

LEGAL SERVICES CORPORATION  
BOARD OF DIRECTORS

COMMITTEE ON PROVISION  
FOR THE DELIVERY OF LEGAL SERVICES

Friday, April 5, 2002

9:00 a.m.

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

COMMITTEE MEMBERS PRESENT:

Ernestine P. Watlington, Chair  
Douglas S. Eakeley (ex officio)  
Maria Luisa Mercado  
F. William McCalpin

BOARD MEMBERS PRESENT:

LaVeeda Morgan Battle  
Hulett H. Askew  
John N. Erlenborn  
Edna Fairbanks-Williams

STAFF AND PUBLIC PRESENT:

Randi Youells, Vice President for Programs  
Victor M. Fortuno, Vice President for Legal Affairs,  
General Counsel & Corporate Secretary

STAFF AND PUBLIC PRESENT (con'd):

David L. Richardson, Acting Vice President for  
Administration, Treasurer & Comptroller  
Patricia M. Hanrahan, Special Assistant to the Vice  
President for Programs  
Catherine Salzer, Deputy Director, Office of Government  
Relations and Public Affairs  
Eric Kleiman, Press Secretary  
Ahn Tu, Program Counsel, Office of Program Performance  
Monica Holeman, Program Counsel, Office of Program  
Performance  
Mike Genz, Director, Office of Program Performance  
Cynthia Schneider, Program Counsel, Office of Program  
Performance  
John Idleman, Deputy Director for Programs  
Robert Gross, Senior Program Counsel, Office of Program  
Performance  
Reginald Haley, Program Counsel, Office of Program  
Performance  
Barbara Donnelley, Program Counsel, Office of Program  
Performance  
David de la Tour, Program Counsel, Office of Compliance  
and Enforcement  
Leonard Koczur, Acting Inspector General  
David Maddox, Assistant Inspector General for Resource  
Management  
Laurie Tarantowicz, Assistant Inspector General and  
Legal Counsel  
Frank Strickland  
Hanna Lieberman, Legal Aid Bureau of Maryland  
Christine Luzzie, Legal Success Corporation of Iowa  
Jessie Nicholson, Southern Minnesota Regional Legal  
Services  
Anna-Marie Johnson, DNA-Peoples Legal Services, Inc.  
Luis Jaramillo, California Rural Legal Assistance  
Don Saunders, Director of Civil Legal Services,  
National Legal Aid and Defender Association  
(NLADA)  
Linda Perle, Senior Staff Attorney, Center for Law and  
Social Policy (CLASP)

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

CHAIR WATLINGTON: I'd like to start the Committee on Provision for Delivery of Legal Services, April 5, 2002. Well, I don't have a quorum here right now. I think they are around here. I did see them. All of a sudden, I look around and I don't see anybody. Would you please?

MS. FAIRBANKS-WILLIAMS: Go out and beat them in here.

MS. YOUELLS: Elizabeth is calling people, but we can get started. Go ahead.

CHAIR WATLINGTON: Okay. But I do need the quorum here because the first thing on the agenda would be the approval of the minutes, and so --

MS. YOUELLS: Maria Luisa was right behind me, so she should be here in a second.

CHAIR WATLINGTON: Okay. And I am told by Elizabeth that we want everybody to speak into the mike so they can be heard, because otherwise it is being low.

MS. YOUELLS: Ernestine, if you wanted to proceed, you could approve the minutes later if you'd

like to skip ahead and go ahead with Pat.

CHAIR WATLINGTON: Okay. Well, let's go on and let Pat do her presentation while we are waiting on that, because both of the first two are the minutes.

We'd like to hear from you update now, Pat.

MS. HANRAHAN: Good morning, Madame Chair.

MS. YOUELLS: I hear --

MS. HANRAHAN: Okay. I will wait a second. Do you want me to wait for just a few minutes? It sounds like they're coming.

CHAIR WATLINGTON: Okay.

MS. HANRAHAN: That will give me the opportunity to get settled. Yes, I hear them.

MR. EAKELEY: We are sorry.

MS. FAIRBANKS-WILLIAMS: We are going to beat you with wet noodles.

CHAIR WATLINGTON: Because I couldn't get the approval of the agenda without --

MS. MERCADO: I'm sorry. Without the committee? The committee members are coming. I saw them just a minute ago. I apologize, Madame Chair.

MR. EAKELEY: Randi came back a different route. That's what happened. I was waiting for her to come back past us.

CHAIR WATLINGTON: And we had lost you. So we have the committee to start with the -- get the approval of the agenda.

M O T I O N

MS. MERCADO: Madame Chair, I do so move the approval of the agenda for the April 5th meeting of the Provisions Committee.

MR. McCALPIN: So move.

CHAIR WATLINGTON: It has been moved and seconded the approval of the agenda. All in favor?

(A chorus of ayes.)

CHAIR WATLINGTON: The ayes. Opposed, the same?

(No response.)

CHAIR WATLINGTON: Motion carried.

Have you read -- need approval of the minutes of the committee meeting of January 18, 2002.

MR. McCALPIN: Yes.



CHAIR WATLINGTON: You haven't had a chance to read them, Bill?

M O T I O N

MR. McCALPIN: I'll move approval.

MS. MERCADO: Second.

CHAIR WATLINGTON: It has been moved and seconded the approval of the minutes of the committee meeting of January 18th. All in favor state aye.

(A chorus of ayes.)

CHAIR WATLINGTON: Opposed, the same?

(No response.)

CHAIR WATLINGTON: Motion carried.

MS. MERCADO: And, you know, one of the things I was just going to mention on this, I noticed when I was reading the minutes, not only for the minutes for the Provisions Committee but for minutes for other committees that we have, for example, if you will look on page 7 of these minutes, the middle of the page there's a sentence that says, "The panel presentation concluded with questions from the committee."

And unfortunately, at least from my

standpoint, and that's not because I have a great ego or anything, but I think that a lot of the questions that were asked by the committee were relevant to the issues that were being brought before the committee on decisions that we had to make and the reasons for them.

And I think that your minutes more accurately reflect what occurs in a committee if you put both the pros and cons, or anything that the committee recommends or questions. Because we have very detailed committee minutes on what the panel has presented and what the speaker has talked about, but you have nothing about what the committee members asked or said or made analysis and review of.

And it doesn't give you a full picture of what it is that we are looking at. Because looking at this, it doesn't seem like the board has any input or the board has any thought processes about what is happening for legal services.

And, you know, I don't know whether that goes to Victor or whether it goes to -- I guess since he's our official secretary, that those minutes need to

reflect what the committee members discuss because those issues are substantive issues that dealt with the different panels that were presented. And this is true in all the minutes that are in this board book, from the board meeting to the finance committee meeting, all those other meetings.

You only invite us in as, "The panel presentation concluded with questions from the committee," and we don't know what questions we asked and what we discussed. And many times, that was the most relevant of anything that occurred. I'm not saying the presentations weren't relevant, but many times that was the focal point of the decisions that were made.

CHAIR WATLINGTON: The answer as well as the question. I understand exactly what you're saying.

MS. MERCADO: I mean, I know we have a transcript, and I'm not asking that we have a transcript. But we ought to be able in the minutes to have at least a synopsis of what the discussions were, certainly from the viewpoint of all the people involved in that committee meeting, which included the committee members. That is

just my --

CHAIR WATLINGTON: Who should that be addressed to, or are you just bringing it to the attention --

MS. MERCADO: Well, I mean, I don't know what other board members feel.

MR. EAKELEY: I think it's a tough call when you're drafting minutes. My tendency is just to be as bare bones as possible in the rare occasions I have to do that any more, and just list what was considered, actions taken, what was authorized, and leave it to the transcript or minutes for that.

I think, though, that if you have -- that if there is substantive input from the board that comes out of a presentation, then that ought to be captured in a way that is less easily lost in the transcript.

MS. MERCADO: Well, and the only reason I said that is because if you read the minutes, they are so detailed about what was presented.

MR. EAKELEY: Right.

MS. MERCADO: But there is nothing -- I

mean, it seems like we were just sitting here, and there was no involvement, any thought processes, any response to anything that was presented on behalf of the board. And that actually is not what happened.

MS. BATTLE: Well, and as I read the minutes, there are instances in which the questions are in the minutes, and some instances in which they are not. For example, on page 8, it says, "Mr. Eakeley then questioned how resources are allocated within OPP. Ms. Youells responded and addressed his questions." And it gives the substance of her response.

So there are instances in which some of the questions are noted, and instances in which some are not. And I think Maria's point is, make a choice. Be succinct about it, but at least, if there are questions raised by the board, quickly address the questions and the responses in the minutes, if you can.

CHAIR WATLINGTON: And I was still saying, so, then, should this be carried to or just --

MS. MERCADO: It's just a recommendation.

CHAIR WATLINGTON: Just a recommendation?

MS. MERCADO: An observation.

CHAIR WATLINGTON: Okay. Now, we did pass the minutes. Right?

MS. MERCADO: Yes.

CHAIR WATLINGTON: Yes, we did. So we'll move on to update by Patricia.

MS. HANRAHAN: Good morning, Madame Chair and committee members, board members. It's nice to see you again and to the best part of a year report on our diversity work, which has been very exciting.

MR. EAKELEY: And we keep coming back, don't we?

MS. HANRAHAN: Yes. It's great to have you. It's a nice opportunity.

There was an action agenda included in the Provisions Committee material for your consideration, and I would be very happy to hear any comments or questions or suggestions you have on it.

It's a report -- the report is a culmination of our work, our eight different diversity conversations that I've told you about, and reflects the suggestions

and ideas and hopes that were expressed by participants in those meetings for work that LSC could do. And it's an action agenda for LSC.

As you may recall, NLADA was a partner with us in that initiative, and they are developing their own action agenda which will guide them in their work in the coming year, and perhaps longer.

And the various points in our action agenda seem to fall into two categories. One is sort of general work that we will do, ways that being cognizant of diversity and its importance will influence our work without having any specific project, and that is that it will be important in our work in the area of competition.

It will definitely influence our work in the area of state planning. And then there are some specific projects, one in particular I'll tell you about this morning.

Some of the specific recommendations in it that we have acted on already are hiring a diversity specialist who will work with state justice communities on that issue, and also work with our state planning team

at LSC to help us become more aware of and be able to express to the programs we work with the importance of inclusion.

Another project is one that John Erlenborn is working on with staff John Eidleman on loan forgiveness programs because that was brought to our attention as an important vehicle for both recruiting and retaining staff of color.

And a third project is one that we're just getting off the ground now, which is to develop a training module on diversity and leadership for our program boards.

It would fit in with their other training components for board members, and it would focus on the importance and benefits of diversity, both in makeup of the board and in its work guiding the program, as well as in the development of the program staff and the whole culture of the program, to reach out particularly to hard-to-reach populations, to make sure that the staff is multiculturally competent, with bilingual staff.

You have staff who understand the various



issues that clients bring that are beyond legal issues that they have because of the culture that they grew up in in another country, or that they have because of their life here that affect both their legal problems and the solutions to those.

And we've hired a woman named Evora Thomas who is a former director of Peninsula Legal Aid, where she was director for nine years and on staff for many years before that. She also was a REGGIE, worked with legal services in New Jersey, and has worked -- has experienced both developing and implementing diversity trainings and agendas in the legal services community and outside of that committee.

And she will work with us over the next -- till the end of September, so about nine, ten months, on developing and testing a diversity module for board trainings. And we are delighted to have her and to be undertaking that work.

We are working closely with the African American Project Directors Association on that. They are very excited about it, too, and feel that it is a very,

very important tool that we can use to advance the whole diversity agenda that we have.

So I don't know if you've had a chance to look at it and if you have some ideas about it, questions, I'd be glad to answer anything.

MS. BATTLE: On the issue of loan forgiveness, I know that the American Bar Association has also been quite engaged on that issue. And I wondered if, as one of the action steps, LSC planned to work along with other organizations such as the ABA in its efforts to have loan forgiveness programs developed.

MR. ERLNBORN: If I might ask Pat to yield, I'd like to answer that question. First of all, I'm glad you mentioned John Eidleman, who was active in this search for loan forgiveness long before I was active in the Corporation. And so I've just kind of tailed along with John. He's the expert.

Bob Hirshon, the President of the ABA, made LRAP, which is short for something or other which means loan forgiveness -- I can't remember what the -- yes, whatever it was -- but Bob has made that really probably

the most important thing in his tenure as president. And there is a committee or commission that he formed, and John and I have attended a couple of those meetings and continue to be active with that ABA commission.

MR. EAKELEY: I'm particularly interested in this training module. That sounds extremely promising.

MS.

MR. EAKELEY: And I don't know whether it's possible, as you get into it, to provide periodic reports to this and the next board, but I suspect that bringing people along as the Corporation moves along on it will be very worthwhile.

MS. HANRAHAN: Yes. That's a very good idea, and I would very much appreciate the opportunity to do so. We have it developed in phases, so we hope to have the first draft of it by the end of June, and I might be able to give you some information at the next board meeting on how it's coming and testing it in the fall.

MR. EAKELEY: And just the way teachers teach to tests probably too often, so too having an evaluative component on diversity development for our

grantees is going to suggest behavioral changes itself. And I think again, as the Corporation moves along in exploring how to do that, keeping the board posted will be useful to the board as well.

MS. HANRAHAN: Okay. I will do that. And I'm glad that you mentioned the evaluation because it reminds me also that one of our more general themes, although it will become specific as it's worked out, is the state planning and evaluation of state planning work that we are undertaking. Diversity, again, is a critical component of that. And while we don't have the instrument produced yet, we're working on it. There will be more to report on how diversity is part of that.

MS. MERCADO: And of course all of this, I know that the actions items deal with what Legal Services intends to take in action steps. But by no means are we doing this in a vacuum. I mean, it has to be done in partnership with the ABA and NLADA and other partners in equal access to justice communities, and particularly as it deals to state planning.

MS. HANRAHAN: That's right. And we are

rolling this out at the Equal Justice Conference in a session with CLASP and with NLADA. They've been our partners in this, and we will continue to work together. But with the action agenda, we each focused on what our individual organizations had the ability to do and the responsibility to do.

CHAIR WATLINGTON: Any more comments?

MR. ASKEW: May I say something? Pat, I'm sorry I missed the beginning of what you said. But on the issue of LRAP, there are a number of states that are moving to adopt loan forgiveness programs at the state level using state appropriated funds. I know NAPIL follows this closely.

But I think it would be in -- in Georgia, for instance, the Georgia General Assembly just passed a bill in this session at the governor's request that provides loan repayment for district attorneys, public defenders, employees of the state Law Department, and lawyers who work for the General Assembly got added at the very last minute for some reason.

(Laughter.)

They had a commission that studied that for a year headed by DA, and the director of Atlanta Legal Aid was able to insinuate himself into the process. And they are willing next year to add civil legal services lawyers to the legislation.

That hasn't been funded; that's the big issue because we have economic problems. But the legislation has been passed and is there to be funded in the next session of the General Assembly, and it provides \$600 a month in loan forgiveness to people in those positions.

And that was modeled on legislation in a couple of other states. So I think there should be some way, if we can't do it directly, maybe to have NAPIL circulate that information around the country to other states and let them see, in a state like Georgia that's facing economic problems and is not particularly progressive on some of these issues, that something like that passed without a single dissenting vote in the Georgia General Assembly.

MS. HANRAHAN: Really? Yes. There may be -

- I don't know -- is John Eidleman here? No? There may be an organization which is monitoring some of this, too, and I'll work with John to try to get that information for you.

MR. ASKEW: I know NAPIL does.

MS. HANRAHAN: NAPIL does?

MR. EAKELEY: Equal Justice America.

MS. HANRAHAN: Oh, yes, that's right. Equal Justice.

MR. EAKELEY: America is there new name.

MS. HANRAHAN: New name, like within the past month, I think. Okay. I will do that. Thank you.

CHAIR WATLINGTON: If there's no other, we'll -- appreciate that, Pat, and the comments.

And now we'll hear from Robert Gross, an update on state planning.

MS. HANRAHAN: Thank you very much.

MR. GROSS: Good morning.

CHAIR WATLINGTON: Good morning.

MR. GROSS: Thank you for the opportunity -- excuse me -- to appear before you. Excuse my sniffing

and coughing. I think it's a cold. You are more than my match; always have been.

I want to talk quickly about three topics today: The first ever meeting of statewide programs, which we held in Indianapolis; the performance measures project; and reconfiguration.

And let me just jump to the performance measures project first because it ties into what you were just talking about, and the importance of measuring what we value and not just measuring what can be counted.

This is the project, as you know, to develop an evaluation instrument for state justice communities. And it's off and running. With Randi's leadership, consultants were hired. A national design team was formed with representatives from the field, the ABA, and NLADA, and LSC staff.

That design team had its first meeting actually in this hotel just a couple of weeks ago. We'll be meeting again in Cleveland at the Equal Justice Conference, and then again in Chicago in May. The plan is to have an instrument developed and ready to be tested



in two states, Ohio and Washington, in November, and ready by the end of the year.

It's an ambitious project. I think the consultants are very focused and disciplined, however, and are moving the group through the challenges of developing a national instrument to assess the planning process, the outputs of that process, and then the real challenge and the important piece at the end, the outcomes; and all of that, just to complicate it but also to make it more valuable, as a measure of comparatives, so that states can be compared by various measures with one another, but also internally, so that progress over time can be tracked.

MR. EAKELEY: Can I just interrupt you right there and just -- when you said, most importantly, the performance measure instrument will track outcomes, that suggested outcomes of the planning process. But I thought what we were looking at is performance measurements that will track access and quality of service --

MR. GROSS: Right. Outcomes for services.

MR. EAKELEY: Okay. Outcomes for services.  
Thank you.

MR. GROSS: Right. The end goal. There will be outcomes of the planning process, and then --

MR. EAKELEY: But we're talking about the delivery of legal services, ultimately?

MR. GROSS: Correct. Ultimately. So as I mentioned, the first meeting ever of statewide programs was held in Indianapolis in February, and I think it was a great success. And I know the evaluations of the meeting by the participants indicated that because they wanted more of such meetings.

There were 21 of the 22 statewide programs in attendance, representatives from Guam, Puerto Rico, and the Virgin Islands. There was a terrific mix of people and programs with long histories, and some new ones being created. As one program director said, "We've been a statewide program forever." But many were created in the '70s, some in the '80s, and then we had those that their directors told us were statewides for all of 39 days.

There were structured conversations around the general theme of building state justice communities. And more specifically, the opening session with the three states that showed some of the diversity in our community in terms of state planning, from Washington to Colorado to Maine, talked about planning for client-centered, comprehensive, integrated, statewide justice communities. And there was a great presentation of the importance of vision and expanding the community.

And subsequently, throughout the day and a half, we broke down into groups that discussed those elements. Client-centered, what does that mean today? Comprehensive. Integrated. And statewide.

There was also a very good session on technology, which showed the progress that some states have made. It was very interesting to see a couple that had talked about when, not too long ago, the only computers in the office were those that the staff brought in by themselves, and now they're talking about things that are fresh for some of us who have been watching this for a long time; and then a session on diversity, and

Mauricio made a great presentation on getting the message out.

I think we all came away learning from one another. I know that it was a good networking experience, and particularly for those newer directors; but not only those, to connect with peers doing the same work, and with those who had something to teach, and all of them had something to learn from one another.

I also came away, and I think the LSC staff came away, with a feeling that this is a group of states that is sort of far ahead. They have made strong communities. They are innovative. The work is never done. They are committed to the doing of it, though. And I think that we all left with a feeling of pride for what's going on in those communities, the work for clients that is being achieved.

In addition to saying thanks to the staff, and this again was another effort really led by Randi, a special note of appreciation to the Indiana Legal Services program, which was our host, Norm Metzger and Colleen Cotter in particular. The Chief Justice of the

Indiana Supreme Court came to address and encourage us. The president-elect of the Indiana State Bar addressed us at a dinner. We were joined by other members of the court, bar leaders, and the board of that program. So they demonstrated the community that they've been able to build.

Let me turn to the last subject briefly, reconfiguration notices. I've passed out the letters that we have sent this year to five states under the new review process and standards adopted by this board, notifying them of our intent to change the configuration in their states.

As you know, the process of competition begins really in April when we publish the list of service areas in the Federal Register, and so this process goes back from that date so that states have adequate notice of our intentions. And then there is a review period. There were five states.

This year there is a second cycle so that 31 of the states, the notices are being published in April of service area, and two in June. So you'll see, when we

get through this, in the letters that there are two separate dates.

But if you back up from the April date, under our review procedure and standards, we are to give notice of the state planning team's recommendation to the states by February 1st. And you will see that there are three states that we notified actually on January 31st. And I want to talk about those briefly because I think they illustrate how this process is working and the standards.

When the board adopted the standards and review process, work with some of these states on configuration had been ongoing for quite some time. And so the notices that we gave them, you'll see, vary somewhat on the depth of exploration of the standards and explanation of our reasoning.

In Iowa, for example, it was in March of 2001 that we expressed our view that consolidation of the two programs, one of which serves 98 of 99 counties, the other just one, both headquartered in the same building, ought to happen.

They have been moving towards merger ever since, I think quite successfully. So the notice that we gave them is official but in some ways rather pro forma. And there has been no request for review of our intention there.

North Dakota, we have spent a lot of time in that state. Tim Watson for our staff has visited several times. I accompanied him on one visit and met with their planning group. We have been expressing to them for some time our belief that -- there are two small programs there, one with about a \$1.1 million total budget, the other with a \$233,000 budget. Not many resources in that sparsely populated state. It's our belief that a unified program would enable them to harness those resources and leverage them more successfully.

They've agreed, and have been moving towards a unified program for a while. But we thought it was important because of all of the conversations that we had to really put it together in one place as to what we were looking for and why. And so you'll see the letter to North Dakota is quite lengthy.

What we had decided there was to combine the service areas. It's kind of interesting. The smaller program, the larger portion of its funds is for Native American services. It also has a basic field component. The relatively larger but still program, the bulk of its funds is for basic field services, but it has a Native American component.

We had decided to -- the goal was to unify and see that one entity administered the funds for the entire population of the state, especially, though, earmarking those funds for Native American services. They must be spent on those services. Under any set of circumstances, they're going to have to be separately accounted for, separately audited for, and those funds can only go for those services.

MS. BATTLE: I just have a question, and it really grows out of the exceptional panel presentations that we had at our last meeting for programs that have already gone through the cycle of reevaluation and state planning and have begun the process of attempting to consolidate differing programs throughout a state with



grave insight into a lot of the detailed issues that have arisen as a result of that process.

And I wondered if in making prospective decisions about what would be best for other states who had not yet been determined by LSC, whether we took into account some of the wisdom brought to us from those people who had already undergone this process of consolidation about what would be in the best interest of states as we go forward in this process of looking at state planning.

MR. GROSS: Well, I certainly hope and believe that we have. I think there were a few things that were really clear: The importance of time and timing, and an understanding of the cost.

MS. BATTLE: For example, I guess one of the issues that had been raised had to do with salary differentials based on location. For example, some programs in urban areas might have one salary structure, whereas programs that had been previously located in more rural areas might have a different salary structure.

And when you merge those programs, how and

where do you get the dollars to make up the salary differentials among the lawyers working in the various different programs throughout the state; and whether that is taken into account on the front end as we look at what's going to be the best configuration for a state prospectively from our vantage point. That's the kind of question that I have.

MR. GROSS: Yes. No, I think on the ground, that is probably one of the most important practical questions that the programs face. And so we must consider the circumstances in which they are in.

I think there are many models now, fortunately, and learnings for how to deal with that successfully. It is also clear, and we heard that in the panel, that additional funding is the lubricant that really helps in these situations. When it's not there, the programs have often taken a slower path towards equalizing salaries.

MS. BATTLE: Yes. I understand that. But I guess my question becomes, are we still -- have we fundamentally looked at some of the premises that we used

for our view of what is going to be best for a state based on their vision for how they can continue to provide quality legal services based on the resources that are existing in the state?

Because again, I guess the concern I have is this, that though our vision is for greater resources, that if we can consolidate, maybe cut some administrative costs, and develop a statewide presence, that from that you can garner additional resources.

The reality is that in some locations, the prospect of that happening are nil or very low. And if that's the case and you don't have that prospect of greater resources being developed from consolidation, have we -- that's the question I'm asking -- have we begun to breed the learning and the wisdom that we've gotten from the presentations we have in how we make our assessments as to whether that's an appropriate methodology for prospective states.

MR. GROSS: Well, I think so, because I think, as you're aware, there are some states where resources are very slim. And our focus in those states

has been developing a resource development capacity as the highest priority. Alabama and Mississippi, for example, and Louisiana also, our earliest grants in technical assistance from state planning were for resource development capacities.

And I think you'll recall Joe Dailing appearing before the board and talking about the number of trips that he had made to Alabama. So I think in those states, you have to recognize those challenges.

It is also, I believe, the case that you must at some point look and see whether the structure is assisting those states in moving forward or hindering them in moving forward. That is a judgment call that is not made lightly, that is not made quickly, and for which now there is a review process that is in place in case a state believes that the state planning team has made the wrong call.

So I hope that answers --

MR. EAKELEY: These -- I know it doesn't feel like this on the ground, but the reconfiguration decisions represented here, Missouri Legal Services,

Passaic County Legal Aid in New Jersey, the consolidation of the Wayne County with the two contiguous counties in Michigan, the merger of the two Dakota programs, are not as, say, radical as some of the other earlier reconfiguration decisions, nor are they as potentially fraught with the kinds of unanticipated costs or unintended consequences.

So it's -- having lived through one of these, and vicariously lived through two more, I think this represents a reasoned and moderate response with a marginal adjustment to a relatively intact and healthy state planning process in each of the states involved.

MS. BATTLE: Let me just follow up with one concern in just reading the letters here. Are we -- when we see -- and Passaic was the example that you gave, and I just read just a little bit of this letter that went out to Dee Miller.

MR. EAKELEY: Remember, I was chairman of Legal Services of New Jersey for a decade.

MS. BATTLE: Okay. But I'm wondering, do we reorganize and reconfigure around a difficult leadership

issue that we find? And I ask that question because of Michigan, because of New Jersey, because of Oakland, California.

And so it just -- those are three examples, at least, of instances where a reorganization and reconfiguration -- Texas is what I'm hearing as another example -- comes about not because the structure of the programs themselves was an issue as much as the leadership became the issue.

And so I'm just thinking aloud about all of the additional repercussions that come from a reorganization; for example, as I just mentioned, salary structures and some other things that go beyond the question of leadership in a particular program.

So do we have a different model or way to address leadership issues as they come up other than reorganizing that particular entity out of existence so you have different leadership that comes out of that reorganization?

MS. YUELLS: Yes. We do tackle leadership issues on a wide variety of grounds. I think two things

are important to remember in this situation. First, these are preliminary decisions under the review process that the board of directors adopted. So if the states that receive these five letters believe that we have made an error in judgment, or the state planning team has made an error in judgment, they now can go to the vice president of programs and to the president for review before those decisions are final.

So these are not final decisions. They are preliminary decisions made by the state planning team.

MR. McCALPIN: Nobody thinks that.

MS. YOUELLS: Bill, I --

MR. EAKELEY: Wait. Wait. That may be true in some parts of the Show Me State. But we agonized over this new process, and let's give it a chance to work.

MS. YOUELLS: And I think -- actually, I think the new process is working fabulously. And in Missouri, I do think they think that because both the president of the bar and a program director have filed for review.

And I met last week with Bob and the

president of the bar to discuss his views, and next week I meet with the program director to discuss her views. So I believe they understand that they have the opportunity now to come in and give us other pieces of information before we make our final decision.

In the case of -- and I don't want to get into particulars at this particular meeting. But I am the signer of the New Jersey letter, as you probably have seen. In that particular case, we did not do that lightly, and we did not do it without a lot of consultation with the designated state planning body. And the designated state planning body, in fact, agreed with us that our preliminary decision made sense.

I expect that the program might seek review. In fact, they contacted me last week and said that they would seek review. And I, as you can see in reading the letter, have suggested that they go immediately to the president because I am the signer of that letter and it would not be good form for them to come to me.

So we do tackle leadership through our leadership initiative. We tackle it through our



diversity initiative. But we also have found that the building of state justice communities, in the final analysis, is oftentimes a leadership issue. And in those states where leadership exists, we have high functioning state justice communities. In those situations where, for a lot of different reasons, we have not been able to build the leadership we think is necessary, we don't have the level of quality in the state justice communities we have come to expect over the last five years.

MS. BATTLE: But I guess the concern I have is a structural change around a particular leader has a much far-reaching implication and impact than another way of getting at a different leader for a particular program.

MS. YOUELLS: Absolutely.

MS. BATTLE: And that becomes the real concern that I have about how we're going about addressing some of these particular concerns.

MS. YOUELLS: And I understand that, and it's not something we do lightly, either. And you will see probably in reviewing the particular letter that we

have had a six-year history with this program attempting to address their inadequacies through other mechanisms.

It is a fact that the options available to LSC are not -- they're not many, and that in those situations where we are facing a program that is not performing to the extent we've come to expect, we don't have intermediate sanctions, for example. We are not able to go in and tell a board to fire a particular executive director. We don't have that kind of ability.

Defunding a program is very difficult. So we have to look at the whole situation that exists in the state. And in this situation, we worked very closely with the designated state planning body in trying to address the problems through other ways.

MS. MERCADO: Madame Chairman?

CHAIR WATLINGTON: Yes.

MS. MERCADO: A couple of things. I mean, what that kind of model sort of implies for future actions is that, in effect, you could have in perpetuity a state that constantly goes through configuration if -- assuming every new leadership that you get is not

leadership that is appropriately following our goals or our requirements through LSC, and that if they don't comply within two or three years, then you reconfigure again in order to get some leadership.

And I get the underlying question is that ultimately the decisions that we made in reconfiguration have to be about the client committees that we serve, and that whether or not the leadership that is there -- maybe that ought to be one of the issues that we look at.

Is there some other way of structuring, either through the competitive process or in some other way of dealing with the issue of leadership as opposed to reconfiguring in a form in which you're going to provide less legal services, in particular because of the problems that we're discussing, the panels that were presented to us at the last provisions committee meeting.

And unless we, as a Legal Services Corporation, are ready and willing to have all the support, all the resources necessary, to deal with the fact that in many of those decisions that are going to be made, we're going to be providing less service to less

clients because of the various issues, whether it's salary equity, whether it's issues of access to difficult populations to reach.

And one of the issues that I thought we discussed at the last meeting was that part of the budgetary process and planning process -- now, I know that a lot of times -- well, every time, we're at the mercy of Congress.

But that still doesn't mean that we don't anticipate and budget and look at how many states, how many entities, are we going to be doing reconfiguration for, and how do we build into that budget the ability to give a program -- if you're going to tell, whether it's Missouri or North Dakota, to reconfigure by 2003, that they have the resources to back them to say, when we reconfigure, we hit the ground running, that our client community is not going to be left out in the cold, not being serviced, because we cannot -- in order to deal with our budgets, we're going to have to lay off people.

Because -- and a perfect example is in Texas. You've got Central Legal Aid, which has

significantly higher staff salaries, compared to TRLA, for example, the rural farm worker program. And you've got a huge budget shortfall that you're going to have to deal with.

And as a legal services entity, we need to build into reconfiguration that resource support for the states.

MS. YOUELLS: I would agree with that. And I would just redirect you to the discussion at the last board meeting in which we did agree that the state planning initiative could benefit from additional resources coming into state planning. So I have no disagreement with that.

Could I just make a minor suggestion, Madame Chair?

CHAIR WATLINGTON: Yes.

MS. YOUELLS: We also today have a -- and I don't mean to cut off discussion, and in fact, we can come back to this. But we do have a fabulous panel today, and they have been patiently waiting to make their presentation. And I would suggest that perhaps, if it

would be okay with the board, that we go -- we table this discussion, and after the panel is finished, have Bob back, so that we're allowing them the opportunity to address you today, if that would be okay.

CHAIR WATLINGTON: Does the committee agree?

MS. MERCADO: That's fine.

MR. McCALPIN: I vote we come back to Missouri.

MS. YOUELLS: All paths lead to Missouri.

CHAIR WATLINGTON: All right. So while you're there, Randi, since you are the moderator for the panel, you might as well stay so you can present the panel.

MS. YOUELLS: Okay. Good morning, Madame Chair, and good morning, board members. As you know, since I became the vice president of programs in 2000, one of the things we have consistently attempted to do is to bring before this board important issues involving the provision of legal services to our clients.

And in fact, as a result of that very effective panel discussion that occurred last time, I

began to wonder how I was going to top that discussion, how I was going to present as good of a panel to this board with as much interesting information as that panel presented to this board of directors and to this committee at the last meeting.

And I began to think that one of the things that has always united this board is a strong support for the delivery of legal services to our clients and a strong support for litigation and extended service.

And I thought that it had been quite a while since we had had the opportunity to discuss the provision of legal services through litigation and extended service, and it had been probably a very long time since this board of directors has been able to talk to people who are not program directors.

So I thought, well, this is a good meeting to actually involve people who manage litigation and advocacy out in our various grantees to come before you and talk to you about the important work that they do and that is done by their staff in each of their respective states.

We do have five panelists today. I'm going to briefly introduce all of them, and then introduce them again when they come up and address you. I would suggest that after each speaker, we take maybe five minutes for questions; but in order to make sure that everyone has the opportunity to address you, that we hold most of our questions till the end. So I would suggest that.

I am going to present them in the order in which they will talk to you, and I'll give you all five of their names and then introduce them individually.

Today we have Hannah Lieberman, who is from the Legal Aid Bureau of Maryland, and she is the advocacy coordinator, advocacy director, of that program.

We have Chris Luzzie, who is the deputy director of litigation at the Legal Services Corporation of Iowa. In fact, Chris and I started at that program together in 1978, but I was six year old; I'm not sure how old Chris is.

(Laughter.)

We have Jessie Nicholson, who is working with Southern Minnesota Regional Legal Services and has



been there since 1985. She's been the deputy executive director since 1994. Many of you might remember Jessie from our meeting in Minneapolis/St. Paul in which she talked to you about services to Cambodian refugees.

We have Anna-Marie Johnson, who is here today representing Wilson Yellowhair. And Anna-Marie is one of the top executives of Peoples DNA Legal Services.

And finally, but not lastly, we have Luis Jaramillo, who has practiced in California for many years and who is known to many of you as the deputy director of California Rural Legal Assistance.

Our first speaker is Hannah Lieberman. Hannah was a litigation partner and litigation coordinator of advocacy for a legal services program in Arizona before she joined the Legal Aid Bureau several years ago. She's been with LAB since 1998. She is its director of advocacy.

She oversees the litigation work in their twelve offices -- they are a statewide program -- including the appellate work. She also has direct supervision over LAB's statewide migrant and seasonal

farm worker program, its nursing home/assisted living program, and other special projects. And I'll turn it over to Hannah.

MS. LIEBERMAN: Thank you, Randi. Good morning, Madame Chair, members of the board. It's a pleasure to be here. We are one of those statewide programs that Bob referenced earlier that is just brimming with exciting and creative advocacy of which you would be very proud, and if I could tell you about all of it, we would be here into the wee hours of the morning. So I won't do that.

But we do have twelve offices across the state, from Cumberland to the Eastern Shore, and we serve an incredibly wide variety of communities. Some are in our back yard here, adjacent to some of the most affluent areas in this country, but which include new immigrant groups whose language barriers present significant obstacles to them and significant challenges to us.

We cover Baltimore City, with its entrenched and unfortunately often multi-generational poverty, with a high number of minority members, including African

Americans; two pockets of isolated poverty in rural areas, both in the western parts of the state and on its Eastern Shore.

In addition to the typical broad array of legal services that most programs provide, we do have the special projects that Randi mentioned. And I'll be talking about a couple of those in my remarks. But we cover the normal panoply of family law, public benefits, housing, now employment, and consumer matters.

And what I want to do today is focus on three examples of how we used extended services, and not just litigation, because I think that's important, to really try to address some of the most problematic aspects of poverty.

And before I do that, I want to underscore something that I think is probably known to everything, but bears repeating, and that is that in this day and age of talking about hotlines and pro se services, litigation remains a mainstay of our basic practice.

And we have about 120-some lawyers in our firm, and on any given day, you would find loads of those

lawyers in court on housing matters, challenging substandard conditions, consumer matters, public benefits, and employment issues. And so it goes without saying in our program that litigation is part of the bread and butter of what we do.

But we have three areas that I think are worthy of special note. And the first one is our increasing emphasis on the creation and preservation of affordable housing. And you're probably all aware that this is -- the loss of affordable housing is a national problem.

And it's obviously a problem for the very poor, but it also have become a significant problem for folks who are struggling to get out of poverty, who are transitioning from welfare to work or who are struggling with trying to juggle a couple of low wage jobs.

The bureau has a housing preservation project, and through that project, we represent tenants' groups, focusing primarily but not exclusively on Baltimore City, Prince Georges County, and Anne Arundel County, where our state capitol is in Annapolis.

And we focus on apartment complexes whose government subsidies are expiring, and therefore where there is a risk that that housing will be lost to the low income housing inventory.

And in this project, we engage much more in transactional work than we do in litigation. We assist our tenants in forming formal organizations. We have helped them prevent the demolition of subsidized housing. We've worked with developers, both not-for-profit and for-profit, to renovate apartment complexes and to retain substantial numbers of units for low income people.

In one very low income neighborhood, we represented a tenant group that partnered with the developer, and we actually built new townhouses for low income folks, who will have the opportunity to acquire ownership of those townhouses. And Barbara Mikulski came to the ribbon-cutting ceremony. It was very exciting.

And what this work does is really, as you can see, provide sustained, long-term benefits to not only the residents of these complexes but to entire communities because it really provides a core of

stabilization for low income communities.

And what has happened when we represent these tenants is that our work spills over into other community-focused work. So, for example, we have then addressed safety issues in these communities on behalf of our community groups whom we represent.

We have built community centers, or assisted our tenants in advocating for the building of community centers in these apartment complexes that provide computer facilities for the kids and adults there. We've added recreational facilities. We prevented the closure of a neighborhood school on behalf of one of these community groups.

And this is really extended representation that we want to expand in our program, and I think is as important and sometimes more important than litigation.

But we do, in fact, litigate, and that brings me to the second project that I'm very proud of, that I think is very innovative. And it addresses one of the biggest barriers to, I think, an overlooked segment of the low income community.

We represent non-custodial parents -- and that means usually dads -- whose child support obligations are so crushing that they drive them away from their families into the underground economy, and create barriers to their attaining some kind of equilibrium and self-sufficiency which then can contribute to family support.

And these child support obligations are generally -- particularly in Baltimore City, where this project is focused -- are not owed to the custodial parent, but they're owed to the state because the custodial parent, the mom, has at least for some time been on welfare, and therefore the child support that would have gone to her goes to the state.

And what's happening is that, again in Baltimore City, particularly young, predominately African American men are going to jail, having their wages garnished to the point where they lose their housing, where they go underground, where they are driven from their families, because they cannot pay these crushing arrearages that are owed to the state.

And so we got a grant from a foundation to help support our work to try to address overcoming these barriers, and some of the litigation that we've done includes getting Child Support to issue individuals who are in training programs work-restricted licenses so that they can actually go to work and complete training programs.

One of our clients, on whose behalf we litigated, had his driver's license suspended because he had fallen behind in his child support after he became unemployed, and he was therefore precluded from joining a program that would have taught him to be a truck driver.

As a result of our advocacy, the court ordered Child Support to have his license issued. The client finished truck driving school. He got a good paying job. And he can now pay his child support.

We force Child Support to disclose records. We challenge Child Support's failure to modify obligations when dads actually have their kids. And I could go on and on. We have an appeal pending right now that challenges a number of questionable practices of the



Circuit Court of Baltimore City that really ignored the plight of low income obligors who cannot pay child support, and failed to see the distinction between the deadbeat dads and dead broke dads.

So I don't take up too much time, the third area in which the bureau really engages in intensive litigation that has had a major impact on our clients is in its child welfare practice.

We represent kids in the foster care system, and we're in court day in and day out on their behalf: when they're brought into the system with allegations of neglect or abuse; on placement issues; and on proceedings which seek to terminate their parents' rights.

And that practice has created an incredibly active appellate work for us. And I am very proud to say that we've actually made some new and innovative law in the state of Maryland that is pretty unique in the nation.

In 2000, we won a case at the Court of Appeals level, which is the highest court in the state of Maryland, which established a child's standing to be

heard in termination of parental rights cases independent from that of the child's parents. And that case really established that children have a voice that must be heard in judicial proceedings, and the bureau provides that voice, as do some other providers. But we are a very loud voice for children.

We established the first case involving sibling visitation. We -- also, the intermediate court of appeals ruled that clients, or children in foster care, have a right to a hearing to have visitation with their siblings. And that was actually against the wishes of the siblings' parents.

And we have another case pending right now where one of our teenage clients wants to have visitation with his siblings who have been adopted, but they are his only remaining tie to his biological family. And therapeutically and psychologically, that tie is incredibly important to protect for him.

And that's going to be a harder case. It's in the briefing stages now. But it's a good example, I think, of the cutting edge work that we've done in our

child advocacy program that has really made new and very important law in the state of Maryland.

So those are just some very brief highlights of the extended representation work we do in our program. I'd be delighted to talk about any of it or any of our other work. But I'll turn the table over to my colleagues, who have equally interesting stories to tell you.

But if there's one thing that I would hope you all take away from my piece of the presentation is that while litigation is still a powerful and heavily used tool by legal services programs, we also use, as much as we can, the full array of advocacy tools that any lawyer would use involving extended representation, including increasingly important transactional work on behalf of our clients.

So thank you very much.

MS. YOUELLS: Does anyone want to ask Hannah a question before we move on?

MS. MERCADO: On your housing work that you have, you were talking about them, I guess, building or

buying housing. Do you actually help them access or leverage funds to build new housing or to either refurbish old housing that is dilapidated from, you know, various -- whether it's grants or foundations or government, for the different tenants groups or nonprofit groups that you represent?

MS. LIEBERMAN: Yes. We will try to hook up our tenant group clients with not-for-profit developers, with foundations. We will act as their legal advisor in establishing those relationships. And we use pro bono help and expertise for some of the more technical aspects of the deals that we help structure.

MS. MERCADO: I guess what I was curious about, as far as the pro bono partnerships with the private bar and a lot of the commercial and real property transactions that --

MS. LIEBERMAN: Yes. I think actually it's an enormous, relatively untapped resource. We're solidifying a direct partnership with one of the biggest firms in Baltimore, who have expressed a willingness to provide us with sort of a rolling cadre of experts in,

you know, tax, zoning, financing, to assist on these projects on a very targeted basis, which I think is an exciting kind of partnership, and really allows us to leverage our resources, and provide us with expertise that a lot of our lawyers may not have and, you know, are nervous about getting into some of these areas without that kind of backup.

MR. ASKEW: Many of us know your executive director, and I'm sure it's an oversight that you didn't put on the record praise for the creative and dynamic leadership.

MS. LIEBERMAN: I thought it went without saying.

MR. EAKELEY: Wasn't he at our last board meeting?

MR. ASKEW: I'm interested in the issue of training, both training within your program and training nationally.

And I'm curious -- and this may go to all five of you -- whether you think there would be value in meetings or trainings of litigation directors,

opportunities for you to get together nationally or on some basis to share information, support each other, network, that sort of thing. It used to be done a long, long time ago, and hasn't been done in a long time. If you think that would be something valuable?

MS. LIEBERMAN: I think it is not only invaluable but really a necessity. We do have the first Litigation Directors Conference coming up in June. Don Saunders with the NLADA, who I think is here, has had a big role in pulling that together.

And I know all of us in my position are just tremendously excited about the opportunity to get together to share experiences, to learn from each other, to try to develop best practices, and to look for collaborative opportunities regionally also.

And those, I think, are particularly important with training because we -- especially statewide -- well, all programs don't have the success to provide the full panoply of training that we really owe to all of our staff.

And it's something we struggle with

constantly, and, you know, at every level of experience. So I think that opportunities for litigation directors and managing attorneys to get together and learn and be trained and share experiences is a necessity for strong, high quality programs.

MS. YOUELLS: Our second speaker is the deputy director of litigation from the Legal Services Corporation of Iowa. She has held that position since, I believe, 1978, which is interesting because many of our speakers today have been in legal services for most of their careers.

During the time that I knew Chris, she was an inveterate litigator and was one of the people who did the cutting edge litigation in Iowa that protected the rights of mentally retarded and mentally ill. She now supervises the legal work being done by the 40-plus attorneys at the Legal Services Corp. of Iowa.

MS. LUZZIE: Madame Chairman, members of the board, it is indeed a privilege to be here speaking about one of my favorite topics, which is the work we do on behalf of clients, and particularly in the extended

service and litigation area. So it's -- thank you for that opportunity.

As you heard earlier, LSCI is an almost statewide program. This is our 25th year and we serve 98 of our 99 counties right now. We are one of the biggest firms in the state, and we provide services through a full range of activities, including community legal education. We have a legal hotline for older Iowans that we run. We of course do typical counseling advice and brief service. But we also do a great deal of appellate work, and in both the federal courts and the state courts.

Before I talk about litigation, I just wanted to take a minute to talk about our community legal education aspect, in part because it provides us with an opportunity to free up resources to do different things.

I think you have materials -- our Equal Justice Journal is a newspaper-type format that we send out to about 7,000 households every quarter. We also have a large print edition. And it's through this Equal Justice Journal we have what we call the EJJ hotline, and



clients can call in and ask questions about articles, make comments. They can get quick advice about something that's in it.

We have also 26 publications, and we hand out 15,000 of those a year. One of our most popular is currently sitting on the desks of many magistrates in small claims courts around Iowa which they use as a reference for their landlord/tenant matters. And we really like that a lot. And there are times when all three parties, the judge and both the landlord and the tenant, have our book and are referencing and looking at different pages out of the book.

So it certainly helps in our work when folks who can do things for themselves are able to do them, with some help and guidance and legal advice in that format.

Most recently, there's another little thing you have in front of you. It's a legal brief, which we are also using. The one you've got, I think, is the low income taxpayer clinic, and we now have -- this particular one has been translated in to Spanish and

Bosnian for our low income taxpayer clinic.

That gives you just a small idea that, indeed, even Iowa is moving into the 21st Century in terms of having new immigrants and immigrant populations that we're dealing with, and we're trying to address those again in different ways.

In terms of litigation and extended service, some of LSCI's most significant casework, as Randi was mentioning, has been in the area of disability rights. Early victories in the program have included things like having attorneys have access to people in institutions, getting treatment, and getting appropriate services to people around the state.

In some areas, the rights of persons with disabilities have overlapped with issues of importance to our older population. And while it may be unusual, when you think of it, it probably makes sense: Iowa is in the top one, two, or three of states with the highest proportion of people over 65 and people over 85. So our older community is an important part of our client service area.

A combination of this high percentage of older Iowans and the importance in our minds of the rights of persons with disabilities has led us to keep disabilities law in the forefront. And in particular, this highly vulnerable group do less well with navigating the legal system on their own, and do less well with only getting brief advice and service. So for those folks, the extended service is sometimes absolutely essential to securing various rights and opportunities for them.

I wanted to talk to you just about a couple of stories. And again, this is just a small sample of the kinds of things we do. We obviously do the same kind of things, of landlord/tenant and child support and domestic law, that other legal services programs do. But these are ones, I think, that are a little unique and make us -- give a different flavor to some of the things we do in our program.

The first case I wanted to talk about came about as a result of a legislative modification that allowed counties to make decisions about what type of treatment that they were going to pay for when a person

was committed. And to be committed, you'd have to be shown to be mentally ill and to be a danger to yourself or others.

So this set up a problem between the committing court, which decided this person needed treatment and services, and the county, who could decide whether or not they were going to pay for something.

We have an elder and disability law work group that deals with many issues that come up, and we get together on a regular basis and talk about issues. This is one issue we figured that we were going to see fairly soon, and indeed we did.

Our client, Mr. Salcido, had dementia, and he had been civilly committed. And he had been picked up and placed into an acute hospital for treatment. His doctors recommended he go to a state hospital because they had a special program that would be very good for him.

So the referee recommended that that's indeed where he should go. The county, however, decided they weren't going to pay for this placement. So our

client continued to stay in this acute treatment facility.

The third part of this little thing, we have the state saying, you have to go -- you are now committed; the county saying, we're not going to pay; the state hospital said, we're not going to take you unless someone will pay for it. So we were sort of in this triangle of indecision.

We took the case and proceeded into federal court, bringing in all the parties, arguing that Mr. Salcido's due process rights had been violated because he hadn't been able to have a hearing before various people denied him his particular placement, and the judge in the committing court hadn't done a hearing, either.

As a result of that lawsuit, the federal court decided that portions of the state commitment law were unconstitutional; required that there be a single decision-maker that makes these decisions, an impartial decision-maker; and as a result, ordered our client to have the treatment that he was entitled to.

As a result of this, the legislature ended

up changing the law so it in fact affected the entire state, and hopefully, as a result, improved the system for persons receiving treatment who are committed.

And by the way, the place where our client was being held, in this acute treatment facility, cost \$950 a day. And through our efforts, we were able to move him to a facility where it cost only \$235 a day. So in addition to securing appropriate treatment for our client, we also saved a lot of money for the taxpayers. Aft  
those cases without further litigation.

The second case I wanted to talk about involves a guardianship, which in Iowa prior to the case I'm going to talk about, Iowa encouraged full guardianships where essentially all decision-making power was taken away from people.

This became real important -- and also, they looked at the content of the decision, so did you make a good decision or a bad decision, not whether or not you could make the decision. And that became real important to us because of our older population.

We saw many circumstances where older folks

in the community were either coerced or encouraged into guardianships, lost ability to make decisions because people believed they were involved in behavior that was too risky.

And the risky behavior was staying in their own home; was taking the risk that they might fall, they might break a hip. And because of that, they were not able to stay in their home where they really wanted to be, where they were capable of being with some help and assistance.

So again, this was an issue we knew was out there and we knew was a problem for our clients. The case came up in the context of a person with a disability, a mildly mentally retarded -- a guy with mild mental retardation who wanted to have more authority and more control over his life.

He was under full guardianship by his sister, who had moved out of state and had not much contact with him. He was working intensively with a treatment team and a case planning team who would help work with him making decisions.

He wanted to move out into the community. He had a job and he had a girlfriend, and he was interested in marrying. His sister didn't approve of this relationship and his sister didn't want him to move into the community.

As a result, we took -- we challenged the guardianship, went into state court, challenged the Iowa statute as being unconstitutional in many different regards, including they're using the wrong standard, using the wrong burden of proof, a wide variety of constitutional issues.

On appeal, the Iowa Supreme Court essentially rewrote the Iowa guardianship law, providing the due process protections that we thought were essential and, indeed, supported, including that there had to be a showing of dangerousness; that indeed they have to look at the decision-making capacity of people and not the actual decision that they make.

I have thought that at times I wouldn't mind putting my 19-year-old under a guardianship because he makes risky decisions, too, but that's not the way our



constitution and our statutes are set up.

After this case, the legislature also codified these changes, and so we now have that change in the statutes.

A couple years ago, legal services offices around our state were getting calls from clients concerning a type of state payment for persons with disabilities. It was called rent reimbursement or a tax credit, and it was designed -- it was a legislative program designed specifically for folks with disabilities and who were elderly and who were low income.

The state, in an excess of enthusiasm for collecting on some bills that were owed to it, were taking these checks, and these checks were real critical to people. And so we started filing appeals around the state.

One of our clients was going to use this \$500 check that she was going to get to move out of a motel and into some housing, into some appropriate housing for her and her family.

We took these cases up to the Iowa Supreme

Court. We had two that ended up there at the same time. And we were able to convince the court that indeed the legislature intended this payment to be exempt so that it couldn't be touched by the state and so that the folks could have these payments and continue to use them and not have them be subject to offset by the state for their other kind of debts.

They could use any other kind of debt collection, but they couldn't use this particular mechanism, to take payments specifically designated by the legislature to assist this population. So as a result, we were able to keep money -- and have continued to keep money because this program is ongoing -- in the hands of low income, disabled, and elderly Iowans.

If I have a little bit of time, I have one more thing I just wanted to mention. Assisted living facilities are springing up all over Iowa, and Hannah had mentioned -- obviously, you've got a program on that, too.

But there's very little regulation, at least in our state, and it is causing some significant

problems. I think in reality it's very similar to the way nursing homes were 20 years ago, something Randi was familiar with because she did a lot of that nursing home litigation we did in Iowa. And due process rights were eventually established, and the right to have hearings before you're transferred.

That's not present yet. We had a case just very recently where a client had moved into an assisted living facility after being encouraged by his doctor, who conveniently owned that facility, and who had said initially he was willing to take some Medicaid waiver payments in addition to our client's Social Security benefit as sufficient payment for residence in this facility.

Our client -- this facility, in addition to other sort of problems, seemed unable to fill out Medicaid forms. Now, I admit that that's not the easiest thing, but anyhow, that's what they were in the business of doing. And so for months, they didn't get Medicaid payments.

As a result, they gave an eviction notice to

our client, and they suggested instead that wouldn't he really like to go to this nursing home -- also owned by the doctor -- that had just gotten the freeze lifted on their Medicaid admissions because -- and the freeze was because they had so many deficiencies that they couldn't accept Medicaid patients. Well, shucks, that freeze just lifted, and they needed some folks to fill those beds, I think.

Anyhow, we went into court and obtained an injunction, and we sort of put together different theories because the theories are not good, at least in Iowa, and put together some promissory estoppel and some contract claims and negligent misrepresentation, and got an injunction and eventually settled the case, and our client is still, thankfully, happily living in his home.

But sometimes, as always, you got to be thinking a little bit outside the box to try to figure some way to secure something against something that's just wrong. We were talking about that at breakfast. You know, sometimes things are just wrong and you've got to figure out a way how to stop that.

And that is really the exciting part of, you know, my job and the jobs of our staff attorneys, is that we can and we do try to find ways to solve problems -- not always through litigation, but we use it when we need it. And it's an important, incredibly important, tool because sometimes that's the only way we can really provide our clients with what they need.

Thank you.

CHAIR WATLINGTON: Thank you.

MS. FAIRBANKS-WILLIAMS: A question. When you have these guardianships and things, are these like the durable powers of attorney, but are these all filed with the probate court, or no?

MS. LUZZIE: Yes, they are. One of the problems that actually we're still looking at in Iowa is then what happens to them. t there, but who reviews them and who watches -- who guards the guardian?

And we don't -- other states have better mechanisms. We don't.

CHAIR WATLINGTON: We'd like to, as you say, take the questions at the last. We'd like to have a ten-

minute break here before the next panel discussion.

(A brief recess was taken.)

CHAIR WATLINGTON: Will you please take your seats so we can get started?

Before we get started with the panel here, Catherine has someone she'd like to introduce to us.

MS. SULZER: Hi, everyone. I'd like to recognize Patty DeMarco. She's a counselor on behalf of --

MS. YOUELLS: Catherine, the board can't hear you.

CHAIR WATLINGTON: Catherine, would you come and speak in the mike so everyone can hear you?

MS. SULZER: Oh, okay. I thought I spoke pretty loud, you know, being Hispanic and all.

Good morning. I wanted to recognize Patty DeMarco. She's right over there. She works on the House Judiciary Committee, and specifically the Commercial and Administrative Law Subcommittee.

CHAIR WATLINGTON: Thank you. Welcome, and glad to have you at our committee meeting today. Good to

have you.

Now, Randi, we'll go back to you and your panel.

MS. YOUELLS: All right. Thank you, Madame Chair. I would now like to continue with our panel, and our next speaker is Jessie Nicholson.

Jessie has worked at Southern Minnesota Regional Legal Services since 1985, and has been deputy executive director since 1994. In that capacity, she oversees all aspects of program administration. She has also helped guide the organization's efforts to recruit and retain protected class employees, and she has designed and implemented training initiatives on diversity and mentoring, among other important areas.

Her litigation expertise includes cases with a particular emphasis on African American families and African families, landlord/tenant law, fair housing law, and civil rights law.

Jessie Nicholson.

MS. NICHOLSON: Good morning. On behalf of our board of directors and our executive director, who is

Bruce Beneke, who has done fabulous things over the years, and our clients, I'd like to say thank you for having me here this morning.

I don't want to repeat what's been said by the other two panelists. They've obviously done a very excellent job in presenting to you some of the efforts that are happening in Maryland and Iowa. We in Minnesota, in southern Minnesota, at least, are doing a lot of similar kinds of things on behalf of low income folks in the areas of litigation and extended representation.

So I'm not going to repeat a lot of that. I'm going to try to focus on some things that are a little bit more unique to us.

We in Minnesota, believe it or not, have had a major shift in our client population, probably since the early 1980s, with regard to the Hmong population. We have the largest Hmong population in the United States, as far as we understand, that are located within our service area.

The city of St. Paul has approximately



40,000 Hmong persons in it, which is tremendous in a city that's less than 300,000 people. This excludes Minneapolis. Minneapolis is a separate jurisdiction. But in the city of St. Paul, we have approximately 40,000 Hmong.

The other large population that we have, which has been on the rise and is increasing even as we speak, is the Somali population. According to the state refugee office, we have between 20- and 25,000 Somali persons in and around southern Minnesota, in St. Paul itself probably close to somewhere between 10- and 15,000.

And a lot of that is secondary migration, meaning that they're coming from other places in the United States. They're not coming from outside the United States, although we do get a fair amount that are being settled as refugees in St. Paul as well.

So because of those two major shifts, in addition to the Cambodian community, this board had come to our program back in the year 2000 and had visited us, so you were aware of the large Cambodian population that

we have, the large Vietnamese population -- in addition to those groups, we also have a fair representation of folks from Eastern Europe.

So needless to say, these major shifts in population have caused tremendous head-scratching, collective head-scratching, if you will, on our board in terms of how to effectively service those populations. And again, obviously, this is in addition to traditional groups that have always been here.

And I know it may seem a little strange to think, what in the world do these folks see in Minnesota? Why Minnesota? It's so cold up there. And yes, I can attest to you that it is cold. It is very cold. This is pretty nice, compared to what we had on Monday.

MS. MERCADO: We're all cold here.

MS. NICHOLSON: We had five inches of snow in the Twin Cities on Monday, and we had another two inches on Tuesday. So it's a little -- this is kind of -- it's kind of nice to see something green.

But in any case, all these folks are coming here -- most of them come, again, as refugees that were

resettled by the churches and so forth. But now, again, we're seeing the secondary migration.

So the challenges that that's presented in terms of the litigation initiatives and extended representation initiatives have been interesting, to say the least. We are finding that it is not in our clients' best interest to adapt those traditional models of litigation.

Most of these folks just simply don't understand the workings of the legal system in the United States in terms of the newer groups that are coming in, and so it's not that we can just simply just say, well, you can protect your rights to a safe and sanitary house by just simply going into unlawful detainer court and asserting those rights there either affirmatively or defensively. It doesn't work that way.

Part of the reason it doesn't work that is because in the metropolitan area, at least the Twin cities metropolitan area, the vacancy rate in landlord and tenant property is less than 1 percent.

So obviously, if you stand up and raise your

hand and say, you know, I'm being discriminated against because of my national origin or because of my race or whatnot, you know, and I want something done about that, folks just aren't real willing to do that. And so our initiatives take a different approach. So I'd like to focus on a couple of things that we're doing.

Let me start with regard to the Hmong population. One of the biggest issues in that community is the issue of domestic violence. That is a community that is extremely insular, and not that other communities aren't, but that community tends to be much more insular, in our experience, than others.

And what that means is that there is a mechanism in place whereby issues of domestic violence and other issues are decided by an organization called the 18 Clan. That is an entity that is composed of the 18 different clan leaders, and those folks -- they are all men -- gather regularly and decide what should happen in a particular instance, whether that be domestic violence or whether that be consumer-related issues or anything else.

What we've found is that, first of all, we needed to hire some staff that was representative of that client community. We now have one Hmong attorney. We have a couple paralegals on staff in St. Paul. They helped us to understand how the 18 Clan entity makes its decisions, the intricacies of how it works.

So what we did was that we met with the group over a course of time. We talked to them about how the legal system works and how it addresses issues of domestic violence. Again, you've got to realize that this is an entity that is headed by men, and so traditionally, unfortunately, a lot of abusers are men, and so to try to break those barriers down and then utilize our attorney, who is a female, to try to help to do that needless to say has been interesting and very, very difficult.

What we have now, though, accomplished, at least as far as we could tell, is that we meet regularly with the clan leaders. They have now decided that, in a particular instance, they will refer clients to our program. Part of the impetus behind that was because of

this huge amount of domestic violence that's been happening in the last two years.

We had a woman who killed five of her children in a public housing development. We had another man who killed his wife and his kids. And these were all Hmong people. So with this large amount of violence that was happening over the last couple of years, the clan leaders decided that maybe it was time that they worked in concert with legal services to help address some of these kind of problems.

And so now we get the referrals that are made. Obviously, we take matters into court and assert a victim's rights to be free from abuse and whatnot. We also are working with the abusers, which is an interesting dynamic. The clan leaders now realize that it's something that needs to happen, and not only just to protect that victim's rights, but also to let abusers know that there are consequences to their behavior out of the clan structure and the community structure as well. So we're doing some of that kind of work.

Also, with regard to the Hmong population,

we have gotten a grant, a one-year grant, through the Philip Morris Foundation, Doors of Hope Foundation, to leverage some resources in a way that we have -- we've created in collaboration with the Hmong Center for Arts and Talent two videos, two movies, that were shown on public TV that address issues of domestic violence in the Hmong community.

There are two different videos because the Hmong community is divided in two different groups, if you will, along language lines. And so we've developed -- there's the green Hmong and the white Hmong. And so we've developed these two different videos, and we actually showed them on public TV.

We've now made them available to judges' groups, to law enforcement, social services providers, and so forth in addition to the community itself, to get at some of these issues. They're very complex issues, primarily because a lot of the women who are experiencing those issues don't speak a lot of English and/or are extremely isolated from the system -- from the broader community, I should say.

So with regard to trying to address the domestic violence issues in that community, those are some of the initiatives. And again, these are in conjunction with individual case representation and so forth.

I'd like to speak just briefly about how we're reaching out to the Somali community. The Somali community in our service area is not just in St. Paul. It's in the different rural communities, which is real interesting, when you think about getting in a car and driving down 100 miles south of St. Paul, and all of a sudden you look around and you go, oh my gosh, you know.

These folks are settling in these communities for economic reasons. A lot of jobs at the food processing plants in southern Minnesota. And so what we have, then, are again issues of isolation. We have issues of housing discrimination. We have just a whole host of issues that people are facing in those communities.

One of the things that we've done to help folks in the Somali community is that we've actually



hired a Somali paralegal in our Mankato office, who happens to be a man, who also happens to be a trained lawyer from -- training from Pakistan.

This individual is now housed in one of the local battered women's shelters -- again, it's a man -- but the dynamics in that community are such that if there is respectability for an individual, it makes no difference what gender he or she is.

So this particular person is housed in a domestic violence shelter in the Mankato area so that people -- women who are abused in that community who find themselves in the shelter then are able to work with this individual to more freely understand the services that the shelter provides.

There is a religious component that this individual is able to bring. He's an Imam in the Islamic religion, and so they respect him and they understand what his instructions to them are.

We were worried about the power issues and that kind of thing because he is a man, but our information is that the women do not distrust him and do

not distrust what he's offering in terms of advice. So that's one of the ways we've reached out to that community. Again, we still do individual advice and representation and so forth.

The other thing, big project -- two other projects I'd like to mention that we were able to establish in our program that access these communities, one of them is our Project Hope, and that's our homelessness, outreach, and education project.

That project was established in 1994. Alex Forger, who was a former president of this board, came out to the Twin Cities and launched that project for us. It was an AmeriCorps project.

In that project, we have one lawyer and three paralegals who reach out to homeless persons wherever they are, whether they're in a shelter, whether they're under the bridges, and work with those folks to try to get them into housing.

The three paralegals have all been homeless at one point or another in their lives. They are very fully able to understand the issues associated with

homelessness. They work in very nontraditional ways in terms of extended representation.

They have recruited a panel of landlords who take on our most hard-to-place persons, whether they're homeless or near-homeless persons. We have a panel of about 40 landlords, give or take, who actually call us when they have apartment openings, and these paralegals place persons into their units.

They follow up with the tenant for approximately the first year of the tenancy to insure the success of the tenancy, and the property owners really like that a lot because they know if there are problems that come up, they can contact us.

The attorney in the project basically does, again, the unlawful detainers, if there are any; does the tenant remedies actions, which enforce the rights to decent and safe housing. And so it's really kind of a unique project.

It crosses the lines between social work and legal work, but we've found that it makes more sense for us to look at a holistic approach to the delivery of

legal services instead of simply looking at the legal issue. We try to look much more broadly at the issues.

The other piece of work that I'd like to focus on briefly here is our fair housing work. We have a grant from the Department of Housing and Urban Development. We're in the second two-year grant right now. And then that project, we're able to -- we have three lawyers and two community workers who are paralegals, and they work in all the 33 counties of our service area insuring fair housing opportunities for folks.

Most of the fair housing issues that come to us are based on national origin and race. We get some amount in disability discrimination, but mostly those other two areas. The project has been very successful, particularly in our outlying areas in terms of education of the community on fair housing issues and in terms of taking on significant pieces of litigation on behalf of our clients.

We have been very successful to recruit a panel of private lawyers that assist us in those fair

housing matters so that they can take the attorney's fees and we can provide the expertise. We're able to represent a lot of clients in that kind of a model.

I'd like to just highlight a couple cases. One of the cases involves a person who's been in transitional housing -- this is an African American woman -- she's been in transitional housing for almost two years now. And she actually is one of our employees.

And just recently, her case was settled. She was being discriminated based on her status as a recipient of public assistance back when this case started a couple years ago, and also based on race.

The case was recently settled for \$94,000, and now she and the other two plaintiffs are in the process of purchasing a home. So that is a very significant result for someone who had experienced that kind of discrimination.

We had another case that was recently settled involving four African American women who were discriminated and subjected to sexual harassment by their apartment owner. Again, these are things that tend to

happen when there is less of a housing stock, if you will. Owners tend to do those kind of things when they think they can get away with it. Unfortunately, that kind of stuff happens.

And so we recently settled that case for -- it was upwards of \$100,000 on behalf of these women, and they also are in the process of purchasing homes. And so to us, those are significant achievements to help people move into more stabilized housing, obviously, and achieve self-sufficiency.

Those are some of the kinds of things that we're doing in terms of litigation, and then, again, the cultural nuances that we need to take into account.

The last thing I'll mention here and then I'll be quiet is that our board has placed significant influence on us hiring lawyers who understand the value of the holistic approach to delivery of services, understand that and take some ownership in that.

What we've done is that we've decided that we want to retain good people, bring in newer lawyers who understand that value, have us practice law in a way that

is more consistent with the values that the board has articulated.

And along those lines, what we've done is that we've developed practice standards, which is what's in this manual -- practice standards in eight of our practice areas. And we've also developed communications norms which would help us to be our best selves in the workplace.

And then we've also articulated our mission statement in here, all of that designed, again, to help us do the best that we can with these particular nuances, again, to our client population that I've been talking about here.

So the way we use this, though, actually is that we do performance reviews based on what's in here, needless to say. And so far so good. I mean, we've had this now since 1998, actually, and again, we use this in the performance reviews.

We use this in the hiring process, the interviews that we do. We talk to new lawyers about our mission and we talk to them about communications skills

and so forth. And we talk to them about whether they can practice law within the parameters that are set forth in here.

And some people can't. You know, lawyers have this sort of sense of creative license that, you know, I shouldn't be reined in, a lot of people think. But we don't feel that's conducive to the kind of program we'd like to run.

So in any case, that's kind of some of the things that we're doing, and that's kind of some of the internal things that we're doing to make ourselves a better legal services program. And with that, I'll be done.

MS. MERCADO: I had a couple of questions. On your Project Hope that you were talking about, do you have any kind of a brochure or something to that effect as far as to how your program works and what you provide?

Obviously, homelessness is a huge issue just about in any state that we go to, especially in larger urban populations. But there are also some particulars in the rural areas. And I didn't know whether -- I was



just looking to make sure that I didn't overlook --

MS. NICHOLSON: No. We didn't bring any -- I did not bring any brochures. We do have them, yes, we do, on Project Hope. It's a program that's focused in the metro area. It's not in the rural areas. And again, it's been around since 1994.

But most of our service providers in and around St. Paul are aware of the program. Landlords love us. They just love us to death because, again, they know that if we're referring either homeless persons and/or near-homeless persons through that project, that we're going to be following up with them for that first year to help in sure a successful tenancy and whatnot.

And so again, yes, we do have brochures on that.

CHAIR WATLINGTON: If there be no other, we really appreciate -- I mean, I'm very much in housing so, I mean, all of these things -- and I know what you're talking about on a day-to-day basis, what a critical issue that is out there in the community today.

MS. YOUELLS: Our next speaker is Anna-Marie

Johnson. Ms. Johnson is here today on behalf of Wilson Yellowhair, who many of you know. I believe Mr. Yellowhair became ill this week and asked Ms. Johnson to appear on his behalf.

She has a long and rich history in the practice of law in Indian Country, and in fact today may be the day of the Midwest representation. We've had Iowa; we've had Minnesota; and Ms. Johnson actually started her legal career at Mid-Minnesota Legal Services, and now works at Peoples DNA Legal Services.

And I will turn it over to her.

MS. JOHNSON: Good morning, and I'm pleased to be here. I'm also quite surprised to be here. I had planned on spending the rest of this week in the office, but am honored to be filling in for Wilson.

DNA-Peoples Legal Services is the oldest and largest Indian legal services organization in the country. We were established in 1969 -- or 1967 with funding to serve the Navajo Nation, and in the years since we've expanded to include Hopi, the Jicarilla Apache, the Yavapai Apache, Wallapai, Havasupai, Southern

San Juan Payute, and Kaibab reservations. And we also serve the off-reservation portions of San Juan County, New Mexico, and Coconino County, Arizona.

Our service area covers three states, New Mexico, Arizona, and Utah; and we are roughly the equivalent size of the state of Michigan. That's our entire service area. And the sheer size of it, and the remoteness of it, creates problems of its own. We have nine offices scattered throughout our service area, and also our special projects.

Because we cover three states and seven Indian nations and umpteen numbers of counties, jurisdictional issues is a constant source of case work for us. Who has jurisdiction over a particular issue is always important.

We have the state child support offices, who say that if somebody is living on a reservation, they're not going to assist the client in getting child support from the other party. We have the tribal child support offices, who will say, we're not going to give assistance to someone if they're not a tribal member. And families

go without child support.

We have adverse parties who will use the differing jurisdictions as a way of thwarting a lawful order of another court. We also have county, tribal, and state law enforcement officers who won't enforce the domestic violence protection orders of other jurisdictions. And women go without protection and their abuse continues.

DNA, as one way of combating the jurisdictional issues, established its full faith and credit project in 1988, specifically to work on the issues surrounding enforcement of domestic violence protection orders.

We brought together all of the parties involved -- the state government officials, the tribal government officials, the judiciary, the domestic violence shelters, advocates, anybody who worked in the area -- and started meeting and trying to discuss solutions.

And governments were standoffish and going, no, you're treading on our sovereignty here, both state

and tribal. And it was -- it has been a long and difficult process, but we finally got the parties to agree to memorandums of understanding and signing -- everybody signing these memorandums of understanding whereby the law enforcement agencies are going to recognize and enforce the domestic violence protection orders of each others' jurisdiction.

We are now at the point where we are testing that. We are still seeing clients coming into our office and telling us that they have a domestic violence order from the county -- Maricopa County in Arizona. Tribal law enforcement isn't going to do anything; they're telling them you're going to have to go to court all over again.

We are going to court all over again, but we're bringing in those law enforcement officials as parties and saying, "No, you are required to enforce that order, and you're going to do it without forcing our client to have to go through an entire trial to decide whether or not she gets a tribal domestic violence protection order."

And it's litigation as a support for all of the work that we have done previously to try to get these supports in place. We're now at the point where we have to use litigation to enforce all of this work that we've done before.

In other jurisdictional issues, we do have folks that use the courts to try to thwart orders that have been given out by other courts. One of our staff members recently had a case where the father of two young children skipped the state of Indiana with the children.

The mother had sought a divorce action in the state of Indiana, and in the process had gotten a domestic violence protection order. She had temporary custody of the children. He got visitation. On visitation, he skipped the state, came home to Arizona, and found work in Phoenix.

On his process of getting to Phoenix, he stopped on the Navajo reservation and dropped his kids off with his grandparents. Dad brought an action for divorce in Maricopa County, Arizona, and just conveniently neglected to tell the court that there was

an action already ongoing in the state of Indiana.

In the meantime, the grandparents brought an action in tribal court saying both parents had abandoned the children and they wanted permanent custody.

Our client was referred to us by Indiana Legal Services because the grandparents had served her in Indiana with the custody action in tribal court, and we had in the end four staff members involved in this case: one in tribal court, two in the state of New Mexico because the dad skipped state again and went across the border to New Mexico and filed yet another divorce action in the state of New Mexico. And we had an attorney down in Arizona in that state action.

And we got both states, New Mexico and Arizona, to agree that they had absolutely no jurisdiction over any of the parties in this matter, and that it should properly be in tribal court.

And in the end, we had the entire trial in tribal court. Our client got custody of her children back, and she was able to go home to Indiana with her children just before Christmas. And it was a sigh of

relief all around because it had been an extremely complicated case.

But the system worked there. The system worked because we were able to represent in both of the states and in tribal court. And the judges in both of the states realized that they actually had no jurisdiction and backed off, and the judges from the two states and the judge from the tribal court were also talking to each other and passing off the cases and passing off information that they had received from each other. And although complicated, it ended up working out very well.

Some jurisdictional issues arise simply because of ignorance on the part of the adverse party. I don't know how many of you are familiar with the way land issues work on reservations, but the land itself is not owned individually. It is owned by the United States Government in trust for the tribe.

Individuals who have homes on reservation land only own an interest in a home site lease. And these leases are usually -- at least on Navajo, they're



generally 65 years, with the ability to renew the lease for another 65 years, so that the home site can be passed on.

On rare occasions, Native Americans are able to get financing from lending institutions to actually build their own home on their home site. Usually -- well, housing on the reservations is an extremely difficult issue. There is a severe shortage of housing, and the Navajo Nation itself estimates that with the money they receive under the Native American Housing Assistance Self-Determination Act, they can only meet 15 percent of the need for housing on the reservation.

And the lack of other lending possibilities for individuals is a constant source of aggravation for those of us who work there, and for those of us trying -- for those trying to seek housing. But on occasion, they actually do manage to get a lending institution to give them money to construct a new home.

One of our clients got lending from a bank and built his dream home. And this was in 1969. He had a 30-year mortgage. He was two years -- he was 28 years

into his mortgage, just two years from paying it off, and he got ill -- he was quite elderly by this time -- and defaulted on some of his payments.

The mortgage itself -- the original bank that lent it to him didn't exist any more. Through a number of mergers, it was something else. And this mortgage was sold off four different times, to where it's now held by a mortgage corporation in the state of Maryland.

MS. LIEBERMAN: We'll get them. Don't worry.

(Laughter.)

MS. JOHNSON: Under federal Indian law, you cannot assign that mortgage interest without first getting the permission of the United States Department of Interior and without first getting the permission of, in this case, the president of the Navajo Nation. Nobody had done that. This corporation in Maryland does not have legal title to this mortgage.

It hired local counsel out of Phoenix to foreclose on the mortgage when our client stopped payment. The attorney that it hired out of Phoenix does

nothing but mortgage foreclosures. It's a factory operation that knows exactly what it's going to do. It's got all its paperwork set up. It can handle these things easily. It never paid attention to the fact that this was land on a reservation, and brought an action in state court for judicial foreclosure.

And we went to federal court and took the law firm as a party as well as the Maryland corporation, saying, you cannot bring this action in federal court -- or in state court. The only court with jurisdiction over this issue is the tribal court.

And if you had actually sat down and read the lease, you'd realize that you don't have title to this because you don't have the permission from the United States Government and from the tribal government to have taken over assignment of this mortgage.

There is a federal law. It's 25 United States Code 483(a) that specifically states that with deeds of trust and mortgages in Indian Country, the only court with jurisdiction over foreclosures is the tribal court. You can use state court only if the tribe has no

court and has no law governing mortgages. Navajo has both a court and an entire code dealing with land issues.

And we got both the temporary and permanent stay of execution for the judicial proceedings in state court, and now the law firm is trying to find local counsel that is actually barred in Navajo court to proceed with the foreclosure. We have at least saved temporarily our client's home, and we hope to be able to work out a deal where he can become current on his arrearages and actually save the home. But we needed to be able to get it into the right jurisdiction before we could start working on that.

We had a child support case recently where the parents were living in Tucson, and actually got divorced in Tucson in state court. And there was a child support order as part of the divorce decree.

Dad got a much better job. He actually got a job in law enforcement upon the Navajo Nation. And mom wanted to enforce her child support order and have the child support automatically garnished from his wages and sent on.

Tribal child support refused to assist her because she was not a member of the tribe. And the employer, the Navajo Nation Police Department, refused to recognize the state child support order, and would not garnish the child support wages, although child support is the only exemption to the non-garnishment of wages on the Navajo Nation.

Our attorney took the action to court in the Navajo Nation and said, you should recognize the state order under the doctrine of comity, whereby you as a sister sovereign will recognize the order of another sovereign as long as the parties received equivalent due process.

Our attorney won at trial court, and the ex-husband appealed the order to the Navajo Nation Supreme Court. The Navajo Nation Supreme Court does, once a year, its traveling road show where it takes a case of particular interest, usually having to do with sovereignty and jurisdiction, and travels to law schools across the country and holds the tribal appellate courts at the law schools.

And last fall, this is one of the cases it chose to bring. And this case was heard before the faculty and students and the public at the University of Colorado School of Law in Boulder.

And in the end, our client did win an order from the Navajo Nation Supreme Court stating that, yes, the Navajo Nation should, under the doctrine of comity, be recognizing state child support orders, and employers on the Navajo Nation should be garnishing wages. Our client got her child support, and she was able to get off benefits, off of the TANF program, and is now at work herself.

Jurisdiction isn't the only barrier that we encounter. The other is the fact that the vast majority of our clients don't speak English, and those that do speak English may not understand it as well as you may first think when sitting down face-to-face with them.

And as a result, they can be highly susceptible to unscrupulous business practices. And used car dealers are the worst. And I hope nobody here is a used car dealer. There are some good ones, but there are

an awful lot of really bad ones.

We do have clients who will go in and buy a car, and the dealer is sitting there telling them something and handing them a piece of paper and say, "Here, sign it. This is what it says." And our clients have no ability to read what's actually on the paper.

In one case, we had an elderly Navajo gentleman go in and buy a used car, and in the paperwork the dealership included credit life insurance and disability insurance at what we think is a usurious rate. But it was in the contract, which made his monthly payment extremely high.

He actually got ill and had to stop working and couldn't make his monthly car payments, and his family called GMAC and asked what can they do. And they specifically asked, "Is there any insurance that was included in his contract?" And GMAC said no. And they talked the family into voluntarily allowing the repossession of the automobile.

In this process, our client passed away, and the GMAC sued the family for the deficiency of the

contract, the amount of the contract that was left over.

MS. BATTLE: The family or the estate?

MS. JOHNSON: Both, because unfortunately there was somebody else that was on the contract as a cosigner. And at this point is when the family came to us.

And we said, "Do you have the paperwork? Did he save that contract that he signed?" And we looked at it, and there, you know, in black and white was the -- both the disability insurance and the credit life insurance, which -- and the disability insurance should have kicked in as soon as the family called up and said, "He's ill, and would you please cover the payments." We sued GMAC and we actually won over \$20,000 for the family for the violation of the Uniform Commercial Code.

The used car dealership stories are legion, and there are many of them. But they do stem from the fact that our clients are not well versed in contract law or consumer issues, and one of the things that our community has asked us to do is to educate them on consumer issues so that they're not taken advantage of. And



and in Hopi and in English on our new web-based kiosks that are in our offices. And we are establishing radio programs, half-hour radio programs, that are more like a soap opera so that they get peoples' attention, but that will educate the community on consumer issues.

And then we back up everything, all the clients coming in saying, "I heard you on the radio, and I have that issue. This is what's going on in my life." And we're backing that up with the litigation and trying to turn around the practices by the used car dealers.

It's a long -- it's a very long process and will probably go on forever because there are new scams coming up all the time. But those are just some of the issues that are unique to our practice area and that I had wanted to highlight for you. And I thank you very much.

CHAIR WATLINGTON: Any questions?

MS. YOUELLS: We have one more speaker.

CHAIR WATLINGTON: Okay.

MS. YOUELLS: Our last speaker is Luis Jaramillo, who I think is familiar to you from the board

meeting in San Francisco. Luis is also a long-time legal services person, was the program director in El Paso at one stage of his life, and has had every possible job at California Rural Legal Assistance, it looks like, that exists.

And he is our last speaker today, and he will talk to you about the unique aspects of his practice.

MR. JARAMILLO: Madame Chair, members of the LSC board, colleagues and friends. I'd like to cheat just a little bit, and if I may approach the video machine, I'd like to use that as a springboard for part of what I'd like to do.

(Pause)

And actually, this is an indication to a part of our community. And it's a part of our -- yes. I'd like to introduce you to a part of our community. And this part of the committee Chairman Eakeley met face-to-face when he came to visit us at CRLA at the very beginning of his chairmanship. This will run three minutes, 15 seconds.

(A videotape was played.)

This is one part of the community, and the issues, the legal issues that arise in part are what you see. And what you saw was pretty stark. But there are other issues that you don't see, and we don't see the hard-working individuals who earn their keep and, according to the Good Book, are worthy of their hire. So let's find out who doesn't pay, and who works and doesn't get paid.

(A videotape was played.)

\$250 that is owed to an individual doesn't sound like a lot of money, and in fact it isn't, perhaps, to some of us. But \$250 at -- it was \$5.20 an hour minimum wage at the time -- is 48 hours. And that's a week's work.

We have 21 offices at CRLA, and each one of those offices has at least two cases that are roughly similar to this, except what happens at CRLA is that we get whole crews walking in. And so we get individuals, like 30 individuals at a time.

And what ends up happening is, for example -

- these are some successes in the course of the last year -- there were 60 workers for whom we were able to get \$89,252. Those are strawberry workers working 10 to 14 hours a day, six days a week, in the Santa Maria area.

There were 16 other workers for whom we were able to get \$72,475 in Sonoma. There were 70 other workers for whom we were able to get \$145,000, 60 workers for \$110,000, three workers for \$9,000. The smaller sums, we prepare individuals to go before the Labor Commissioner or to go before the small claims court.

These are the kinds of cases that we take to the larger court, and these are the kinds of cases that we process with numerous individuals going through all the processes that we have to undertake as part of our responsibility with LSC.

There are some additional issues that we don't see, and issues that come to our office under the guise of some other issue. For example, this young woman that I will introduce you to came in because she hadn't been paid and because she hadn't been allowed to go to the doctor's office. She was terminated. The issue was

sexual harassment, and it was quid pro quo. She had had to exchange sexual favors not only to get her job but also to keep her job.

(A videotape was played.)

One of the last class action cases that CRLA brought in 1996 had to do with women working in the packing sheds, 40- and 50-year-old women, who were not -- who had such limited access to the bathroom during the course of the day that they were forced to take a choice, either to wear diapers to work or to drink fewer liquids. Many of those women ended up with urinary tract infections or bladder infections.

For many years, this continued, until finally one of our community workers, a woman, an approachable woman, was able to discover this and do something about it. That's in the long sheet that you have here.

The Blanca Alfaro case that you have just seen that led to the multi-million-dollar settlement case is not unique. We have three additional cases, and we partner with the Equal Employment Opportunity Commission,

with the Women's Law Project at Golden Gate University, and with some private practitioners when we bring these kinds of cases.

But some say, "Well, CRLA, the reason that you're successful is because you bring the same case over and over." And in fact, there's some truth to that. What I'd like to show you is that the situation you saw in San Diego County is not unique to San Diego County.

These are some pictures from Monterey County. Again, the spider holes. Again, living in arroyos or gullies. Living in makeshift quarters.

Now we're in Santa Cruz County, another beautiful county. And the reason is that these individuals work hard, make some money, send part of it home, and save money by living in the conditions that they live, not because they want to but because they have to.

This is San Benito County, and in this kind of situation, there is a house that the grower owns -- as you can see the satellite dish -- and then mobile homes are moved in. One of the things that you'll notice is,

number one, that it's right next to a field, so that any pesticide spraying goes into the habitation; also, that there's only one portable toilet, and you'll see that right in the middle.

Any family is proud of its children, and as the children are growing up, one needs to be aware of all the wiring that you can see there; the butane tank that is so easily accessible; and the wiring and the tank are surrounded by wet soil.

This was known as "the condominiums." And not only is it ramshackle living quarters for numerous workers, but you also see pesticide tanks right there with the potential danger and exposure.

These individuals were working in Monterey County. They had been recruited in Fresno County. They moved up in their car. And this is a dinner break at their work. It's right off the field. And there they are cooking their dinner, after having worked in the field. And this is part of the situation that they have in the field, with the water and only one cup even though the state requires individual cups.

Now, you may ask, again, "CRLA, I thought the short-handled hoe situation had been resolved 30 years ago." Well, this was only two years ago, and you'll see some others that are more recent. This one is more recent.

Continuing use of short-handled knives. Pesticides, when sprayed, are intended to keep individuals out during the life of the spray as it does whatever it's supposed to do, either to fertilize or to be pesticide, to kill pests, or to do some other thing.

But as you can see, even though the field is posted for non-entry, there are crews working in the field at the very same time. Rather than waiting the entire waiting period, oftentimes farm workers are sent back into the fields to work.

This is methyl bromide. Methyl bromide has been banned in the year 2006 by the United Nations and by the United States, in part because it reduces the ozone layer and causes severe skin problems because of the sun's rays penetrating through.

Well, this is methyl bromide being applied.



It's a gas that is applied to the ground that sterilizes the ground for about a foot to a foot and a half. It's very productive for strawberries. On the other hand, it's very dangerous, obviously, to our environment and to ourselves.

More work in posted fields.

Here there's no water. There's an entire crew, and there is no water for these individuals. That can was empty. When we brought it to their attention, they immediately went to go get water for all those individuals that you saw.

That young man is less than 15 years old. He's a child working out in the field, subject to the same conditions. That individual has been spraying pesticides. He is washing his hands using water from the tank itself, which then pollutes it for everybody else to drink.

Then there's the issue of driverless tractors. Driverless tractors are in the furrows, and they travel at approximately 4 miles per hour. It was felt that the drivers were wasting their time just

sitting there driving up and down the furrows, and so it was something that -- they should be doing something to earn their keep instead of being "welfare sitters."

And so, as a result, they have an automated system so that they can drive at 4 miles per hour and then get off, as you can see, and the only way to get off is in between those two rolling tires, to do the kind of work that they're doing.

Now, you saw the other side of the seeder -- well, that's where they hold seeding plants or small -- seedlings. As you can see, the individual is sticking his entire body in to push the seedlings to the other end so that the person sitting at the other end can take them more easily and plant them into the ground. This while the tractor is moving at 4 miles per hour.

These are packers. The lettuce -- this particular lettuce is packed in the field. One individual packer, as you see, is putting it in there. The harvesters have already gone through. And then he throws it up to the guy on the trailer, who then stacks it. What happens is that the tractor jerks, twists,

turns, and the individual on top is going to get thrown down.

Here we see it in the rain, where there are two tractors that have to be pulling.

The system of packing the lettuce, as you can see, the harvesters are bent over. They flip it to somebody that is riding alongside, and you can see that a little bit in that. And I'll show you another picture better.

This one actually shows it better. There are harvesters that are bent over. There are seats for women that are running a conveyor belt where they're packing it into the boxes. And then it goes to the stitchers who put the boxes together, and then the stacker who stacks them up on the trailer. And they are being pulled by two trailers. Now, it takes two trailers when the fields are muddy and they need the additional push or pull.

Here it takes four tractors because of the wet soil. The danger is only increased.

There you see a tractor, and getting up and

down has to be between those two tires. When it's going at 4 miles per hour over a muddy field, it's very easy to trip or to slip or to slide.

And a leader in the community finally installed one of these cages that has since become actually fairly popular, and for which CRLA pushed considerably.

These are portable toilets, and we'll see more about the portable toilets later.

Congressman Sam Farr, U.S. Congress, is the son of Fred Farr, and Fred Farr was a senator in the state of California who pushed to have portable toilets out in the fields because he thought it appropriate and respectful and of some dignity for farm workers that they have -- and for that he was rewarded with the accolade as having introduced "Farr's chariots" to the fields.

This is more of the short-handled hoe. But this particular picture is striking because this individual is actually in his 50s. And part of the problem that we find is that 50-year-old men whose only ability to work is in the fields begin painting their

hair, dying their hair, so that they will not be discriminated against in seeking employment.

This is an alternative to the short-handled hoe.

This is the use of the short-handled knife.

These are people working in the fields weeding with no knife, no tool whatsoever.

Again, water in the fields. And so sometimes you use a straw to drink water from the well.

One of the problems that we have is the -- well, again, this is a better picture of the driverless tractor. As you can see, it's moving down with the harvesters standing in the field cutting the broccoli, throwing it up, with women sitting in long conveyor rows, conveyor belt rows, where they pack the broccoli. And that is given to a stitcher, who folds it up into the boxes. And then, finally, the individual who stacks them up.

This is what happened once an action was brought against the Riverside County because of selective enforcement on mobile home parks in Riverside County. As

a result of the CRLA's intervention and in a Title 6 and a Title 8 complaint before the Housing & Urban Development Department, we were able to secure the building of homes and release of -- or the use of \$20 million from the county, from HUD, and from private foundations for this alternative that actually gives respect and dignity to those farm worker individuals.

But the harassment and the sexual problems are not limited to farm labor camps. In Modesto, a landlord of 21 apartments forced individual apartment dwellers to exchange sexual favors for rental accessibility. That ultimately led to a \$50,000 award, and private counsel was involved with us on that one.

In Fresno, \$4 million was awarded by the Environmental Protection Agency, and included some participation by Chevron and some private foundations, to build this kind of housing for residents of a trailer park who had been sited right next to a Superfund toxic dump site.

There was a petition of 82 growers to allow them to use the driverless tractors that was an action

that was filed before the state Office of Safety and Health. And we were able to do something about that.

With respect to the other incidents that you saw -- the short-handled hoe, the wage claims, the pesticides -- CRLA has developed almost a form pleading, because we use it so often, in every one of our offices which are spread throughout California.

The major import of what we're trying to say is a thank you to you. Our work at CRLA has been your work. The pride, the vision, the mission that you have brought to our client community is manifest in improved lives and improved futures for their children.

This is not -- this opportunity that we have at CRLA to work with you and for you is not something that we take for granted. It's something that we appreciate greatly, and it's something that obviously impacts us in the way that we work and in the way that we process our cases.

There are a lot of duties that we need to fulfill knowing full well that the work that we want to do is the work that you want us to do, and that is to

improve the lives of our client community.

Very early on in his administration, Chairman Eakeley came to CRLA and encouraged us. And he helped us to the point that -- well, helped us to the point that we were inspired to do the kind of work and to take from other legal services groups.

I address my colleagues with great respect because we draw from them throughout the United States, as we draw from you. We're incredibly grateful to Mr. Erlenborn because of his commission and our ability to represent the individuals that have a right to representation.

As you can see, they are working poor, working individuals who deserve the best that this government has to offer. And this government has a lot to offer, the best society that there is. And yet we could lose that, and we could lose that very easily. And so because of his leadership, we've been able to do that.

I want to particularly thank Tom Smegal, a personal friend, whose leadership and statute in the state of California is just incredible. Without his



leadership, I don't think that the mergers, the collaboration, the funding could have happened. And Tom is just -- always has been a loyal friend to legal services, all of us.

And Maria Luisa Mercado came to our CRLA Priorities Conference five years ago and demanded that we find the difficult, the lost populations, the marginalized populations, that we not simply sit and wait for people to show up in our offices. She required that we do more than what was there and what we saw, and that we search for what we don't see.

And for Bucky to push us on collaboration at a timely moment was influential and significant.

And Ms. Battle, also we want to thank you for the ops and regs. Without a lot of help, I think we would have been spending a lot of time doing things other than what you as a board have called us to do.

I'd also like to address Mr. McCalpin. He bailed CRLA and Legal Services out in the early years, and he continues steadfast and loyal to that mission, and he serves as an inspiration to all of us.

Each of the client board members and representatives brings a voice to this board that is so crucial in making any decisions that we've made that are client-centered.

And so these successes are not just our successes. They're your successes. And most importantly, they're our clients' successes, and their lives are significantly changed. And so we thank you for that.

CHAIR WATLINGTON: Thank you.

MS. YOUELLS: Madame Chair, I know you're abutting the lunch hour. If you have any questions in the next several minutes that you would like to ask any of the panelists, I'm sure they'd be glad to answer them.

The panelists also have been invited to join you at lunch, and you will have an opportunity to interact with them at that time. So we're at your pleasure.

CHAIR WATLINGTON: Any of the board members have --

MS. MERCADO: I don't know that it's so much

a question as a statement. I've noticed in everyone's presentations that they talked about the partnering with, you know, private firms and pro bono attorneys, and also hearing some of the victories that they've had, but even in addition to that, some of the monetary victories that they've had.

And I kept thinking through the back of my mind that one of the factors or one of the issues that we as a Legal Services board were going to look at and review were to look at regulations in areas that we go back and visit and revisit with the Congress.

And in all of them, to me the glaring -- two glaring ones, of course, is still the attorney's fees. That used to be the litigation funds, the funds that were needed for discovery or, you know, to be able to represent even more poor clients.

Because as everyone says -- I think someone said they only represent 15 percent of the poverty population with the grants and funds that they get, and so that some of these attorney's fees and litigation fees allowed us to represent more people.

And I know we talked about re-looking at the regulations, at maybe some of the restrictions that would make access to justice a reality for the poverty committee across the United States. And so that just brings it even more glaringly, as you talk about all the different litigation that you do and how we're not able to retain those attorney's fees.

Just work for the future board.

CHAIR WATLINGTON: And I know, Edna and I being clients out there, know what -- this just isn't happening in their communities. It's all over in every community. It's the same.

And you've got such dedicated community advocates or legal services staff who are out there really -- and the ones that's been there for many years, they are really dedicated, doing some wonderful things, and they don't get rewarded like they should be for the work they are doing in the community. In the housing, the needs are even getting worse.

So I just wanted to say, you know, it's good hearing that other people are doing the same thing that's

happening in my community.

We had -- Bob was also here. They wanted to ask him some questions later. I guess you can -- he'll still be around for state planning.

MS. YOUELLS: Well, again, Madame Chair, we're at your pleasure. We know it is the lunch hour. If you want Bob to return to the table, he'll return to the table now if you'd like to --

CHAIR WATLINGTON: Well, no one seems to be --

MR. McCALPIN: Yes, I do.

CHAIR WATLINGTON: Excuse me.

MR. ERLBORN: Bob, before you sit down, could you put the lid down on this? Oh, there we are. Thank you.

MR. ASKEW: While Bob is coming, could I say one thing? We visited Minneapolis. We visited San Francisco as a board. We were due to go to DNA and unfortunately had to cancel that. I think some of the most meaningful experiences we've had and board meetings we've had have been out in the community.

And I hope those of you here from these programs will invite the new board to come out and see and experience what we did. It's much more powerful in your community and hearing from you on site than seeing these -- as powerful as these are. And I hope you'll do that as we transition out and the new group comes in.

MR. McCALPIN: Are you going to make a presentation about Missouri?

MS. YOUELLS: Actually, with all due respect, I think it would be inappropriate to make a presentation about Missouri, for this reason: This board of directors adopted a review protocol that set upon staff certain requirements in terms of the opportunity for designated state planning bodies and other individuals to come to me and then to the president to make their case.

The state planning team has made a preliminary decision. The review protocol has just started. We did meet with the president -- I think it's the president -- of the Missouri bar last week, or whoever -- the president of the commission, the

designated state planning body, who came in for round one of the review.

I am meeting on Tuesday with the program director, who has also asked for review. Another program director has asked for review, and that meeting will be scheduled also probably next week.

Assuming that I agree with what people have asked us to do, the designated state planning body, which has asked us to do something else -- assuming I agree, then it would stop there.

Assuming that I did not agree and continued to say that the position of the state planning team was the operational position, then they would be able to go to the president, who at that point would be able to take a fresh look, as the protocol requires, at all of the decision-making that went into that particular preliminary decision, and make his decision.

So because we are currently involved at the very early stages of that review process, I am not sure that going into the ins and outs of a decision that may not be final at the end of next week would be a good

idea. But again, I'm at your pleasure.

MR. McCALPIN: Whether you think it's appropriate or not, I intend to have my say. I am not going to get into what you're going to. I want to talk about how we came to where we are.

I think it was January 1st a year ago that Missouri went from six programs to four, merging three programs across the bottom 25 to 30 percent of the state from east to west. That merger appears to be working. It's in process. Many things remain to be done.

I have seen no evidence that it has resulted in the increase in the number of persons being served or any increase in the quality of the service. From that time until January 31st, there was no discussion whatsoever within the state about further reconfiguration.

I had a conversation with Bob Gross at the time of the January meeting. After the breakfast meeting, he said that people here were talking about the Mid-Missouri program. He and I had a discussion. I told him something about the program, something about the



director of the program, and we left it at that.

It was not until I got to Philadelphia for the midyear meeting of the American Bar Association that I learned that a letter had been sent on January 31st, in effect disestablishing the Mid-Missouri program, and as we look at it, arbitrarily assigning -- temporarily, perhaps, preliminary -- nine of the eleven Mid-Missouri counties to the St. Louis program, and one to each of the western Missouri and the southern Missouri programs.

There had been no discussion of any of that. I can say to you that the last prior meeting of the statewide commission was in September of last year at the time of the Missouri Bar meeting. There was no discussion of reconfiguration at that time, and aside from the conversation, private conversation, I've referred to, there was no discussion, so far as I know, with the commission.

It was not until the 11th of March that the commission was able to get together to discuss this. At that time, consideration was given to the possibility of an appeal or petition for review by the commission itself

and by the affected program, Mid-Missouri.

There was a substantial discussion. The commission decided by a six to five vote not to petition for review on the belief -- erroneous, probably -- that it would be better to sit down and discuss with the Corporation possible alternatives to what had been suggested in the letter of January 31, not in the structured confines of pleadings, positions hard taken, and that sort of thing, but to do it informally.

At that time, prior to that meeting, before program directors had gotten together and -- so the St. Louis program was not unhappy with getting nine additional counties. The other two programs were unhappy. The program directors sat down, discussed it, and came up with an alternative arrangement, which was presented to the statewide commission on the 11th of March.

There was also a suggestion at that time, because of factors which I'll mention, that the entire eleven-county Mid-Missouri program be moved into the southern program because essentially that was rural, Mid-

Missouri was rural, and more particularly, because the arrangement suggested by the Corporation would have put three of the four law schools in Missouri in the St. Louis program and none in the southern program, and they have a strong feeling about the desirability of having access in their program to the University of Missouri Law School.

The concept was raised. There was not time at that March 11 meeting for the commission to take a position. They met again a week later on the 18th of March, and at that time, without, I think -- well, there was dissent, I suppose, from Mid-Missouri, but -- no, there really wasn't because they were not happy.

In the meantime, the southern program had met and agreed to take the eleven states [sic] of Mid-Missouri, and the commission at that time voted to recommend that the eleven counties of Mid-Missouri be moved into the southern program. And the chair was authorized to come discuss with the Corporation.

The thing I want to point out is there had not been widespread discussion of reconfiguration in

Missouri -- in fact, there hadn't been any discussion of it -- after the merger of the programs across the southern part of Missouri.

The letter of January 31st came as a bombshell. Nobody in Missouri anticipated it, and I am confident that had there been any other kind of discussion, more would have come of it because, to my astonishment, in the last meeting, really, there was the first time ever of any possible discussion of a statewide program.

I think we could have been further down that road if there had been any discussion before that. I think it was an action taken in the January 31st letter without any consultation at all. That's the point I want to make.

MS. BATTLE: Doesn't that really, based on the discussions that we had earlier about at least the view being developed by Legal Services after input from state planning, kind of fly in the face of that model for how the proposals come up? What you just said to us. I'm just trying to find out.

MR. EAKELEY: Let's hear from Randi and Bob.

MR. GROSS: I guess, as you can imagine, we saw the situation prior to that date a little bit differently, and saw a lot more consultation. I think the fact remains now, though, that you have a process in place for the commission to present its views. Whether the state of the record -- whatever the state of the record was as to consultation or not, the commission actually has already presented its views under the review process.

MR. EAKELEY: But just going back to Bill's point, Bob, about being taken by -- the designated state planning body being taken by surprise at a proposed reconfiguration.

MS. YOUELLS: I had the pleasure of being the Missouri state planning person much prior to the point that I became the vice president of programs. And I have pulled all of my correspondence to the designated state planning body since 1999.

In almost every piece of that correspondence, I suggested that they take a hard look at

some configuration alternatives, and that the configuration that they went through several years from six to four I thought was a reasonable stopgap measure and an opportunity for them to take that step. But I thought that other work and consideration should be done.

I've said that consistently. I've said that orally and I've said that consistently in writing. I stopped being the Missouri state planning person at the time that I came into this position, and I was succeeded by Chuck Cook from the Ohio Legal Assistance Foundation.

And Chuck has been in contact and has visited and conducted reviews of the Missouri program, and has had numerous conversations with people, including Mr. Mitchell, who was in -- who I understand chairs the commission and who was in last week.

And Mr. Mitchell and I, during our conversation this week, made some jokes about how he -- in fact, he said I've been singing the same song for four years. And I acknowledged that I had been singing the same song in Missouri for four years, and that I understood that sometimes that's annoying to people, too.

But I had consistently said to people in Missouri that reconfiguration was not over, and I believe that after I stopped being the state planning person, Bob has assured me that there has continued to be communication between the state planning team and that state.

So our recollections would be different.

MR. McCALPIN: Let me say that you should understand that the present statewide commission came into existence in May of 2000. And there is virtually no overlap in the personnel between that and what Charlie Weiss was in charge of years earlier.

MR. GROSS: Yes. I don't know whether we should get into this. The chair of the commission, with whom we were in contact, had been chair of the planning body prior to the commission's creation.

And if you look at the correspondence going back in time, I apologize if anyone was caught by surprise. That has, from the very beginning, never been our intent. We dispatched the individual that Randi mentioned who has been a consultant with us for several

years, and with whom I have great confidence about the job he has done over the years.

If he did not seek the input or talk to all the people that he should have, I apologize for that. I am glad that there is a process now in place. If the commission, as the designated body representative of all those stakeholders, feels that we made the wrong call, it's not in my hands.

MS. BATTLE: Let me just say what I think as a board we have put a process in place, but have we breathed our vision to that process at all, is the question I have. Have we as a board said, bigger is better, is really the fundamental question I have in my mind about this entire state planning process.

My view is that we've not spoken; that we've let it take a course; that what we have said is that it has to be collaborative; that certainly in order for it to be effective, state planning was visioned as a way to use limited resources in the best way possible in states across the nation.

But with no view to what that really means



beyond turning that process over, I just have a fundamental concern about not giving vision to it.

CHAIR WATLINGTON: Doug, can I say something?

MR. EAKELEY: You're the chair. Sure.

CHAIR WATLINGTON: The question she asked was, you know, what should we do about it. I guess my interpretation of state planning and my involvement as a client and as a board member is that gives the state the opportunity. We are supposed to work with them.

I don't think we have the right to even say what you're supposed to be doing to the degree you just - - I mean, as long as we do the policies and you are within those guidelines, I mean, my interpretation, as I said, of what state planning is is allowing states to start working with the Corporation.

Because when came here, that was the whole problem. You weren't working together. You weren't -- one vision was here and one vision was there. This is allowing them to work together on the same vision that the state come up with. That's better service.

MS. BATTLE: But I guess what I'm saying is that what I have seen is two separate processes that have merged without the board at any point saying, from our standpoint of view, from a policy standpoint of view, our perception as to how those two separate pieces ought to, if at all, merge and interact with each other. And that has to do with configuration and state planning.

MR. EAKELEY: LaVeeda, I think we have attempted to accomplish the articulation of the vision and how reconfiguration fits within the overall context of state planning, which itself fits within the overall context of our strategic plan.

And two board meetings ago, we spent a great deal of time and effort and energy reaching some conclusions that are certainly not perfect, but nevertheless tried to put these in the appropriate perspective and priority alignment.

MS. BATTLE: Well, I guess what I'm saying is, I don't know that I have as a board member ever bought into the view that bigger is better for service. And in each of the proposals that I have seen, I haven't

seen -- and I think it could go either way.

I mean, there could be some places where to have a small integral program in a community where you can raise funds locally might be the best way to aggregate your resources, as opposed to, in each of the instances I've seen -- now, there may be some that I have not had a chance to review, that haven't been presented, that I'm not aware of -- bigger is better is the underlying kind of fundamental policy.

MR. EAKELEY: But I think what we're seeing -- I mean, we're seeing the six reconfiguration --

MS. BATTLE: Except for New Jersey, is what I --

MR. EAKELEY: No, no. New Jersey is -- I think what we see -- I mean, these are the reconfiguration letters that went out this cycle. That's what we see. We don't see the programs that get approved for three-year grants --

MS. BATTLE: And I grant you that. I said I haven't looked at all of them, and I recognize that I haven't looked at all. But have we --

MR. EAKELEY: And I -- forgive me for interrupting, but I misspoke before when I said something that could be read in hindsight as attempting to minimize the impact or significance of these decisions on clients, on the programs, or on affected communities.

But I don't see -- I don't think we're seeing in these six a bigger is better, one size fits all, approach to the state planning process or reconfiguration that comes out of it.

MS. BATTLE: And I guess I disagree because in each instance, what we're doing is we're consolidating service areas, which is bigger, which means, in other words, you're taking smaller contiguous service areas and merging them into a larger one, which fundamentally, to me, bigger is better.

And I'm just -- I'm not sure -- I don't know what the answer to that question is, but I just -- I do have some deep concerns about that.

CHAIR WATLINGTON: Maria?

MS. MERCADO: Yes. I think that at least the question that I -- and I apologize; I had to step out

for a second -- but I think that the fundamental question that I hear Ernestine and Bill talking about, and I think to some extent that I have problems with, is that -- the whole issue of having a designated state planning body.

I mean, you set up all these procedures and processes for how state planning and reconfiguration takes place, but the bottom line is that all legal services programs are local. You've got local boards, local stakeholders, and there's always an issue of what dictates the Corporation has and doesn't have. And obviously, we have jurisdiction to do a lot of things.

But fundamentally, in state planning, it requires that we have some ongoing discussions and conversations with the stakeholders in that state about how it is that they perceive that they can better deliver quality legal services to the client community in that state.

And if, in fact, what is occurring is that we are initiated to say, you need to do X, Y, Z, which in some states has happened, including my state, then that's a different ball game altogether because we are not, in

effect, giving deference to the local communities with their resources that they have and the individuals that they have there to say that maybe this plan -- and maybe we can renegotiate and look at things.

They hadn't even discussed it, at least from what I'm getting -- the information from what Bill just said a little while ago, and I have concerns with that, especially when they've already reconfigured and state planned, you know, a year ago.

And so now we're coming up again, which was the question that I asked earlier when one of the other -- when Bob initially made his presentation is, if we're constantly not going to like the directors that we get, are we always going to be reconfiguring every year to change it because, lo and behold, we got someone who didn't have the leadership qualities that we wanted and they're not doing the work that we as Legal Services, as a corporation, as a national entity, are saying that these people are not following our policies so we'll reconfigure to change that, to change the leadership.

And that isn't what it is about. It is

about how do we make these programs the kinds of programs that we can represent more poor people in this country, and we can do it more effectively with the little dollars that we have. And it isn't about those other issues.

And it sounds like, at least from some of these -- and again, I haven't seen all the grants that have gone out, obviously, so all we have is what we get before us. But based on what we get before us, some of those issues are definitely in play. And I have concerns with that because, again, it ought to be fundamentally about whether our state planning and reconfiguration goes to providing better services for our clients, period.

MS. BATTLE: And finally, just I agree with what Maria has said. Back to back, if the state came up with the plan collaboratively to reduce from six to four, what I heard was, but I told you I thought you still needed more.

Was there some interplay that the state thought that there was some additional need to consolidate more? Well, then, I'm just --

MS. YOUELLS: Actually, the head of the

commission told us last week that he believes that the answer is a statewide program, that he believes more configuration is necessary, and that he has set up a committee to do so. So --

MS. BATTLE: But on whose timetable, I guess, is what I'm trying to determine. Because if Bill is saying that he's not -- that this letter, that this particular configuration, comes down the pipe before the Commission has had a chance to meet, then it's not in response to state planning, is what I'm hearing.

I just have a real concern, and I know that there's a process going on that I don't want to get in the middle of. But I have a concern about what it is that we're accomplishing here, and whether it is in response to state planning or if there's something else that's going on.

CHAIR WATLINGTON: Bucky, what's your opinion?

MR. ASKEW: I'm not going to give you an opinion.

CHAIR WATLINGTON: Okay. You'll comment.

MR. ASKEW: I'm going to give you a comment.



In the middle of what Maria was saying, she said, "And they haven't even discussed that." And I think that's one of the problems that we're trying to address here.

If you go back to 1996, this began long before Randi and Bob got here. It began during the administration of Alex Forger. The Provisions Committee spent a huge amount of time on the issue of state planning and developing the state planning principles.

CHAIR WATLINGTON: That's what the committee was for.

MR. ASKEW: We asked these states to address seven issues. Issue number seven is configuration. We want them to get to these six issues first. And that all involves an effective and efficient delivery of legal services to the client communities and making sure that the resources in that state are allocated fairly, appropriately, and in the best interests of clients.

So this has been an ongoing process now for six or seven years in these states. It's not in the last month or in the last year. And my sense of it is, we are appropriately pushing these states to do what we've asked

them to do in the state planning documents.

If they haven't even discussed it, that's a problem. We want them to discuss it. If they won't discuss it or can't come to the conclusion, then we may have to intervene and force the discussion in some way. But states they were surprised. And we asked them to address that. And here we're hearing there's a problem with communication in this one particular state that there is disagreement around.

I think they've gotten the message from us that we want to see the communication play a high priority and make sure that people aren't surprised or caught with their pants down. But if they're not discussing, not addressing the issues, then I think it's an appropriate role for us to say, you're going to have to address these issues.

If that leads us to configuration, reconfiguration, then that's where it leads. It's not a bigger or better sort of response; it's a response that, what's the most effective way of doing this in their state.

And so I don't want us to lose sight of the fact that this has been going on for seven years. And there was a huge amount of oversight by the board, at least in developing the principles and coming up with what the program letters were, reviewing those program letters and understanding what they -- now that they're in the midst of doing it, it's creating -- none of us should have assumed this was going to be easy or that it wasn't going to produce these sorts of results.

But I think, on the whole, in the large majority of this, it's produced very effective results in most of the states that I'm aware of. Now, obviously, there are some problems in some states, and they will have to deal with those. But -- was that an opinion?

CHAIR WATLINGTON: I would call it an opinion. But we went back to what -- because Doug and I -- I think Doug and I are kind of in a predicament here. We had some states that had to be really dealt with, New Jersey and Pennsylvania. I mean, we've gone through some --

MR. ASKEW: Yes, but wait till he gets off

the board.

MR. EAKELEY: New Jersey is there. New Jersey is one of the six.

CHAIR WATLINGTON: And we've been in the middle of this. I mean, we can see it from both sides. That's what I'm saying, more or less, than LaVeeda.

MS. BATTLE: And I'm also saying I know our people do good work. Please understand --

MR. EAKELEY: Yes. I want to second that.

MS. BATTLE: Excellent work, and I'm not suggesting that the work that they're doing is not good. All I -- the question I raised really didn't go to the staff. It went to our role in this process, and in just examining whether we'd done -- and Bucky, you brought us through what the history has been, but I had some concerns about the present issues from that standpoint.

MS. YOUELLS: Before we adjourn, Madame Chair, several board members asked the staff to analyze some grant assurances, and they were particularly interested in grant assurance 10.

Last week I sent you all of the grant

assurances, and we have finished an analysis of grant assurance 10. And I thought you would want it this afternoon.

CHAIR WATLINGTON: Was that that notebook that I got that I haven't had a chance to read?

MS. YOUELLS: This is just an addendum to your notebook. It is. This is the analysis of 10, an historical analysis of 10 that Reggie Haley did. And it comes up this afternoon.

CHAIR WATLINGTON: If there be no other further comments, I'm open for an adjournment for this meeting.

M O T I O N

MR. EAKELEY: So move.

CHAIR WATLINGTON: Is there a second?

MS. MERCADO: Second.

CHAIR WATLINGTON: It's been moved and seconded the meeting be adjourned. I've been very grateful for the meeting we've had. It's been really good. We're learning more about what others are doing. And thanks for our guests.

(Whereupon, at 12:31 p.m., the meeting was  
concluded.)

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