Legal Services Program.

11 It's 36 years old and has been operating
12 continuously.

13 But the number of rotation programs among large
14 firms has grown from five to 95 programs that we're aware of,
15 and I don't think we're aware of all of them.

16 So, 95 firms sponsor programs like this. Very few
17 of them are undertaken with Legal Services grantees, although
18 the Atlanta program has become very effective and aggressive
19 on this. Recently, Memphis Legal Services and the Pittsburgh
20 program has involved two firms for a year each.

21 Not only does this provide essentially a full-time

1 equivalent employee for the organization, often these
2 employees come with paralegals, computers, fax machines, and
3 other equipment, because people understand that the programs
4 often don't have the infrastructure for them.

5 What happens, though, that I think is incredibly
6 important is that these lawyers then come back to their firms
7 and they become champions for legal services and public
8 interest, because they understand the constraints of programs
9 in terms of resources, the demands on their time, the
10 importance of the work for clients, and they have now the
11 expertise that gives the firm comfort and lets them then
12 encourage other people in the firm to do this kind of work.

13 Third, transactional work. In large law firms,
14 half -- in New York firms, more half the lawyers are not
15 litigators. They chose not to be litigators. They don't do
16 that work. They do have tremendous expertise in areas around
17 business and transactional work that can be incredibly
18 important for low-income communities and the community groups
19 that work in them. There used to be a question, I think,
20 about whether the LSC regs enabled LSC programs to work with
21 those groups, but I think now that's been clarified.

1 It's very powerful work. It's important to defend
2 people who are facing eviction, but a long-term solution
3 often can be creating affordable housing, including
4 owner-occupied housing that people can undertake.

5 Working on micro-lending and micro-business can
6 move people from poverty to being self-sustaining
7 financially, and helps the overall economy of the community.

8 So, there is a huge interest and a huge thirst
9 among law firms for transactional programs, a growing number
10 of organizations that provide those opportunities, but again,
11 very limited among Legal Services grantees.

12 Two other quick things.

13 One is using firms for infrastructure, if you will,
14 in a sense, thinking about not projects that are larger than
15 cases but smaller than cases, so that, for example, there are
16 several firms in one major city that work with a very small
17 pro bono program. It's sponsored by a religious
18 organization, has a tiny staff, and what they -- what the
19 program was finding was that their staff spent all day
20 answering the phones, screening people who might need legal
21 assistance.

1 What they've done is something that's very simple
2 and very powerful.

3 They've asked firms to take shifts, four-hour
4 shifts of answering the phones. They use call forwarding.

5 The firms receive training. They have a manual,
6 and they have a number that they can call if they get out of
7 their comfort level, but they are the ones who are talking at
8 the front lines with the clients, and if they wish to, and
9 often they do, because they've connected, they can continue
10 to provide more extensive assistance. This has enabled the
11 program to increase the number of clients that it serves
12 through brief service and full service by 250 percent,
13 because the program staff can be recruiting lawyers. They
14 can be doing -- providing technical assistance. They can be
15 doing training programs. They are not trapped by the phones.

16 And finally -- and this is in the area of indigent
17 defense, but I think is the kind of thing that's
18 worthy -- firms do a great deal of work outside of the areas
19 that -- where they live and practice. Charlie's firm, and
20 others, are an example of that. They will travel to do pro
21 bono work. And there's a firm, for example, in a -- that's

1 in a major city that is undertaking indigent defense appeals
2 in a particular county, rural county, because the quality of
3 representation in that county is so troubling that there is
4 an effort to try to increase expectations of what the quality
5 of representation can be. So, those lawyers travel to that
6 county.

7 Another area where firm lawyers go to a rural
8 county that's primarily Latino and run a clinic on a weekly
9 basis.

10 So, one of the things I want to underscore is that
11 even communities that don't have large law firms can, in
12 fact, benefit from the value of those firms, and those firms
13 shouldn't be seen as only Atlanta-based or only D.C.-based or
14 only New York City-based. They really should be seen as a
15 resource for the state.

16 Quickly on corporate counsel, our project, with the
17 Association of Corporate Counsel, is a very exciting one, and
18 what we have seen in four years is a dramatic increase in the
19 interest and ability of corporate legal departments to
20 undertake pro bono work. There are lot of obstacles. The
21 work looks different than the work of large law firms. But

1 they are more and more coming to the notion that they want to
2 participate in pro bono work.

3 They need help.

4 They need malpractice insurance. They need people
5 who can locate the clients for them and find the clients for
6 them.

7 They need substantive experts.

8 And so, partnering with Legal Services grantees is
9 perfect for them, and yet, while some LSC grantees work with
10 legal departments, in many cases that hasn't happened yet,
11 and I think it's an area of great promise.

12 Finally, students.

13 The number of pro bono programs, including
14 mandatory pro bono programs, at law schools has increased
15 dramatically over the last 10 years. Students' interest in
16 pro bono had grown at pace, and I think that when those
17 students work with Legal Services programs early on, they
18 become supporters of pro bono and Legal Services for the rest
19 of their careers. So, I think anything that can be done by
20 the corporation and by its grantees to promote participation
21 and direct contact between LSC programs and students, the

1 better, because I think that's the future, really, of Legal
2 Services and pro bono.

3 So, recommendations that I have:

4 The first is to try to encourage grantees to think
5 bigger and more ambitiously about what can be done, not to
6 simply think in terms of sending one case and having that be
7 the end of the relationship, but to think about sustained
8 relationships, to think about engaging in dialogues with
9 firms that really can use these amazing resources set out
10 there and legal departments that have resources that can help
11 print and publish brochures, in addition to their legal
12 resources.

13 So, I think that's a very important thing, and
14 perhaps learning from some of these non-LSC organizations
15 that are more successfully tapping into the skills and the
16 resources of firms in legal departments.

17 The second thing that I think is critical is the
18 involvement of substantively knowledgeable staff and top
19 leadership. For example, Atlanta is a good example of that.

20 You know, Steve Gottlieb, who is the executive
21 director of Legal Aid, understands that pro bono is an

1 important resource for his organization, that it provides
2 time, it provides money, it provides in kind resource, it
3 provides political support, and he spends time thinking about
4 how to make that happen.

5 What keeps people engaged in pro bono is the
6 substantive work and working with talented and committed
7 people in Legal Services who are their heroes.

8 So, to the extent that you can have the people who
9 really understand where the legal needs are, who have the
10 expertise involved, I think that's very important, and I
11 think, to some extent, in Legal Services grantees -- I don't
12 want to generalize too much -- what you have is a pro bono
13 unit, if you will, that may or may not be staffed by somebody
14 who is substantively knowledgeable, but then not necessarily
15 much involvement with the most substantively expert people
16 who are there.

17 The other thing I would say is encouraging breadth
18 of participation.

19 The trade-off in using volunteers is that people
20 want to follow their passions and their interests, and so, if
21 a program is only offering litigation opportunities, only

1 offering domestic relations opportunities, it inevitably
2 narrows the potential number of volunteers that it could
3 have, and in addition, it can burn out its volunteers.
4 Volunteers can burn out, because they're not doing new and
5 different things.

6 People want to be -- they do pro bono for a lot of
7 different reasons, but one of them is that they feel like
8 they're making a difference, and they're having fun with it,
9 and so, that argues for some volunteer choice and for
10 something that's broader than the vast majority of the
11 programs that are being handled.

12 And then, finally, the corporations, the current
13 OLI, OLA guideline -- and Karen and I were just talking about
14 this -- limits the ability of grantees currently to use LSC
15 PAI money, to count toward LSC PAI money their work with law
16 students, and I think that, as a policy matter, that may be
17 troubling, and so, that's something that -- it's a complex
18 issue, and I don't want to suggest a simple solution, but
19 it's something I think that should be looked at.

20 Thank you.

21 CHAIRMAN HALL: Thank you. And I know we may have

1 questions, and I do, too, but I think, just so that we make
2 sure we give everyone an opportunity to speak, we'll try to
3 hear from all of our panelists, and if we could hold our
4 questions, then we'll have a good enough time at the end to
5 do a more general question-and-answer, but thank you, Esther.

6 MR. LESTER: Thank you very much. I'll say a
7 couple of things, just to follow up on what Esther said.

8 One, I got started in Legal Services because when I
9 went to Emery, we had to work at Atlanta Legal Aid for 20
10 hours.

11 Every graduate of Emery Law School had to spend 20
12 hours at Legal Aid. So, in 1966, when I was in my last year
13 of law school, I started working at Atlanta Legal Aid and,
14 you know, have been devoted to that for a lifetime.

15 So, at least for me, I'm an example of somebody
16 that -- having a law student involved, I think, is very
17 valuable.

18 We work very closely in Atlanta with the two
19 Georgia Legal Services programs and have extensive pro bono
20 work ongoing currently with each of them. They are different
21 in a couple of ways.

1 Our work with Atlanta Legal Aid is both clinic,
2 like the Saturday lawyer program, which I was a Saturday
3 lawyer -- I'll give you one example of a case that I did as a
4 first-year Saturday lawyer. It was to help a woman get
5 Social Security.

6 She'd worked for a municipal market, and her
7 employer had not paid it, but she'd worked the requisite
8 number of quarters, so I helped her with an appeal.

9 That was in 1971.

10 She died last year.

11 So, for 34 years, she got Social Security benefits
12 because of the work a not very experienced and certainly not
13 very capable lawyer did for her 30 years ago.

14 We work -- we have used Equal Justice work fellows
15 and helped expand the Legal Services programs in Georgia.

16 We've done it with both programs.

17 The ones in Atlanta Legal Aid have been in the
18 mental health and mental disability area, one of their very
19 powerful and strong programs, and has worked a lot with
20 Medicare waivers and appeals and trying to get people out of
21 nursing homes, out of institutions, into communities, where

1 they can be served under the existing programs.

2 With Atlanta Legal Aid, we had one both with the
3 migrant law program, where she was working on trafficking in
4 immigrants, and under the new, then, I guess, '96 law about a
5 special visa complainants could get as a result of that.

6 We also did a community economic development Equal
7 Justice work fellow that was phenomenal, and she is
8 producing, I would say, on the average of 1,000 hours a year
9 of pro bono legal work for our firm, and almost all of it
10 transactional, very little litigation, and that's very
11 different, and we expanded and supported that program and
12 give money to it to help Georgia Legal Services continue that
13 program.

14 In Washington, we do some work with the Legal
15 Services programs, in the District, but -- where we have an
16 office almost as big as our Atlanta office. We're a little
17 over 400 lawyers, about 220 in Atlanta, about 180 in
18 Washington, 15 in New York, and three in Florida and two in
19 Texas, so -- two different offices in Texas, but we did about
20 22,000 hours of pro bono work last year.

21 That was up about 5,000 from the previous year and

1 was about 60 a lawyer at our firm. So, we have a big
2 investment.

3 But we do it for all sorts of reasons. I mean we
4 do it because we compete with other big law firms, and they
5 do it, and so, you know, competition pushes it.

6 Frankly, our lawyers coming -- most -- not most,
7 but a substantial number of the law students coming out of
8 law school now look at firms and look at their pro bono
9 programs -- very significant, and so, a lot -- we are able to
10 get and attract the most -- and, frankly, that is the biggest
11 challenge that law firms face.

12 The most extensive competition is for legal talent,
13 not for clients, not for pro bono work, not for anything
14 else. It's for lawyers at the -- at the level -- and it's
15 national.

16 We recruit in I don't know how many different law
17 schools, and spend -- we probably bring 10 students in for
18 every one we get, or maybe more than that. So, we make a big
19 investment in that.

20 I think Esther's comments about thinking about
21 transaction work is very important. I think it's important

1 for a lot of reasons.

2 One, it's a big resource at our firm. More than
3 half of our lawyers are transaction lawyers, not litigators,
4 and it's hard to find them interesting work that is in their
5 specialty, and they can have a very strong impact, and that's
6 a perfect kind of thing where you can think about sort of a
7 signature project, as she described.

8 In other words, that Legal Services can be aware of
9 a problem, aware of the need, maybe not have any resources to
10 deal with it, but come to a law firm and say how about
11 looking at serving this community. There have been a couple
12 of them.

13 There's one in Atlanta that -- I don't know whether
14 it came from Legal Aid or whether it came from the lawyers,
15 but it's called the Grandparent-Parent Project that
16 Kilpatrick & Stockton started, which helps adopt children who
17 have been taken by the Department of Family and Children away
18 from their parents by some family member, and there are
19 increased resources available as a result of that kind of
20 adoption, and Legal Services didn't do it at all, really did
21 very little adoption work, and so, they carved that out, but

1 that's a great opportunity for serving a particular need over
2 a long period of time.

3 As I say, in the Washington office, we don't work
4 as much with the Legal Services programs. We do a couple of
5 clinics, but the D.C. Bar has a very strong pro bono program.
6 We also work with the National Lawyers Committee and with
7 the Washington Lawyers Committee, which are not Legal
8 Services funded, and they provide interesting and challenging
9 work for us.

10 If I were making recommendations, I would encourage
11 you to encourage all of your programs to think not just about
12 helping them do what they do but think about thinking of
13 ways -- because Legal Services programs are the crisis
14 centers -- they're sort of the last resort for most
15 people -- they get a lot of information about what the
16 problems are, what the needs are, and then -- but think about
17 trying to use a resource other than their own to meet that
18 need, and I think that would be a tremendous improvement.

19 One last thing.

20 In addition to Equal Justice work fellows, we have
21 had one and will have another starting next week -- or week

1 after next, I'm sorry -- at Atlanta Legal Aid, an associate
2 that will spend four months at the Legal Aid office working.

3 Probably the area where she'll -- she's a
4 litigator, and probably the area where she'll get the most
5 litigation experience will be on unemployment claims, helping
6 people who have claims for unemployment. Tend to be real
7 short, tend to be real quick, not a whole lot of advance
8 notice. You run in and have to go meet them, talk to them,
9 and then make the case. But I think that will be a great
10 opportunity, and we -- one of the reasons we do it is because
11 we very much want our people to know what's going on in the
12 community, to have exposure to the needs of people that
13 aren't like our paying clients generally are, and also to
14 develop a strong relationship with the program, and that
15 certainly has happened with our first fellow, and I expect it
16 will again with our second fellow.

17 But anyway, I'll be happy to answer any questions
18 you all have, and turn it over to the next person.

19 MR. McBride: I knew when we started talking about
20 the organization of this panel that the further down the
21 table I would sit, the less that I would feel that I had to

1 say, and after following Esther and Charlie, my six pages of
2 outline has come down to two. So, this is really a good
3 introduction.

4 I'm going to start with kind of a more -- a look at
5 this from another direction and tell you about one of our
6 clients who benefitted from the kind of creative activity
7 that Esther and Charlie have talked about, and this is a
8 woman named Sheila Brewster, who grew up in an Appalachian
9 coal field town just south of the Kentucky border and where
10 the Prestonburg, Kentucky, program is that's doing such good
11 pro bono stuff, in Oneida, and Sheila, in early winter of
12 1992, went into labor and went to her community hospital with
13 which we have been negotiating for more than five years, at
14 that time, to maintain and expand its OB/GYN services, with
15 not very much success, and went to the hospital in active
16 labor and was turned away by the ER docs and sent on a
17 60-mile road down to the hospital in Knoxville.

18 About halfway there, she went into more active
19 labor, and she and her husband pulled off of the highway and
20 delivered her child in the parking lot of the Get 'n Go
21 market in the town of Clinton, Tennessee. During the

1 delivery, the father found out that the umbilical cord was
2 wrapped around the infant's neck, and somehow figured out
3 what to do about that, and turned it around, and delivered
4 what turned out to be a healthy, successful infant, and then
5 was taken by ambulance to the Knoxville hospital.

6 A few weeks after that, Ms. Brewster came to our
7 office.

8 She knew something wrong had happened but didn't
9 know what it was.

10 She just knew that what she experienced was not
11 right, and she knew that we had been working on OB issues in
12 her county for a long time, and talked with us about her
13 experience, and we talked about some options, and to make a
14 long story short, we talked with her about how her situation
15 was very common in Tennessee, how OB/GYN services were
16 inadequate in most of the state's rural areas, and a lot of
17 its urban areas, and how that had sort of racial and
18 geographic implications and how it really didn't comply with
19 Federal law, and a few other things.

20 We talked with the Litigation Assistance
21 Partnership Project, which I had started to be involved with

1 by that time, and that put us in touch with Hogan & Hartson
2 here in Washington, and they devoted thousands of hours in
3 helping us on a statewide class action designed to reshape
4 the delivery of OB services to low-income people in the State
5 of Tennessee. They brought to the project litigators, health
6 experts, Title VI discrimination experts, and just did a job
7 on analyzing data, reviewing documents that were produced
8 that we would have done, but it would have meant basically
9 shutting down the small office that our case came out of.

10 We ended up making some pretty substantial changes
11 to the way services are delivered in the state. Before the
12 case concluded, the State totally reshaped its delivery
13 system, in part because of the problems that our case exposed
14 and which they weren't really able to address under the way
15 they were doing things, and this is just a kind of individual
16 example of how a creative approach to pro bono services can
17 help an individual, and I remember when we were talking with
18 Ms. Brewer about getting the help from this firm, she said,
19 well, how big are they, can they do this, and I remember
20 telling them that they had offices in more countries than we
21 had lawyers, and we thought they would be able to handle it

1 if they chose to take it on, and I know it was an experience
2 that really meant a lot to not only Ms. Brewer but our
3 lawyers and the lawyers that worked on the case.

4 But -- that's a nice story, but the question is, as
5 Esther suggested, why isn't that happening more often?

6 During my years as the co-chair of the LAP project,
7 the Litigation Assistance Partnership project, and now, you
8 know, almost 10 years later, my sort of re-engagement with
9 that, the kind of troubling secret is that LAP offers far
10 more law firm resources that are willing to take cases like
11 this than the Legal Services field has been asking for help
12 on, and it is very troubling -- and the reasons for that are
13 complicated, but it's something -- this inertia of looking
14 more creatively and expansively at pro bono resources is
15 something that really needs attention.

16 There's two things going on in the field in
17 relation to pro bono.

18 One is that pro bono delivery is now, in my
19 opinion, the source of some of the most creative and
20 beneficial work that's happening in the field in any aspect
21 of their operations, but simultaneously with that, it is -- a

1 significant number of pro bono programs around the country
2 are still doing what they started to do in 1981 when this
3 started. They are randomly referring domestic violence,
4 divorce, consumer, evictions to mostly small firms or
5 individual practitioners. They are not looking for the
6 sustained relationships, and they're certainly not
7 strategically analyzing the bars in their community -- rural,
8 urban, suburban -- for the kind of resources that they might
9 be able to use, and there is just terrific examples all over
10 the country of how that has happened and how the firms with
11 sort of a strategic view, the legal aid firms with strategic
12 views, have been able to find not only more resources but new
13 resources that they were never able to offer their clients.

14 So, it's a contradiction and a dilemma.

15 The next question is what can LSC do about that?

16 The easiest thing to say is it can't legislate it.

17 You cannot write a regulation that says you must be
18 creative, you know.

19 You can't write a regulation that says sit down and
20 figure out whether a partnership with schools, lawyers, and
21 legal aid programs might generate some interest in new

1 resources for families with at risk children in schools, you
2 know.

3 It just can't be done, and what I would call for is
4 an expansion of the kind of thing that Karen talked about,
5 celebrating the work that people are doing, sharing
6 resources, working with NLADA and the pro bono association
7 and other field groups to provide each other with technical
8 assistance, to talk about best practices, to look for on-site
9 evaluations, and maybe encourage them, as -- you know, as the
10 field is in contact -- as LSC is in contact with field
11 programs, and just generally look for ways to expose as many
12 programs as possible with the real client value of being more
13 creative and more strategic in how we're using this resource.

14 I'd love to spend some time talking about the stuff
15 that we're doing, that other programs are doing, but -- in
16 the field of using corporate counsel, reaching out to lawyers
17 that have different interests in becoming involved with pro
18 bono, but you've heard about that, you will hear about it,
19 and I hope we'll have some time to answer questions.

20 CHAIRMAN HALL: Thank you.

21 Jonathan?

1 MR. ROSS: Thank you.

2 I begin with the proposition that we as lawyers
3 have an obligation to do pro bono work and to work toward
4 equal access to justice for all of our citizens and the
5 people in this country, and if I have a theme for you, it is
6 that lawyers who do pro bono work and lawyers and staff who
7 are part of your grantees share that mission, share that
8 commitment to equal justice, and therefore, should be as
9 cooperative in as many levels and collaborative in as many
10 levels as they possibly can, and that culture will come from
11 lots of different places, but certainly from this board.

12 The first part of what I want to talk about is that
13 taking a case, handling something for a client is not all
14 that pro bono is, in my view, and I want to broaden your
15 thinking about what pro bono activities involve, and so, I'll
16 give you just a short course on some of the things that I've
17 been involved in over the years.

18 I'm a partner in a 47-lawyer firm. There were 10
19 of us when I started.

20 I manage the firm's pro bono program, in
21 conjunction with our bar pro bono referral project, and have

1 for at least the last 25, 30 years. I do cases myself in
2 family law.

3 I mentor other lawyers in my office, and I am a
4 mentor resource for lawyers throughout our state who take pro
5 bono cases in my field of expertise, which happens to be
6 family law.

7 I participate in phono-thons seeking to get other
8 lawyers who haven't taken work of this type to sign on.

9 I participate in telethons to raise money for the
10 Legal Services units in our state.

11 In the mid-'90s, when there was a reorganization, I
12 served on the board of directors of our newly-created Lawyer
13 Advice and Referral Center, LSC-funded program in New
14 Hampshire.

15 I'm the current chair of the ABA pro bono
16 committee, and as some of you know, I was chair of the
17 standing committee on legal aid and indigent defendants in a
18 previous life for the ABA.

19 I have volunteered for legal assistance in New
20 Hampshire as an expert in an attorneys' fees case,
21 post-verdict, and I teach occasionally at pro bono CLEs that

1 are funded, in part, by our bar foundation, and I come to you
2 with the background of a state that has two firms of about 70
3 lawyers but where most of our lawyers practice solo or in
4 small firms of six or less attorneys, and I can tell you
5 that, for those folks who don't have the infrastructure, who
6 don't have the resources, who don't just have the people
7 power to provide service, that the economic cost and the
8 dedication necessary to do this work is substantial, and
9 sometimes harder in some places to get and sometimes easier
10 in others.

11 About 18 percent of the lawyers in this country
12 practice in what are called large firms; the rest are solo
13 and small practice people, and they should be the resource to
14 provide most of the direct service to the people who need it
15 the most.

16 I have a very unique experience coming from New
17 Hampshire, because we have a very cooperative and
18 collaborative situation there.

19 We have three providers: New Hampshire Legal
20 Assistance, which no longer accepts LSC funding, and used to
21 be the LSC grantee in New Hampshire. They stopped taking LSC

1 funding when the restrictions in the '90s came in. The
2 Lawyer Advice and Referral Center that is an LSC-funded
3 program that has limited service in hot-line, and Bar
4 Association's pro bono referral program, which receives PAI
5 money from LARK.

6 We have permission from this corporation to have a
7 joint board between the LSC-funded organization and the
8 non-LSC-funded organization, and because the bar association
9 is an integrated bar required by our Supreme Court, they were
10 unable to join as a third full member of that board but are
11 there ex officio, and the three providers work extremely
12 closely together, closely enough so that, four years ago,
13 under the auspices of the New Hampshire Bar Foundation, they
14 did joint fund-raising for all three programs, with the
15 director of fund-raising paid for and supported by the New
16 Hampshire Bar Foundation.

17 The goal was \$750,000 over three years. They got
18 close to a million.

19 And this past year, in 2005, those three programs
20 have consolidated themselves and are running their own
21 campaign, without the bar foundation that has other

1 obligations and duties at the present time.

2 I was bar president in 1985, and I took it upon
3 myself to try and get Legal Service lawyers to be active in
4 the bar association.

5 I was the first to appoint a Legal Service lawyer
6 to chair a bar committee.

7 Since that time, John Tobin, who is now the
8 executive director of New Hampshire Legal Assistance, has,
9 for a number of years, been the secretary of the bar
10 association, and the executive director of LARK, the
11 LSC-funded program in New Hampshire, is now on the board of
12 governors. There is a common connection between the
13 providers in our state, in our bar association, that permits
14 them to respect what each does and to work exceptionally well
15 together.

16 It also provides leadership and cooperation in
17 other areas, because the bar has supported in the legislature
18 additional funding for legal services for the poor in our
19 state, live free or die state, and got the money.

20 So, you develop a sense of commitment, a culture
21 that says these are good things.

1 The bar gives awards and does programming to assist
2 in promoting pro bono and the people who do this work,
3 whether they're LSC employees or not, and it's a culture that
4 says this is the right thing to do.

5 We have the good fortune of having as our chief
6 justice one of your former board members, John Broderick, and
7 I've said this to him, so I'll say it to you. Guilt is a
8 wonderful motivator.

9 John Broderick, at new lawyers meetings, and more
10 recently in a meeting with our three providers, to paraphrase
11 him, said this: When I was a practicing lawyer, I didn't do
12 enough pro bono work. In fact, I didn't do much of any. And
13 I made a mistake, and it is our obligation to do this. And
14 he is now charting a course to enhance and grow the pro bono
15 effort in New Hampshire.

16 He will host a meeting of the 34 largest law firms
17 in our state to talk about why we're not doing enough.

18 That planning included the Legal Services provided
19 funded by this corporation in New Hampshire.

20 He's also indicated that he is going to establish
21 an Access to Justice Commission in New Hampshire, and so, we

1 have tremendous court leadership, which is something that I
2 would urge this board to consider as part of its mission, as
3 well.

4 The New Hampshire pro bono program -- 60 percent of
5 its referrals come from the hot-line funded by this
6 corporation, and when they make a referral, after having done
7 the acceptance part that they're required to do, our legal
8 service provider doesn't drop the case.

9 You will find across the country that there's a gap
10 in service, because you can make the referral to pro bono,
11 but until they find a pro bono lawyer and get the case
12 assigned, there's a gap in time. We cover that gap through
13 the LSC-funded people until a pro bono lawyer can actually
14 appear on the case.

15 Our folks at your funded grantees spend a lot of
16 time in case acceptance meetings and on case accepted by pro
17 bono and not yet referred.

18 They also participate in pro bono marathons where
19 we call and talk people into donating additional services.

20 The executive director of your program in New
21 Hampshire spends a significant time chairing and presenting

1 CLE programs that deal with pro bono entities and work.

2 She uses other members of this program to do tax
3 and housing advice, and I can tell you that Neil's people
4 came to New Hampshire to teach some tax stuff to LSC folks in
5 New Hampshire and had a contingent of pro bono lawyers who
6 were interested in providing this service to partake in that
7 joint training session.

8 They run a divorce camp, and when they do that
9 annually, they usually get 10 or 12 more people signing up to
10 do pro bono work.

11 The Legal Services-funded program sends a liaison
12 to the pro bono board meetings so that they can keep track of
13 what's going on, and although they don't vote, they are able
14 to hash out problems.

15 They support the pro bono program's IOLTA grant.

16 Instead of competing for that money, they try to
17 work it out together, and why? Because it allows money for
18 primary insurance for pro bono cases, for provision of a
19 small amount of expense money, helps senior mentors and
20 advice givers to be brought into the program.

21 They invest time and effort into getting

1 stenographers and appraisers and other experts in the family
2 law area to come in and donate their services, as well.

3 It enhances the work that we do in that fashion.

4 What you need to know is that the grant you give
5 New Hampshire's grantee is about \$650,000. The executive
6 director estimates that pro bono attorneys in New Hampshire,
7 at \$150 an hour, donate a million-and-a-half dollars in
8 services each year, and if 60 percent of their referrals come
9 from the Legal Services grantee, that's a return of \$900,000
10 in extra service by this collaborative method. It just makes
11 good
12 economic sense.

13 I have some recommendations for you, and they're in
14 a group of categories, and you can imagine that the first is
15 to encourage collaboration and partnership among all of the
16 players.

17 To provide an infrastructure within your grantees
18 that permits PAI and pro bono to work together, because
19 there's a value in that service.

20 It shouldn't be thought of as, if I didn't have to
21 do this, I could have more money in my shop. It should be

1 looked at as a vehicle to promote the mission that the
2 grantees have by leveraging the pro bono efforts.

3 You should, as a board, if you don't already, and
4 certainly through your grantees, be aware of the standards
5 for program governance for pro bono programs, and one of the
6 reasons I say that is that, under provision standard 2.7, it
7 says a pro bono program should strive to cooperate,
8 collaborate, and coordinate with other providers of legal
9 services.

10 I brought a copy.

11 I'll leave it with Karen in the event that you have
12 an interest in looking at it.

13 There should be mutual and cross training of legal
14 service lawyers and pro bono lawyers. That should be a
15 cooperative effort.

16 When the legal aid university gets up and running
17 nationally, it ought to be designed for access to pro bono
18 folks, because they're doing the same kind of work.

19 You should support alternative dispute resolution
20 in the legal services community, and one use of pro bono
21 lawyers would be as mediators in alternative dispute

1 resolution in Legal Services cases, because it's a resource
2 that you don't otherwise have, and some folks think that our
3 Legal Services community is not enamored with the idea of
4 alternative dispute resolution.

5 There is currently a survey going on between the
6 alternative dispute resolution section of the ABA and the pro
7 bono committee on how that works and what's being done.

8 I have a copy of the survey which I will leave with
9 you.

10 I just don't have the results as yet.

11 Disaster planning is another area in which I think
12 that the corporation can be exceptionally helpful in this
13 cooperative effort.

14 The Louisiana Supreme Court was asked by its bar
15 association, by the president of the American Bar
16 Association, and others, after the Katrina disaster, to enact
17 a rule that would permit pro bono lawyers to come into
18 Louisiana from other states and be of assistance. The
19 initial rule that was passed by the court only allowed Young
20 Lawyers Division from the ABA under their FEMA contract to do
21 that without a license, and that was primarily hot-line

1 service.

2 And finally, not too long ago, under pressure from
3 a lot of different folks, there was a supplemental emergency
4 pro bono civil assistance rule passed by the Louisiana
5 Supreme Court, and the import for you folks is that it
6 requires out-of-state pro bono lawyers who want to do work in
7 Louisiana in Katrina relief, legal end, must work through
8 either Pro Bono or Legal Services, LSC grantee organizations,
9 to provide those services.

10 So, we have now a court in the disaster saying that
11 you folks have to cooperate together.

12 I have a copy of that order, and I'll leave it with
13 you.

14 Katrina is not going to be our last disaster, and
15 at a meeting of the Red Cross recently about disaster relief,
16 there was no discussion about the legal needs that flow from
17 that kind of event. I think that this corporation is in a
18 unique position, as it stepped forward with NLADA and the ABA
19 already with respect to Katrina, to do disaster planning and
20 urge its grantees to have a way to coordinate with both
21 in-state and out-of-state pro bono lawyers, to have plans and

1 policies in how to make the referrals, because we're going to
2 see this again.

3 Let me go to a couple of other things that are more
4 regulation-related.

5 Let me start with CSR.

6 You can't count a case if it isn't closed within
7 the year.

8 The nature of pro bono lawyers in getting the final
9 paperwork done to meet that regulation doesn't connect.

10 So, there's a lot of work that gets done. A case
11 may finish in November, but if the report from the pro bono
12 lawyer, who has already donated his or her time, who has
13 already done the work, doesn't get back until February, it
14 doesn't count. There ought to be a way around that.

15 The process of counting cases ought to recognize
16 the folks that are doing this and how they work, and of
17 course, many of the cases they do, such as divorce or
18 post-divorce custody issues, will often take longer than a
19 year.

20 Your citizen attestation form regulation is another
21 place that you can improve the quality of what happens.

1 It's not clear that if an LSC program has such an
2 attestation in its files and the case is referred to a pro
3 bono program, whether that program has to do it all over
4 again. Right now they think they do. Makes no sense to me.

5 If the referring program has the paperwork, it
6 shouldn't have to be duplicated, because the burden on trying
7 to get free work done should not be bound up in paper.

8 And then in all of this, there are other resources
9 that your grantees need to know about. The business law
10 section of the ABA has a pro bono project. They're now
11 funding some money in the Center for Pro Bono that's managed
12 by my committee to do business law material for poor people.

13 You can, if it's within your purview, tell the
14 Senate that the bankruptcy act they just passed, because it
15 requires the lawyer to certify the financials of the debtor
16 in a Chapter 7, is going to take a majority of the lawyers
17 who do pro bono bankruptcies out of the process, and they
18 should change that, at least for pro bono and legal service
19 lawyers.

20 And then, lastly, I guess what I'd say to you is
21 that you have to be cognizant that you're still dealing with

1 the same number of people, with the same reduced budget that
2 you always deal with, and all of the things I said just can't
3 be piled up on top, because then it doesn't get done.

4 If you mean it and if this is important, make sure,
5 in the funding, in the resource that you give, that your
6 grantees have the ability to do it.

7 Thank you.

8 CHAIRMAN HALL: Thank you.

9 Rob?

10 MR. WEINER: Thank you.

11 I feel a little bit like the guy in the orchestra
12 with the tambourine after all this.

13 It's tempting to say I agree, and probably would be
14 a relief if I did and shut up, but at least let me briefly
15 rattle my tambourine perhaps a little provocatively.

16 A lot of legal service or some legal service
17 providers don't like private attorneys involved in their
18 programs.

19 They see it as a diversion of scarce resources, the
20 time of attorneys who could devote their skills directly to
21 providing legal services to the poor and, instead, have to

1 hold the hands of spoiled private practitioners who
2 are -- who need their help in order to provide those same
3 services less efficiently.

4 There is more than a kernel of truth in that view,
5 and it's not a unanimous view. It's probably not even a
6 prevailing view. But it is a view of some legal service
7 providers.

8 There is a kernel of truth in it, and if you view
9 the program as a burden to be borne rather than as a
10 potential source of benefits, then you treat it like taxes.

11 You comply, but you seek means to minimize your
12 obligation.

13 So, how do you address that if you do believe there
14 is a significant benefit to be garnered from these type of
15 programs?

16 Well, first, I think you have to address that
17 kernel of truth, and I'll talk more about that, but I think
18 rotation programs, which have been mentioned, are one way to
19 do that.

20 Cross training, which Jon mentioned, is another
21 way.

1 Putting out templates, models of training programs
2 for legal service providers to adopt in order to train
3 private lawyers most efficiently -- that's the third way.

4 There's lots of ways to do it, but it needs to be
5 addressed, because it is one of the obstacles to be overcome
6 in utilizing this resource in the private bar.

7 And the other thing that needs to be done, if we
8 think there really is a benefit here, is to educate the legal
9 service programs about what those benefits are, and there are
10 many.

11 One is a funding benefit.

12 In my law firm, I believe in other law firms, the
13 money we give to legal service providers follows the time we
14 give to legal service providers. We donate to the
15 organizations that we practice with, that we do pro bono work
16 with, and I think that is common, and so, that fact is one,
17 the self-interest of legal service providers in working with
18 private bar is something that those who don't understand that
19 issue ought to understand that issue.

20 I am head of the D.C. Bar Foundation.

21 We gave \$1.1 million last year to legal service

1 providers.

2 One of the issues we looked at for both LSC-funded
3 and non-LSC-funded programs was what work they did with the
4 private bar, what pro bono outreach and involvement they had,
5 because after all, we were -- we are the D.C. Bar Foundation,
6 and so, we want to know what the programs are doing to
7 integrate themselves into the legal community, and I do not
8 believe that is a unique perspective.

9 The second reason, point of education for legal
10 service providers is the resources that are available from
11 the firms.

12 The big firms, many firms, are anxious to do pro
13 bono work.

14 Firms, in the recruiting market, have,
15 often -- often have very few ways to distinguish themselves
16 from other firms.

17 The large firms in the community are pretty much
18 paying the same to their -- to the new recruits coming out,
19 and so, the way you distinguish yourself is by your firm
20 culture, and an important aspect of firm culture is pro bono.
21 That is true in the District of Columbia. It is true in

1 many legal services and legal communities.

2 And so, there are those attorney hours to be
3 tapped, and there are also the logistic -- there is also the
4 logistical support that follows those attorney hours, and the
5 private attorney involvement programs provide an opportunity
6 for connection with the legal community.

7 Legal service providers and Legal Services
8 Corporation-funded entities should not be a community apart.

9 They should be part of the legal community. That's
10 important for them, and it's important for the legal
11 community, and the benefits of that are political and
12 financial and legal in terms of the exchange of information,
13 and that is an issue that the legal service providers should
14 understand, and an educational program directed to that might
15 be beneficial.

16 In terms of the opportunities presented by both the
17 big firms, which have been discussed, and small firms that
18 have been discussed, let me talk a little bit about that.

19 For a program -- a legal service program to make
20 use of a big firm, I think one of the things that needs to be
21 addressed is the training, because big firms like

1 mine -- poverty law is not a staple of our day-to-day
2 practice, and it is a specialty, and so, training needs to be
3 provided.

4 To the extent that it can be provided by others
5 through bar programs, that is very advantageous, and that is
6 one significant area for legal services programs to --

7 (Pause.)

8 MR. WEINER: So, with regard to big firms, training
9 is an issue.

10 I believe that rotation programs are a -- are a
11 model to be encouraged, because many of the reasons that have
12 been addressed solidify the commitment of firms to the
13 particular program; they embed a firm lawyer in the legal
14 services program and a legal services veteran in the firm;
15 and that facilitates the training of firm lawyers, which
16 thereby lessens that problem that legal services providers
17 have in training firm lawyers and holding their hands and
18 diverting scarce resources by doing that from directly
19 assisting clients.

20 And one of the problems that needs to be addressed
21 is screening.

1 The cases -- in order for a legal service provider
2 to collaborate successfully with a law firm, it is frequently
3 necessary for the cases that are referred to be screened.

4 A firm is not likely to come back if the cases that
5 it gets from the legal service providers are ones that don't
6 provide experience that turn out to be completely meritless,
7 not be legal cases, and so, that's one of the problems that
8 legal programs face. They have to devote resources not only
9 to training lawyers but to screening these cases.

10 There are mechanisms to do that. There are bar
11 programs like advice and referral clinics. There are legal
12 service providers that have advice and referral clinics that
13 engage in some initial screening, but it is a necessary part
14 of a successful collaboration, I think, between legal
15 services programs and law firms, and there are innovative
16 ways to deal with it.

17 There are best practices that can be examined, but
18 the issue needs to be put there on the table as something
19 that needs to be addressed in that relationship.

20 I think that generally big firms are -- even though
21 they're only 18 percent of the legal community, they are the

1 easiest for legal services programs to deal with, where they
2 have big firms available, because they provide more bang for
3 the buck, this great congregation of lawyers in one place for
4 you to go to and seek assistance.

5 They have built-in infrastructure, and they have
6 quality control and coverage mechanisms that otherwise aren't
7 available, and so, where the big firms are a significant part
8 of the community that is willing to participate, they are a
9 great resource.

10 As Jon has pointed out, that is not always the case
11 in many places, and what's more, it would be unfortunate to
12 squander the willingness to work and the resources that can
13 be devoted in the other 82 percent of the legal community,
14 maybe not the full 82 percent, but those private lawyers who
15 are not in big firms.

16 But there are issues, then, that have to be
17 addressed if we want to go -- if we do want to involve those
18 firms and those lawyers in legal services.

19 One is they don't have the infrastructure, in many
20 cases, and so, either a bar organization or the legal service
21 provider needs to provide that if those resources are to be

1 used.

2 Secondly, many of the solo practitioners and small
3 firm lawyers say that one of their principle fears in taking
4 a pro bono case is that it will grow and consume them, and
5 they cannot afford to take that risk, and while a big firm
6 has the coverage, someone else can come in and help, someone
7 can take over the case, they can throw in more resources, the
8 solo practitioner doesn't always have -- generally doesn't
9 have that option, and so, in dealing with small firm and solo
10 practitioners, the legal services program needs to focus on
11 coverage issues, and there's two ways to do that.

12 One is to provide teaming opportunities, and the
13 second is to focus on the kinds of pro bono opportunities
14 that will make use of resources and not present those
15 problems, things like advice and referral clinics, things
16 like mentoring and training by solo practitioners who have
17 skills in particular areas like landlord-tenant law or family
18 law, and they can be used to train private lawyers from other
19 firms who can then participate more effectively in the
20 programs of the legal services providers.

21 There are other kinds of opportunities that are

1 discrete in that way, and the important thing is that it be
2 focused on -- that issue be focused on -- is one of the
3 things that needs to be addressed if you want to involve
4 small firms and solo lawyers in these kind of programs.

5 I agree wholeheartedly with Jon that all lawyers in
6 the legal community have an obligation to do pro bono work
7 and to -- and it's not just an obligation, it is an
8 opportunity, because those of us who have done this kind of
9 work find that it is essential to our overall professional
10 satisfaction and to our sense of completeness in terms of the
11 legal work that we do, and so, it is not only a benefit to
12 the legal service providers to extend these opportunities,
13 but it's a benefit that they extend to the rest of the
14 community.

15 I hope we can figure out ways to encourage those
16 efforts and make them effective.

17 Thank you.

18 CHAIRMAN HALL: Thank you, and thanks to all of you
19 for very thoughtful and insightful remarks.

20 I think I'll just throw it open. I have some
21 questions that I want to ask, but I'll just throw it open to

1 committee members and other board members to ask any question
2 of our panelists.

3 Are there any?

4 Yes, Tom.

5 MR. MEITES: Maybe I misunderstood what everybody
6 was saying for the last hour-and-a-half, but it seems to me
7 that a theme is there are resources that our grantees are not
8 making themselves -- are not availing themselves of.

9 Well, that's completely unacceptable.

10 We don't have enough money to pass around, and it's
11 very hard for us to get more money from Congress, and yet,
12 you all are saying that you have lawyers to spare and
13 paralegals to spare and copying machines to spare.

14 Well, what are our grantees thinking about?

15 There's also a suggestion that there are two
16 reasons, potential reasons why our grantees may not be
17 availing themselves of these resources.

18 One is that it would require a diversion of
19 resources to get it, and the second is some cultural bias
20 against pro bono attorneys.

21 The first one I can certainly understand. If you

1 don't have a dollar, you can't spend it. But the second one
2 just doesn't make sense.

3 I'm pretty indifferent to what their cultural
4 biases against big firms -- I have spent my life litigating
5 against big firms, but so what?

6 If there are resources, our grantees should use
7 them.

8 Maybe I misunderstood what everybody was saying,
9 and maybe there's other reasons why grantees can't -- for
10 example, we have a petition from Wisconsin that we should do
11 away with the 12 1/2-percent mandatory -- because they can't
12 afford it. Well, are you telling me that the director of the
13 Wisconsin program can call up Foley & Lardner and get a
14 lawyer on a rotational basis?

15 Is that how it works, is it as simple as that, or
16 is a lot more complicated to get these resources and actually
17 use them?

18 CHAIRMAN HALL: Could I interject just for a
19 second? And that's a wonderful question, and I look forward
20 to the answer.

21 We need to take a break at this time for our court

1 reporter, who we've been a little insensitive to with this
2 kind of long meeting.

3 So, why don't we just take a five-minute break?

4 We're going to have to push Ops and Regs a little
5 bit.

6 So, let us come back in five minutes, and we will
7 resume with that question.

8 Thank you.

9 (A brief recess was taken.)

10 CHAIRMAN HALL: We'll try to reconvene and get
11 moving again, and Tom had a question which I think Esther was
12 getting ready to take a stab at, and some other panelists may
13 want to address it, as well. So, why don't we pick back up
14 at that point?

15 MS. LARDENT: I guess I would say a couple of
16 things to you.

17 The first is I don't think any of us want to leave
18 the impression that your grantees are not, you know,
19 complying with and utilizing private attorneys. I think they
20 are.

21 I think what we're trying to look at is are there

1 ways to leverage even more fully, and I think we think that
2 there are some ways to do that, but I want to say that it
3 isn't that easy.

4 I mean to take someone who runs a legal services
5 program, for example, and to say, gee, you should go to Foley
6 & Lardner and suggest to them that they do a fellowship I
7 think can be very difficult. They may not have that
8 relationship to begin with. They may feel uncomfortable
9 because they don't understand how firms work.

10 And so, I think part of this is how do you get
11 people the information and the tools and the confidence?

12 Part of that is to say to that person you should
13 talk to Bob in Pittsburgh, you should talk to Steve Gottlieb
14 in Atlanta.

15 This is something that may well happen, while,
16 frankly, my organization works on softening up these firms
17 and encouraging them to do this by showing them that their
18 peer firms have done it, but it isn't easy. It's -- you
19 know, the idea that you should go to the general counsel of
20 Sears and ask Sears to get involved in a pro bono
21 program -- that feels like a major, huge leap for people who

1 are sort of under the gun.

2 So, I think that this is a kind of hearts and minds
3 and education issue.

4 I think it is a question of sort of showing the
5 grantees that their peers have been able to accomplish this,
6 that this is doable, that you can ask for more and get it,
7 giving them the tools that they need to do that, and at the
8 same time raising the expectations on the -- I never -- I
9 don't understand supply and demand, so whatever side it is
10 that the private attorneys are on, raising the expectations
11 of private attorneys about what is possible and can be done,
12 and using -- particularly with large law firms -- what
13 Charlie mentioned, which is that they are conforming and
14 competing organizations, so if you show them that their
15 fellow firms have done it.

16 So, I don't think any of us want to say that this
17 is easy, but I think that it is possible to take pro bono,
18 for some programs, to the next step, and there are programs
19 that are doing it.

20 MR. LESTER: I'll say one other thing about maybe
21 the bias that might produce some problems, and that is

1 that -- there are times when volunteers fall down and when
2 cases that were sent properly, even screened properly, get to
3 a law firm and come back to the legal services, and so, you
4 have two or three of those experiences and you can see how
5 somebody might say, well, why am I wasting my time trying to,
6 you know, involve and leverage these resources when they come
7 back?

8 So, I mean I don't know -- and then the other thing
9 is that most of the legal services programs are overwhelmed
10 with problems.

11 They've got so much to do. They've got people
12 calling, they're turning them away, great need.

13 So, finding time to do these projects, which
14 take -- and do make -- do take an investment -- I think there
15 are probably great refunds and can pay great refunds.

16 So, I mean I'm not saying there couldn't be a
17 problem there, but I don't know that I'd blame it on -- I
18 wouldn't -- I wouldn't say the blame is totally on the legal
19 services program.

20 MR. WEINER: I think it's -- you know, the analogy
21 you could draw is someone who's starting a small business and

1 is told you have to spend money to make money, and if you
2 don't have much, it's hard to -- it's hard to -- to gear up
3 to spend it, and that's true of the financial and time
4 resources of legal services providers.

5 One of the things that they need to be educated on
6 are what's going to be the return, so that if you know that
7 the return is likely to be high, then you're more likely to
8 take that leap and that risk, and make the initial
9 expenditure of resources.

10 MR. McBRIDE: If I could just add one comment, I
11 want to kind of clarify a little bit the frustration that I
12 kind of expressed and that I feel about the lack of
13 initiative in some programs to take advantage of things like
14 the LAP project.

15 The irony is I'm more confident that I could find a
16 national firm with the help of Nina Vanek at the LAP project
17 in the ABA, or maybe with Esther, with the institute in
18 Washington, to handle a major case with statewide
19 implications that we've developed and framed and can sell to
20 a private -- to a firm than I be confident in finding a
21 lawyer in the town of Lafollette, which is one county over

1 from where my office is, to handle a nasty domestic violence
2 case, and the resources are uneven, and the opportunities
3 really vary wildly from community to community, even within
4 the same legal services program service area.

5 So, you know, my frustration at firms, including
6 our own -- I mean I described Sheila Brewster, and we've
7 taken advantage of LAP since that time, but it's been a while
8 since we've done that, and I'm even a little frustrated at
9 our own staff for not seeing more opportunities to use that
10 resource, but they are focused on their individual clients,
11 as they should be, and they're operating in a climate where
12 they would be a little surprised to hear the Legal Services
13 Corporation talking about how they ought to use Arnold &
14 Porter or Hogan & Hartson or Asbill Sutherland, you know, to
15 sue the state on a major issue.

16 That's a stretch, after the sort of period of kind
17 of retrenchment that we've gone through over the past few
18 years, and you know, I am very confident that the corporation
19 would only applaud the -- the initiative that would bring in
20 a resource like that to a case, but that's -- we have to
21 re-educate a lot of people around the country to understand

1 that that's a value.

2 Now, I also want to address briefly the bias
3 question, because it's certainly there, and it's certainly an
4 historic issue that we had to overcome, but I can tell you
5 pretty confidently that, of the 150 programs that now remain
6 with LSC funding, among the leadership level, the directors,
7 the boards, senior management, they pretty much get it in
8 terms of the value of pro bono service, and not just the
9 benefit to clients but the way their fund-raising builds on
10 pro bono, the way their relations with the bench and the bar
11 depends on pro bono, and it's kind of the source of
12 their -- it's a major source of their community identity.

13 To the extent that that bias exists, it's among a
14 relatively small number, I think, of staff attorneys that
15 are, you know, hunkered down, handling their clients,
16 but -- I won't say there are no directors that
17 wouldn't -- that don't understand it, but it's a very small
18 minority, and historically, I think we've all succeeded, with
19 Esther's leadership and other people's leadership, in
20 understanding not just the immediate case resource value of
21 pro bono but the sort of ancillary benefits that you get from

1 it as an institution.

2 MR. MEITES: Thank you very much.

3 CHAIRMAN HALL: Other questions?

4 MR. GARTEN: I felt that the discussion was really
5 primarily with regard to the 20 percent of the lawyers out
6 there in the large firms, and I'd like to have a discussion
7 regarding the remaining 20 percent of the small firms and
8 sole practitioners.

9 In Maryland, we've seen a great increase in pro
10 bono activity on the part of those type of firms, and also,
11 the giving, financial giving, as a result of mandatory
12 reporting, not mandatory pro bono, in which the lawyers get a
13 letter from the chief judge once a year asking for them to
14 fill out a form indicating what services they have rendered,
15 zero or to whomever it is, and also asking the question of
16 what I call checkbook pro bono, how much money they've given
17 to these organizations, and since that has occurred, the
18 funds that have been given -- and by the way, the form also
19 indicates whether they want to volunteer for services, and
20 names a large number of organizations, and also the same
21 thing with regard to the fund-raising, and since that's been

1 adopted in Maryland -- and we weren't the first one, Florida
2 was a pioneer in this area -- we've seen a great increase in
3 pro bono activity.

4 A lot of these pro bono providers would rather have
5 the cash than the pro bono lawyers, as I think one or more of
6 you have indicated.

7 So, why didn't we hear more about the direction of
8 where we should go among the 80 percent of the lawyers out
9 there in the United States?

10 MR. McBRIDE: While you're getting prepared to give
11 another answer, as I said, I am more confident about
12 developing a major case with a big law firm than I would be
13 getting a lawyer in a little town in our area to handle a
14 difficult domestic violence divorce. We are acutely aware of
15 the pressures that sole practitioners in small firms face in
16 donating this, and we know that they are taking defender
17 appointments sometimes, they're doing a lot on their own
18 outside of the organized contacts, but as Esther said, there
19 are opportunities to use them.

20 She talked about, you know, kind of strategic
21 partnerships with firms.

1 We had one where a firm was doing very good
2 guardianship and estate work for its commercial clients, and
3 we talked them into handling guardianships involving a stream
4 of referrals for families with kids that were having trouble
5 getting enrolled in public school, because the local family
6 didn't have the formal right over the child that was in their
7 household, and that was a terrific value for us for a long
8 time.

9 So, there are strategic ways to use small firms in
10 rural areas or small firms in urban areas, but those
11 opportunities are often, you know, kind of accidental, that
12 we had a good relationship with this firm, they had a
13 expertise that we needed. That is, in fact, the only firm in
14 a 20,000-square-mile area that would really lend itself to
15 doing that.

16 But I think you're absolutely right that the small
17 firms are the backbone of pro bono around the country from
18 the perspective of the LSC-funded legal aid programs, and how
19 they partner with us is really what we really need to focus
20 on.

21 But when I was talking in response to the first

1 question, I left out one other point which I want to offer in
2 defense of the programs that I am often frustrated with, and
3 that is we all don't do everything well, and there are people
4 doing pro bono extraordinarily well who may not be doing some
5 other things so well, and vice versa, and I can be frustrated
6 at the lack of strategic thinking and resource development in
7 a legal aid firm in relation to pro bono but know that they
8 may be doing some of the best community-based economic
9 development that's going on in the state or region.

10 So, I would be careful to sort of write them off as
11 advocates for clients, because they are not as creative and
12 effective in this field as some other legal aid providers
13 are.

14 MR. ROSS: Herb, the ABA pro bono committee, in
15 August 2005, released a survey that it sponsored, done by
16 Kalo Research, telephone survey of 1,100 lawyers across the
17 country, that tells us something about who does what and how
18 much of it they do in the pro bono field.

19 Two-thirds of the respondents -- that's 66
20 percent -- reported doing some level of free pro bono service
21 to people with limited means and/or to organizations serving

1 the poor, and attorneys surveyed, on average, reported
2 providing approximately 39 hours of free pro bono service to
3 persons of limited means or organizations serving the poor,
4 and only 46 percent of the lawyers surveyed met the ABA's
5 aspirational goal of providing at least 50 hours of free pro
6 bono service.

7 This survey and a lot of what the ABA pro bono
8 committee does is on its website, which I'd like to share
9 with you.

10 It's www.abaprobono.org. It's a wealth of
11 information there.

12 It is not one size fits all.

13 I come from a state that's small enough to have a
14 single pro bono referral project that covers the entire
15 state. We can't serve all the needs that we have. Our LSC
16 grantee hot-line probably turns away 50,000 folks that they
17 can't serve a year, but in Pennsylvania, most of the pro bono
18 projects are county-based, and Pennsylvania has something
19 like 150-odd number counties, and if you have three grantees
20 serving those areas, or five, the logistics of gathering all
21 of that together become extremely difficult.

1 The survey that we did also asked what were the
2 primary disadvantages to doing pro bono, what were the
3 impediments. Most frequently, the response was a lack of
4 time, because in Rob's firm, and even mine, with 47 lawyers,
5 there's a professional staff that manages the business end of
6 this, takes care of staff and computers and the bookkeeping
7 and the rest of that, and when you get into small and solo
8 practices, they have to do it all, and getting them to commit
9 their time to do this kind of thing is an ongoing search, but
10 you can't give up on it.

11 The more people who do this, the better off we all
12 are.

13 MR. LESTER: Mr. Chair, I'm going to have to leave,
14 I've got a flight back, but I've enjoyed being here, and I
15 want to express my thanks to each of you for the work that
16 you all do on this board. It's very valuable, and I'm a
17 greater supporter of you and your programs, and I think your
18 point about people doing it and paying is absolutely true.

19 I mean one real -- Rob said his firm -- our budget
20 is directly related to who gives us pro bono work. We give
21 them the most money, and we give away -- Atlanta Legal Aid

1 gets \$60,000 from my firm, and Georgia Legal Services
2 probably gets \$20,000 from my firm, and those are directly
3 related to the kind of resources -- and I think that's
4 natural. You give to what you like. You work with what you
5 like. And those things are really powerful, and I think
6 that's one real important emphasis you can make.

7 But -- I've really enjoyed it, but I've got to run.

8 CHAIRMAN HALL: Thank you for being here and thank
9 you for your comments.

10 Bernice?

11 MS. PHILLIPS: I guess, in my community -- I know
12 everyone is saying that a lot of lawyers do pro bono work, or
13 law firms do pro bono work, but in my community, we don't
14 hear much about the firms doing pro bono work. I think one
15 law firm does free work sometimes.

16 How would you get that in the community? How would
17 you get that out to the people, you know, if you had to, you
18 know, tell people about it? How would you get that out in
19 the community?

20 MR. WEINER: Where's the community?

21 MS. PHILLIPS: What is it?

1 MR. WEINER: What city?

2 MS. PHILLIPS: Buffalo.

3 MR. ROSS: I can tell you how we do it. We put
4 material in all the courthouses. We make presentations to
5 the United Way in the area and make sure that the literature
6 that provides for these services, both pro bono, LSC-funded,
7 and the like, are made available to those folks so they can
8 send it out to the people that they work with. We ask local
9 radio stations and newspapers to do public service spots
10 about this.

11 We do press releases about it. We give awards to
12 people who do this work, and try to get those awards
13 published both in the bar letter and in the newspapers that
14 service our communities.

15 Outreach is a major issue in trying to educate the
16 public about what's there and create a sense of obligation of
17 lawyers to do the same.

18 MR. WEINER: And if the question is how to get the
19 lawyers to do more pro bono work, I can tell you what we did
20 hear, back a long time ago, when I was president of the bar,
21 is we got the judges, and in Buffalo, I'm sure there's some

1 significant corporate presence around there somewhere, and
2 you get -- the bar needs to be an initiator, or the legal
3 services program, and you get the chief judge in the area to
4 get the managing partners of the major firms and the clients
5 who are there, and they tell the lawyers that they think this
6 is important, and you know, lo and behold, number one, they
7 come, and number two, if the judges and the clients are
8 telling them it's important, well, then, the amount of work
9 they do will pick up.

10 MR. McBRIDE: I would just add one thing to that
11 answer, that the problem that you raised is not just a pro
12 bono problem, that there was a study that NLADA sponsored a
13 few years ago about what the public knew about legal aid, and
14 it found that, across all income levels and race and
15 throughout the country, only about 18 percent of the American
16 public was aware that free civil legal services were
17 available, and so, even fewer people, I think, would know
18 about how to get to a formal pro bono program.

19 So, I have been really pleased by the educational
20 efforts that LSC has done under this board and in recent
21 years to raise the profile of legal aid in the newspapers, in

1 the press, and to try to sort of fix that a little bit, but
2 it's a big job.

3 MS. WATLINGTON: This is Ernestine.

4 CHAIRMAN HALL: Yes, Ernestine.

5 MS. WATLINGTON: I am really surprised -- he was
6 talking about the education, about how people don't know
7 about legal services programs. I was surprised how people up
8 here in the boondocks is not aware. They had no idea what
9 I'd be talking about when I'd be talking about legal
10 services.

11 CHAIRMAN HALL: And the boondocks are where?

12 MS. WATLINGTON: Pennsylvania. Compared to where I
13 was in Harrisburg, it's like day and night. It's so
14 different. You just don't believe that actually goes on
15 today.

16 CHAIRMAN HALL: Thank you for that comment.

17 I'd like to revisit Tom's question in a different
18 sort of way, because you know, some of what I've heard here
19 today has certainly made me feel a little perplexed.

20 Assuming we have some capital to spend or some
21 energy that we can put into this issue, I'm not clear if we

1 should be placing that in an area where we're trying to get
2 our grantees to better understand how they could utilize this
3 untapped but willing resource that exists, evidently
4 primarily in large firms, or is it that we need to be
5 spending our energies more on maybe following the Maryland
6 example and the Florida example of trying to convince state
7 bars and supreme courts to adopt more mandatory reporting, so
8 that not just the large firms but all firms take this on
9 more.

10 So, it's hard, from the presentation, for me to get
11 clear as to where our energies would be best served.

12 Is it getting our grantees to be more creative and
13 to know how to get this stuff done, because the firms are
14 all -- they are just willing -- or is it that there really is
15 another critical nut to crack, and that is getting more
16 lawyers to be available for this type of work?

17 MS. LARDENT: What is I would say is if you look at
18 studies -- and I think this is true of the ABA study, as
19 well, but if you look at the state studies, what the state
20 studies show is -- and there is a change in this over the
21 years -- is that sole practitioners are very involved in pro

1 bono. They report quite -- I mean this is self-reported, but
2 I think fairly credible data.

3 They report a quite good level of involvement in
4 pro bono.

5 Large firms which were not so involved are now much
6 more involved and provide not enough but a pretty good level.

7 It's smaller firms and mid-size firms that, to some
8 extent, haven't quite figured out how to do this yet, and so,
9 one of the things I think that is important is trying to
10 figure out -- we've figured out -- for example, with large
11 firms, we figured out how to push their buttons, and we
12 figured out how to make pro bono viable for them.

13 That doesn't mean that every large firm is doing a
14 great job, they're not, but we're definitely moving in the
15 right direction, and I think the same thing is true for -- if
16 you look at the sort of untapped potential, I mean it
17 certainly is in the -- the big firms really should be working
18 more closely with LSC grantees, there's no question, and I
19 think, there, it's a question of the grantees -- helping the
20 grantees to understand how to ask, but you know, I don't even
21 know -- let's say solos -- I don't even know -- solos are 15

1 percent?

2 That still leaves a very large percentage of the
3 profession that is not, frankly, picking up, and so, I think
4 that's an important issue, too, for the corporation, but for
5 the ABA and state and local bar associations, in particular.

6 I will just say that I am something of -- I don't
7 think skeptic is the right word, but I take a much more
8 wait-and-see approach on mandatory reporting, for a number of
9 reasons.

10 The first is, as with anything else with pro bono,
11 it may work in some jurisdictions but not necessarily in
12 others, and while Florida, which has a long record -- I think
13 Maryland is still early. I think you have to follow the data
14 for a while and see what happens.

15 While Florida has improved, it is not necessarily a
16 state that I would say has a great pro bono culture, with all
17 due respect.

18 States that do have a much better
19 culture -- Minnesota, as you know well, Massachusetts -- had
20 a pretty negative reaction to mandatory reporting, and in
21 D.C., there has been discussion -- which has a fabulous pro

1 bono culture -- and a realization that maybe it's just not
2 the right tool.

3 So, I think, though, that the aspect of mandatory
4 reporting that is important, which is something that perhaps
5 the corporation and the bars and the programs could work
6 together on, is the aspect of the moment of stopping in a
7 very busy professional life and thinking about this, the
8 moment of consciousness, the moment of awareness, which is,
9 to me, the most positive thing about the reporting, is that
10 you really have to stop and think, what have we done, and the
11 information that shows that if you do pro bono, you're not
12 alone, you're not losing some edge or benefit, that in fact,
13 there is a large cadre of people, and so, for example, when
14 LSC publishes in its electronic newsletter client success
15 stories, perhaps those should be -- those should include pro
16 bono stories, as well, and there should be more information
17 about or even awards to communities that have done a better
18 job of involving people and more of a sense of how do we
19 learn from that, because the one other thing that is very
20 important about pro bono is that local cultures differ
21 dramatically.

1 New Hampshire, I think, is a state that has had,
2 from the beginning of organized pro bono, a very good
3 response to pro bono.

4 It seems as though there's a sense of peer and
5 community that is very strong there.

6 Minnesota, the same.

7 But there are parts of the country where pro bono
8 really isn't particularly on the screen, and so -- which is
9 another reason, I think, to not, you know, sort of lash at
10 grantees, because they may be working with a better or a
11 worse pro bono culture, but I think, thinking about how, when
12 people are information overload, to get them to think about
13 this, and how to create the sense that this is not only
14 doable but that the leadership of the profession does
15 it -- the ABA does that with their awards, for example, but
16 there may be other things that could be done like that.

17 MR. ROSS: I'd answer it this way. You framed the
18 policy issue, that all of the boards for your grantees and
19 pro bono boards have to answer on a regular basis.

20 What's first and what's second? I don't have an
21 answer for that.

1 They're both extremely important, and you don't
2 have grantees that are all the same or serve the same
3 constituencies.

4 You will have a different, I think, reaction to
5 grantees who serve rural areas than you may for inner city
6 programs that you have, and part of your debate, I would
7 think, would talk about whether what we really want here is
8 direct one-on-one service in all of our areas or do we want
9 to leverage the resource, the power, and the stretch, the
10 breadth of the large firm to have impact litigation that
11 benefits so many more people, and there is a pull and a tug
12 on each of those, both philosophically and in terms of the
13 use of the money and what the people who work for your
14 grantees want to accomplish in the dedication that they give
15 to the poor, and all of that, I think, should be part of your
16 conversation in trying to answer that question.

17 MS. BeVIER: I just want to enter a caveat here
18 about what legal services gets its money to do and what we
19 are restricted to.

20 We can't do impact litigation, and like it or not,
21 that's just a fact, and so, one of the real challenges, I

1 think, is to make individual cases accessible to private
2 lawyers, and you know, the impact litigation is a whole
3 'nother issue, but it cannot be our issue.

4 So, I just want to be sure that we are clear about
5 that from our point of view.

6 I think we would be remiss if we started kind of
7 down that path.

8 MR. ROSS: I shouldn't have used a buzz word.

9 What I was really referring to was the use of
10 outside resources like the LAP program and referring out to
11 pro bono counsel the hospital issue that was described by
12 Neil, as opposed to having it done by your grantees, but I
13 think that's part of the policy choice that you end up making
14 in answering the chairman's question.

15 MR. FUENTES: I know that we're running late here,
16 so I'll try to be brief, but I just want to say that, in my
17 tenure on this board, your presentation here today, I think,
18 is among the most significant that I've ever had the
19 opportunity to listen to, and I think that it's a real
20 eye-opener, and you've stated a lot of things that perhaps
21 I've felt viscerally but had not heard articulated before,

1 and you have done it well for us.

2 As you were telling of your experiences, I was
3 reminded of, out in California, some years ago, there was the
4 concept introduced to us in transportation called the diamond
5 lane, and there was great debate over it.

6 What it came down to, finally, was that people came
7 to realize that it wasn't how many cars we moved down our
8 freeways but how many people we moved down our freeways, and
9 once people bought into that, however much we Californians
10 love our cars, we realized that it worked better to move more
11 people than just automobiles, and I think that the history of
12 this organization is that we come here, oftentimes, and talk
13 meeting after meeting about the goal of how do we get more
14 dollars -- that's always put out there -- whereas our goal
15 ought really be how do we deliver more legal services, and
16 what you have said today, I think, gives us pause for
17 discussing those priorities in our coming meetings, and maybe
18 even on our agenda at tomorrow's board meeting, and I just
19 want to add my thank you.

20 CHAIRMAN HALL: Are there other questions?

21 MR. MCKAY: Echoing Tom's comments and the probing

1 questions of Mr. Meites and Chairman Hall, you know, I think
2 the real question is -- we're left with -- and I'd hate to
3 leave this -- I agree, this is one of the best presentations
4 I've heard since I've come to the board.

5 We can't just leave this here. What can we as an
6 organization do -- and I think the chairman posed it in a
7 positive way.

8 I mean should we be pressing the grantees more, or
9 should we figure out a way, as a matter of policy, to
10 encourage more attorneys to get involved, and maybe it's a
11 combination of the two, but I think it's important that we
12 leave this meeting with not necessarily -- we might not be
13 able to do it, but to continue to pursue this, maybe even
14 investigate a little bit.

15 Is there room for improvement on the grantee side?

16 I suspect there probably is, but I'm really
17 intrigued with this idea of kind of thinking outside of the
18 box, as suggested by Chairman Hall.

19 Can we exercise some kind of a leadership role in
20 reaching out to some of those states that could use a little
21 push to communicate, perhaps in a state -- state culture such

1 that they might not like the mandatory reporting -- in fact,
2 a letter from the chief justice of the supreme court,
3 nevertheless, would get an attorney's attention.

4 This is important to me and the rest of the bench,
5 and here are the LSC programs in our state, and other offices
6 that would be willing to accept your time and your money.

7 I think this is something we ought to be looking at
8 going forward.

9 CHAIRMAN HALL: Just to follow up -- and I know we
10 need to stop, we're way beyond our time, but do we know now
11 whether -- or do we right now put on trainings for our
12 grantees around this issue? That is, how do you approach
13 firms? How do you be more creative in thinking through these
14 types of collaborations? I mean is that something we're
15 already doing? And I guess this is directed more to Karen,
16 but Esther, I would certainly be interested in your response,
17 as well.

18 MS. SARJEANT: Actually, we don't, ourselves,
19 necessarily put on national trainings around that issue;
20 however, we encourage our recipients to attend the Equal
21 Justice Conference, to attend the other national conferences.

1 We encourage them to participate with the ABA
2 Center for Pro Bono to get the technical assistance that's
3 available.

4 There are organizations like the ABA center that
5 have access to -- very quickly and very directly -- to people
6 who do pro bono programs and delivery and have that expertise
7 to work with our grantees about how to set up a program and
8 how to do the ask.

9 So, you know, that's what we do, is try to get
10 folks to the right place to get the information, in addition
11 to doing, as I mentioned earlier, some technical assistance
12 while we're on-site with programs.

13 MS. LARDENT: We do an annual conference, and our
14 primary audience are actually the large law firms and the
15 corporate legal departments. We do invite to -- and public
16 interest programs who work very extensively with large firms.

17 We do invite to that people who run LSC programs in
18 cities where there are substantial numbers of large firms.

19 We've got very limited capacity for attendance, and
20 we don't in any way want to compete with the Equal Justice
21 Conference.

1 So, we don't -- it's not a broad attendance, but we
2 have, in fact, invited people from those who would most
3 directly benefit, and we also, on both our website and on the
4 corporate pro bono website, try to have very open information
5 so that, for example, if you want to approach a corporation,
6 you can look and see what other corporations in the area or
7 what other corporations in the industry are doing. You can
8 look at corporate pro bono policies. You can look at -- we
9 have articles about thinking big about pro bono, and
10 so -- so, you know, there are those efforts.

11 But the -- I think what the corporation could be
12 doing is to encourage its grantees to think bigger, you know.

13 I'll just give you a quick example, I know time is
14 tight, but we worked with a program that wanted to have a
15 manual on poverty law and did not have the staff capacity to
16 do it, and so, they decided to go to firms and see if the
17 firms would be willing to do the research, with the guidance
18 of some of the experts at the program, and they went and
19 asked the firms to do each one chapter of that manual, and
20 they got turned down, and they asked my advice, and I said
21 too small. Go to one firm that has the most poverty law

1 experience and is proud of that and ask them to do the whole
2 thing, and that, I think, is -- to some extent, if you're in
3 a legal services program, you operate with such a scarcity
4 mentality, you're saying no all the time, you have so few
5 resources and so many demands, that it's hard to think about
6 asking big with these incredibly resource-rich, people-rich
7 human capital organizations, and so, something that sort of
8 encourages and promotes that, I think, would be very, very
9 useful.

10 MS. SARJEANT: Could I just add one thing to that?

11 I mean the purpose, for us, of having this
12 discussion -- we've picked up a lot of ideas, I think, this
13 afternoon, about ways in which we could think about in our
14 broader quality agenda in terms of things we should be
15 putting in place.

16 We have many different ways we can connect with our
17 recipients, whether it's through program letters or visits or
18 doing a conference at some point to bring them together
19 around issues like this, where we could provide -- pull in
20 some of the experts and provide that training. So, just
21 because we haven't done it now doesn't mean we can't do it in

1 the future, and that's certainly one of the things we've
2 picked up today.

3 CHAIRMAN HALL: Jonathan?

4 MR. ROSS: Very briefly, what the pro bono
5 committee is involved in is massive, and this happens to be
6 the year that our work is being reviewed. I have our report
7 for the scope and correlation of work committee that outlines
8 all that we do, and I'd like to leave a copy for the board.

9 CHAIRMAN HALL: Okay.

10 Thank you.

11 MR. McBRIDE: And I just want to make sure that we
12 haven't created the impression that, at the local level of
13 your grantees, this is an easy thing to do.

14 We've heard about some extraordinary commitments
15 from national law firms, but the other side of that is, I can
16 tell you that the local offices, which may be 15, 20,
17 30-member units, don't always reflect the national commitment
18 of the firm, and so, again, that's just an example of the
19 complexity of this issue, and I just don't to leave the
20 impression that this is an easy thing to do. It must be very
21 local, and it must be -- whatever expectations we have of the

1 field need to be flexible, and the response by the
2 corporation will only be successful to the extent that it is
3 in collaboration with the people that are working most
4 closely in this -- the ABA center, the NLADA, the management
5 information exchange organization.

6 They all do training on these issues and would be
7 strengthened with help from LSC, which they are already
8 getting, but it is a very complex issue, and not easy.

9 CHAIRMAN HALL: Helaine?

10 MS. BARNETT: I'd just like to conclude with a
11 comment that we are very excited to have heard this panel's
12 presentation, and we heard an awful lot and a lot of
13 recommendations.

14 We certainly can do things better and different
15 based on what we heard, and I would like the opportunity to
16 go back and talk with our staff and perhaps report back at
17 the next board meeting as to what our preliminary thoughts
18 are, how to best utilize the recommendations we heard,
19 clearly in a collaborative fashion.

20 CHAIRMAN HALL: You've been around me so much
21 you're reading my mind, because I was going to ask you to do

1 that, because this cannot be a one-shot window dressing.

2 I mean we've heard too much and this issue is too
3 critical for us to just hear these wonderful insights and not
4 move on them.

5 So, I think this has to be something that the
6 Provisions Committee continues to look at and getting a
7 report back from staff after thinking about this some more
8 and utilizing this valuable resource that we have here is
9 appropriate.

10 So, I just, again, want to thank all of you for
11 coming and making some wonderful presentations to us.

12 It's certainly created a different way for us to
13 begin to think about some of the things we're doing, but it's
14 also just reaffirmed how many people are out there doing work
15 in the trenches, in firms and organizations that are deeply
16 committed to this ideal of equal justice, and so, you are an
17 inspiration to us, and we thank you for being here.

18 (Applause.)

19 CHAIRMAN HALL: We still have some work to do,
20 folks.

21 The committee is not adjourned yet.

1 On the agenda, the next item was public comment.

2 Is there any public comment at this time?

3 Yes.

4 Could you -- though I know you, could you please
5 introduce yourself?

6 MR. SCUTTER: I will. Steve Scutter. I'm counsel
7 to the ABA Standing Committee on Pro Bono and Public Service.

8 I have had the opportunity of working for Mr.
9 Weiner and now for Mr. Ross but first wanted to note that
10 your chair was a past member of our pro bono committee, and
11 we enjoyed his service on our committee.

12 One quick thought for you, or two, if you don't
13 mind.

14 One is about the Equal Justice Conference, and a
15 very specific idea for you to consider is using the
16 conference, not 2006 but for 2007 -- just we're too far along
17 in the planning for 2006, but we would be happy to provide an
18 opportunity, as a pre-conference session, for you to hold an
19 event where you would train staff and others on some of the
20 issues that we've talked about here today.

21 The second point is I would just encourage you not

1 to forget the boards of the programs. Sixty percent of your
2 boards are private attorneys, and they need to be used in a
3 couple of ways.

4 One is as role models.

5 They need to understand themselves the value of
6 private attorney involvement and be examples of that in their
7 own programs, but they also need to be leaders in their
8 program.

9 They need to be involved in overseeing the private
10 attorney involvement aspects of what those programs do, and
11 there are some strategies that we could talk to in more
12 detail about how they could do that.

13 CHAIRMAN HALL: Okay.

14 MR. SCUTTER: So, thank you.

15 CHAIRMAN HALL: Thank you, Steve.

16 I think we are going to have a quick staff update
17 on the revision of LSC performance -- oh, I'm sorry.

18 Additional public comment.

19 MR. WHITEHURST: I'm Bill Whitehurst.

20 Because we've made such a good record on this, I
21 think I'd be remiss if I didn't add something to that record.

1 There is a movement that you know about that should
2 be a part of what you're going to do on this, and that is the
3 Access to Justice Commissions. There has been problems with
4 the programs being able to go to firms and either know how to
5 ask or get the response that they need.

6 That is being changed through Access to Justice
7 Commissions, because now that ask is coming from supreme
8 court justices, from bar leaders, from the firms themselves
9 who serve on these commissions, and it's something that you
10 all ought to be -- that ought to be a part of your formula.

11 We are now working with the chief justices,
12 Conference of Chief Justices.

13 There is no reason why LSC shouldn't be a part of
14 the conversation on Access to Justice Commissions. We now
15 have 20 in this country, and that's expanding. We hope to
16 have 25 shortly. We'd like to eventually have 50.

17 It is something that the ABA will be considering on
18 creating a special resource center devoted to maintaining and
19 serving these Access to Justice Commissions, and it has
20 turned around the culture and turned around the environment
21 in the states where they exist with regards to relationships

1 between legal services programs and the bar leaders and the
2 firms and the courts.

3 So, that is something that was not discussed that
4 ought to be a part of this discussion.

5 CHAIRMAN HALL: Thank you, Bill, very much.

6 Is there any other public comment?

7 (No response.)

8 CHAIRMAN HALL: Is it possible that we could skip
9 the update on the performance criteria?

10 MS. BARNETT: In fact, we can give the report
11 after --

12 CHAIRMAN HALL: Fine. Okay. That is fine. Good.
13 Appreciate that.

14 Is there any other acts or business to come before
15 this committee?

16 (No response.)

17 M O T I O N

18 CHAIRMAN HALL: Do you want to make a motion to
19 adjourn?

20 MR. FUENTES: So moved.

21 CHAIRMAN HALL: The meeting is adjourned, and thank

1 you all for your participation, and I apologize to Ops and
2 Regs. We'll start at 4:30 for Ops and Regs.

3 (Whereupon, at 4:19 p.m., meeting was adjourned.)