

ORIGINAL

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

PROVISION FOR THE DELIVERY OF LEGAL SERVICES
COMMITTEE MEETING

OPEN SESSION

RECEIVED

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Executive Office

Friday, September 30, 1994

3:15 p.m.

Legal Services Corporation
THE BOARD ROOM, 11th Floor
750 First Street, N.E.
Washington, D.C. 20002

Diversified Reporting Services, Inc.

918 16TH STREET, N.W. SUITE 803
WASHINGTON, D.C. 20006

(202) 296-2929

BOARD MEMBERS PRESENT:

Hulett "Bucky" Askew, Chair
LaVeeda Battle
John G. Brooks
Douglas S. Eakeley
Nancy Hardin Rogers
Thomas Smegal, Jr.
Ernestine P. Watlington
Edna Fairbanks-Williams

STAFF PRESENT:

Alexander Forger, President
Patricia D. Batie, Secretary
Martha Bergmark, Executive Vice President
Danilo Cardona/OPEAR
John Tull, Director, OPEAR/OPS
Victor Fortano, General Counsel

OTHER :

James Head
Ramon Arias
Paul Mullen

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MOTIONS: 5, 6, 90, 95

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P R O C E E D I N G S

1
2 CHAIR ASKEW: This is a meeting of the Provision
3 for the Delivery of Legal Services Committee of the Board of
4 Directors. We have been waiting for it to be 2:30 Legal
5 Services' time. It is now that, so we can get started.

6 We were waiting for the Operations and Regulations
7 Committee Meeting to end downstairs and, unfortunately, it
8 hasn't. So we're going to have to go ahead and start and
9 hope that our colleagues will join us as soon as they finish,
10 which we hope will be soon.

11 The first item on the agenda is the approval of the
12 agenda for today's meeting. I want to mention a few things
13 that will be covered under item number 6 before we approve
14 the agenda, which is the "Other Business" section on the
15 agenda. We're going to hear about three items under that.
16 First, I'm going to ask Nancy Rogers, a member of this
17 committee, to bring us up to date on the Law School Clinics
18 Program, which she has done some work on in between meetings.

19 Secondly, James Head is here and is going to bring
20 us up to date on the client engagement work that has been
21 going on. And Edna and Ernestine, hopefully, will also
22 participate in that discussion, so that we'll be fully

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1 briefed on where we are with that.

2 And thirdly, there are loan repayment regulations
3 being developed by the Department of Education which have an
4 effect on some of our current staff members of local Legal
5 Services programs and perhaps future staff members. And I'm
6 going to ask John to fill us in on what that's all about and
7 what the staff has done in the last few days to make comments
8 on that.

9 So with those additions, I would ask for a motion
10 to approve the agenda for today's meeting.

11 M O T I O N

12 MS. FAIRBANKS-WILLIAMS: So moved.

13 CHAIR ASKEW: Second?

14 MS. ROGERS: Second.

15 CHAIR ASKEW: All those in favor?

16 (Chorus of ayes.)

17 CHAIR ASKEW: Opposed?

18 (No response.)

19 CHAIR ASKEW: The agenda is approved.

20 Second, we have the minutes of the meeting of July
21 15th. I've looked those over. I didn't notice any changes.
22 Does any other committee member have a change in those

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1 minutes?

2 (No response.)

3 CHAIR ASKEW: Do we have a motion for the approval?

4 M O T I O N

5 MS. ROGERS: So moved.

6 MS. FAIRBANKS-WILLIAMS: Second.

7 CHAIR ASKEW: All those in favor?

8 (Chorus of ayes.)

9 CHAIR ASKEW: The minutes are approved.

10 The next item is the report from our president, Mr.
11 Forger.

12 MR. FORGER: Very little to report, Mr. Chair,
13 except to say it has been a great pleasure working with
14 Martha and John as they have pressed forward on matters
15 relating to the OPEAR's activity. We have, as you know,
16 prepared the specifications for director of OPS, and we'll be
17 advertising for that position.

18 We are disappointed that our friend, James Head,
19 found California more attractive than Washington. But that
20 was a judgement call, and we respect it. So we need an OPS
21 director.

22 And we are advertising for program officers. And

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1 we have budgeted over the course of the year some 15 or 17
2 program officers to be in place, which may be an ambitious
3 goal. And, as John will report, the monitoring process has
4 gone forward.

5 I was happy to be in San Francisco one day with
6 Ramon when the new monitoring team arrived. And I saw them
7 in operation with represents of clients and of program folks.
8 And that seemed to be off to a very auspicious start. We
9 have assured that we're performing our statutory duties of
10 compliance, and we have now added the new component of
11 support, which I think has been well received by the field,
12 at least in my trips around the country so far the last three
13 months. Everybody is much enthused about the new direction.

14 And with the client engagement project that Edna
15 and Ernestine are much involved with, which James is
16 continuing to function on that for us in a consulting
17 capacity, is one of the most exciting initiatives that we can
18 undertake. And I look forward to participating in their
19 conference in Detroit next month and starting that
20 initiative.

21 But I think the activities of this main thrust of
22 our organization is fantastic. It has taken an awful lot of

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1 hard work. And John and Martha and Danilo and others and
2 Leslie have put forth magnificent efforts, I think, with a
3 great result. We always wish to do more than time seems to
4 permit. And we know that there are many other major items on
5 our agenda that we have not yet been able to address fully.

6 CHAIR ASKEW: Thank you.

7 Mr. Forger was not able to be with us at our last
8 meeting on July 15th because he was suffering from a bad
9 back. And Martha Bergmark filled in admirably for him at
10 that meeting. We're glad to have you back with us today.
11 And I second your remarks. We give our expressions of
12 appreciation to staff for the work that has gone on.

13 With that introduction, John -- I'm going to ask
14 that John Tull come forward. The item on the agenda is
15 "Consideration of Status Report on the Corporation's
16 Compliance Monitoring."

17 I'm also going to ask that Ramon Arias, Paul
18 Mullen, and Danilo come forward, also, because I have asked
19 John to bring with him today some people who have been
20 actively involved, both as peer reviewers and receiving a
21 peer review visit and developing the policies around the peer
22 review process, to speak to the committee about how that has

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1 gone.

2 John has been keeping us informed through committee
3 meetings of the development of all of this, but I thought it
4 would be a useful time for us to hear from a program, from a
5 person who has participated as a team leader, and also from
6 Danilo, who has done a lot of work in setting these up, about
7 how this process has developed and where it stands.

8 So, John, if you would come forward with the three
9 guests. And, John, if you would give us a quick overview.
10 There is a memo that has been distributed to the Board
11 members and I think is available on the table out in the
12 hallway that John prepared for this meeting. It was
13 completed yesterday. I hope you've had a chance to read it.
14 It does bring us up to date.

15 But, John, if you would give us a quick overview of
16 that and then introduce the folks that we have here to speak
17 to us, I would appreciate it.

18 MR. TULL: I will, indeed, Mr. Chairman. Thank
19 you. In fact, my quick overview will be, hopefully,
20 lightningly quick. Mr. Arias has a plane that he has to
21 catch, and he graciously agreed to be here, in spite of the
22 fact that he has to get back to San Francisco tonight.

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1 So I'm going to defer to him very quickly, beyond
2 just saying that you have received the written report which
3 describes in some detail the developments on both the
4 compliance oversight and the performance accountability
5 fronts of the work that we have been doing. And after Ramon
6 and Paul give their reports, I and Danilo would be happy to
7 answer any questions you have and discuss any issues you may
8 have about the report and perhaps highlight some other
9 issues.

10 The only thing I would say is that we are now, I
11 think, at the point where this is really coming together and
12 starting to gel. And it's now time to step back and begin to
13 look seriously at what it really is going to look like when
14 it's all together. And the opportunity to hear from both
15 Ramon and Paul about what is a key component of this, which
16 is the peer review piece of it, is, I think, an opportunity
17 not only for you to take a look at that but for us to hear
18 again and to think again about some of these issues.

19 So, Ramon?

20 MR. ARIAS: Good afternoon.

21 CHAIR ASKEW: Welcome.

22 MR. ARIAS: It was a wonderful party last night.

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1 Thank you very much.

2 Before I give a few remarks about my experience
3 working for a program that was recently evaluated, I did want
4 to make an opening comment with my PICA hat. As you know,
5 PICA is the Program Improvement Compliance and Accountability
6 Committee. And that's the field committee that is helping
7 the Corporation develop and implement policies around
8 compliance and performance.

9 What I wanted to say, and I think John has
10 mentioned this before, I think that we all recognize that we
11 are creating new vehicles and new approaches. And I don't
12 think that there's any question that the Corporation is
13 complying with its duty to enforce the regulations. There's
14 no question about that.

15 I think that the only question is is whether these
16 new vehicles are what we really want for the long haul. And
17 as an example, one of the compliance mechanisms that's going
18 to be tested is to use program auditors to help check with
19 compliance. We don't really know if that's the best way to
20 go. We don't know if that's a cost efficient way to go.

21 And I guess my only remark is to say to you, our
22 good friends, that before these mechanisms and vehicles

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1 become institutionalized, it's very important that we all
2 take a few steps back and look at the entire picture to
3 ensure that it's really doing what we all want it to do.

4 I guess our only concern is that we might implement
5 things and later feel that we have just got to go through --
6 we have to implement them on a permanent basis. And I hope
7 everyone recognizes that all of this is in a state of flux
8 and evolutionary.

9 Now, I'll take that PICA hat off and put my SFNLAF
10 hat on. And that's the San Francisco Neighborhood Legal
11 Assistance Foundation. John asked me to describe the peer
12 review visit and then to make some comments about it.

13 Let me begin by describing our program real
14 briefly. We are the only Legal Services Corporation funded
15 program in San Francisco, other than a small grant that --
16 our pro bono project, funded by -- or operated by the Bar
17 Association of San Francisco, which received a small grant.

18 SFNLAF's LSC grant is approximately \$1,400,000.
19 Our entire budget is approximately \$2 million. We have a
20 staff of 13 lawyers and 5 paralegals, a total staff of 30
21 people. We help approximately 20,000 clients a year. Our
22 poverty population is approximately 90,000 eligible clients.

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1 stuff, but that wasn't really it. I think that all of us had
2 mutual respect for one another.

3 They were there for five days. And another
4 remarkable thing is, they spent -- I would guess about 85
5 percent of their time was spent talking with advocates. In
6 prior years, I would say that monitoring teams spent 85
7 percent of their time talking with me or our comptroller
8 about regulatory compliance. That, in itself, was a very big
9 difference.

10 Also, in addition to spending about 85 percent of
11 their time with our attorneys and paralegals, they also spent
12 quite a bit of their time talking with local judges, both in
13 the municipal and superior courts. They also spent time
14 talking with leaders of the private Bar; not just the Bar
15 Association of San Francisco, which is the largest Bar
16 association in the city, but also smaller Bar associations.

17 And also, they spent a lot of time talking with
18 community organizations and clients. And, in fact, when they
19 talked with community organizations, they also asked them if
20 they would refer them to other community organizations just
21 to ensure that they weren't just talking to the people who we
22 wanted them to talk to.

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1 I was sharing with a couple of people this morning
2 that one of the things that first caught my eye when I read
3 the written report, the draft report that I received, I
4 guess, maybe two weeks ago or a week and-a-half ago -- the
5 first thing that came to my mind is that -- I guess I'm proud
6 to say this -- the peer reviewers walked away from our
7 program thinking that our program is better than what I think
8 it is.

9 I'm not sure what that means. But I can tell you
10 this: It was their honest opinion. And everyone in our
11 program is very proud that without any coaching from us, we
12 got a lot of support from the private Bar and the judiciary,
13 as well as the community in San Francisco.

14 I wanted to remark about three things. One of them
15 is the cost factor for our program. Although unlike John
16 O'Toole and other directors around the country that kept very
17 good time records any time they were visited by the
18 Corporation, I never did that. But I can tell you from my
19 experience that the cost to our program in terms of copying
20 documents and preparation time and in dealing with the team,
21 I would say it was about maybe 25 percent of what it used to
22 be.

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1 Also, the level of intrusiveness -- I mean, it
2 wasn't even there. There was nothing that occurred during
3 those five days that I would even give that label to.

4 The other two things I want to say is that -- and
5 incidentally, I forgot to mention that there were five
6 programs that were evaluated. I guess it was in July or
7 August.

8 And after those visits, there was a debriefing of
9 the peer review teams, as well as the people who evaluated.
10 And one of the things that we recognized was that there was a
11 tension between two different roles that the peer review team
12 was attempting to perform. One role was, of course, to
13 assess our performance, to determine whether, in fact, we
14 were providing high-quality legal assistance to clients.

15 But the other thing they were trying to do is to
16 give us on-site assistance. And there didn't seem to be time
17 to do both. And I think that that's one of the things that
18 I'm hoping we can continue to improve.

19 My sense about it was that on the fifth day, when
20 the peer review team met with the management team of our
21 program and then later with the entire staff, I really felt
22 that that's when the visit was really beginning, because they

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1 had been there long enough to identify areas where we could
2 improve. They already knew the work that we were doing.

3 And I really wish that there had been another
4 occasion in which we could have had dialogue with the team.
5 And I know that that's one of the things that John and the
6 OPEAR staff are going to be working on.

7 Finally -- and hopefully, you'll have questions --
8 I think that everyone has been so busy in devising this new
9 system that there hasn't been time to spend on the next step.
10 I have a report here from the monitoring team. And some of
11 their advice is good. But I don't know what the Corporation
12 can do to help our program implement some of the things that
13 are suggested here.

14 Now, I know that I'll find one way or another to do
15 it. But what isn't clear is, what is the Corporation's role
16 and what is the status of that thinking. And I trust that
17 people at the Corporation will begin in earnest to move on
18 that. I just kind of want to let you know, as one of the
19 five programs, that hopefully, that will be addressed soon.

20 Anyway, those are my remarks.

21 CHAIR ASKEW: Thank you, Ramon.

22 Nancy?

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1 MS. ROGERS: I wonder if you could give us an
2 example of something -- the last point that you made -- of
3 something that you were asked to do and would like some help
4 with from the Corporation.

5 MR. ARIAS: Our program gives legal advice over the
6 phone for clients whose problem is within our priority area.
7 For example, housing is one of our priorities. If a client
8 calls our office with a housing problem, we will only
9 represent that client -- for example, in an eviction case,
10 we'll only represent the client if the client has been served
11 and the client has the money to pay rent and the client wants
12 to stay there.

13 If the client doesn't meet all three of those
14 factors, we refer the client to a pro per clinic that is
15 actually housed in our office, so it's convenient to the
16 client. However, we give that client advice over the phone.
17 And we will explain to him or her how they can try and solve
18 their problem before it gets any worse.

19 What the peer review team said was, "You are
20 spending too much time doing that." And then, when we
21 explained why we do what we do, then, they said, "You know,
22 that's a good point. So if you're going to do it, then do it

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1 right. You're not sending confirming letters to the client
2 telling the client what it is that you told them. You need
3 to begin to do that. You need to think about sending
4 materials to the client."

5 And then, we said, "Well, then, that means that
6 we're going to spend even more time doing it." And so we
7 began that conversation. But that's where it ended. I think
8 that what I would like is to be able to talk to programs who
9 have already wrestled with the issue to learn what it is that
10 other programs do. And we didn't have the time to really get
11 into that dialogue.

12 CHAIR ASKEW: Edna, do you have any questions of
13 Ramon?

14 MS. FAIRBANKS-WILLIAMS: Yes. The one question I
15 was going to ask -- you said that you would have liked to
16 have had time right after the fifth day. Would you have
17 wanted to have had a sixth day, or would you have wanted to
18 have it two days later or something? Which would have been
19 better?

20 MR. ARIAS: You know, I really think what would
21 have been better is a little time between. In other words,
22 after the fifth day, give everybody a week or two to kind of

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1 sleep on it, including the team. Because the team felt that
2 they didn't -- and Paul will talk as a team member. He
3 wasn't on our team.

4 But the team shared with me that they felt they
5 needed time to talk among themselves some more, because it
6 was only Thursday night that they really talked about the
7 exit conference the next day. And so it would have been very
8 effective, I think, to have maybe a two-week period and then
9 some kind of follow-up.

10 I'm not sure what makes the most sense. And
11 perhaps even a conference call, a scheduled conference call,
12 would have been good. Also, I guess I should note, too, that
13 it's inevitable that in five days, when you write your
14 report, there are going to be some factual inaccuracies,
15 because there wasn't enough time for the team to really find
16 out everything. And that would have given the team time to
17 take care of those things, too.

18 CHAIR ASKEW: When they debriefed you at the end of
19 the five days, were you given an opportunity to respond to
20 the recommendations that they were making to you orally?

21 MR. ARIAS: Yes. But again, there wasn't enough
22 time, because a lot of what really needed to happen was, I

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1 needed to ask them, "What do you mean by that?" For example,
2 they recommend that we take a look at the size of our
3 accounting staff. And they suggest that we might have more
4 people than we need. But they just suggest it.

5 They don't really say it. They just imply it. My
6 question is, "How did you reach that conclusion? Why do you
7 have that sense? Talk to me about it. Is it because most
8 programs in the country with a \$2 million budget have less
9 than two and-a-half people in their accounting department?
10 Or what is it about our accounting work that you learned so
11 that we could have talked about it?"

12 There were no recommendations that were way off
13 base that we had some kind of real difficulty with. Had
14 there been, I'm sure we could have just stopped, and I could
15 have responded. But we needed more time for dialogue.

16 CHAIR ASKEW: Of course, the old process involved a
17 lengthy written report and a lengthy response from the
18 program, sort of making a record back and forth. Will you be
19 submitting a response to the report you received, or is there
20 any need to do that?

21 MR. ARIAS: I've been told that I can provide a
22 response. And I think that I will. But I'm not sure what

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1 I'm going to say. I think I've decided not to tell them that
2 we're not as good as they think. I think I've kind of ruled
3 that one out.

4 CHAIR ASKEW: Too late.

5 MR. ARIAS: Is this being taped?

6 (Laughter.)

7 MR. ARIAS: I won't tell our Board that.

8 CHAIR ASKEW: And Mr. Smegal is going to tell
9 everybody in San Francisco you said that.

10 MR. SMEGAL: As soon as I get back.

11 MR. ARIAS: But I'm not sure. I think rather than
12 -- what we used to do was go sentence by sentence. And I
13 think rather than do that, I think I'm going to give just a
14 narrative of how the report and the process might be improved
15 and, certainly, thank the team for some of the things that
16 they identified that are going to really help us.

17 CHAIR ASKEW: Doug?

18 MR. SMEGAL: Ramon, that's the first, I think, I've
19 heard you say there was something positive to come out of
20 this, rather than something less negative than the old
21 process. Was it worth five days of four people's time from
22 the outside and your staff's time?

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1 MR. ARIAS: Yes. There's no doubt in my mind about
2 that. Maybe I'm overly critical of not just SFNLAF, but of
3 the process, because I think it needs to be improved. And I
4 think it can be improved. But definitely, it was worthwhile.

5 It was the first time that our lawyers ever had
6 someone from outside the program come in and talk to them
7 about their work and ask them substantive questions about,
8 "Why didn't you file a motion to dismiss?" or, "Why did you
9 file a summary judgement motion? Tell me about that.

10 "Why are you conducting discovery the way you are?
11 What is it that you're going to be trying to prove at trial?
12 What is it that your clients really want from this case? Do
13 they really understand that you might not be able to get them
14 what they want? Do you keep your client informed? What's
15 the court like that you're going to be in front of? What's
16 the judge like?"

17 There was a real engagement. And I also want to
18 mention one thing, because I think that some of us in the
19 field questioned how valuable could a client member be on a
20 team. And from our visit and from my experience, I thought
21 that Lucinda Horn did a marvelous job of ensuring that she
22 got an honest opinion from client organizations and clients

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1 about our work.

2 And I think -- I'm not sure. I never asked
3 Lucinda. But I really think that having her on that team
4 caused community organizations to be a lot more forthright in
5 what they had to say and the opinions that they wanted to
6 offer.

7 CHAIR ASKEW: Good. I hope you will offer your
8 constructive criticism of the process. And I know John is
9 very open to that. And I understand that they're setting up
10 processes with these programs that were visited if they
11 haven't already been done but will be done to seek out that
12 input into the process, so that it can be adapted, adjusted,
13 improved as we go through this.

14 So I would only comment editorially that thoughtful
15 project directors -- and I consider Ramon to be a thoughtful
16 project director -- welcome these kinds of visits, if they're
17 being done on the basis of trust and if they're being done by
18 people that you respect. And it sounded like the people that
19 came, you and your staff respected; and, therefore, you
20 welcomed having these discussions with them.

21 And if it leads to development, improvement of the
22 program, then everybody benefits. If it's not leading there,

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1 if your program is not being helped or improved by this
2 process, then we have got a lot more work to do.

3 MR. ARIAS: I want to say -- because I did start
4 off by saying that we all need to take a few steps back and
5 look at the bigger picture, I just want to make sure that I
6 do leave you with the impression that I have, that we might
7 talk for days, I'm sure, about the compliance side of the
8 mission. But in terms of the performance side, I definitely
9 think that we are headed in the right direction.

10 There's a lot of work to do. I think that the
11 standards and criteria need to be improved. But what I'm
12 excited about -- it's very evident from meeting with John,
13 Danilo, and the other OPEAR staff, that there is on a daily
14 basis a lot of thinking going on about what is being learned.

15 Thank you very much.

16 CHAIR ASKEW: Thank you, Ramon. And when you have
17 to leave, feel free to excuse yourself.

18 MR. TULL: Before Paul starts, I would like to say
19 that we have thought about the next steps. We just haven't
20 told Ramon that if he doesn't implement what he was advised
21 to do, that we're going to defund him, and he'll be getting
22 notice about it.

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1 (Laughter.)

2 MR. TULL: So we're ahead of him on that.

3 MR. MULLEN: I wish you hadn't said that.

4 Good afternoon. I'm Paul Mullen. I'm the director
5 of Middlesex County Legal Services in New Brunswick, New
6 Jersey. And I was a team member on the team that visited
7 Legal Services of Southern Piedmont in Charlotte, North
8 Carolina.

9 Prior to this visit, I had been a team member of a
10 team that had visited four Legal Services programs as part of
11 the comparative demonstration project. And I had also prior
12 to those visits visited a program to test out the early
13 versions of the process prior to the comparative
14 demonstration project taking place.

15 The team I was on was composed of four individuals:
16 myself; Marion Hathaway, the client Board member from Harlem
17 Legal Services in New York City; Martin Osga, a managing
18 attorney at Legal Services Corporation of Iowa; and Dorothy
19 Manigault, an attorney in private practice. Prior to being a
20 director, my experience had been as a staff attorney at
21 Middlesex County Legal Services doing housing work. Marty
22 Osga is presently a managing attorney, and he has a great

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1 deal of experience in entitlement work. And Dorothy
2 Manigault, prior to being in private practice, had been a
3 director of a program in South Carolina and had also
4 experience in family law matters.

5 Prior to the visit to the program, we received a
6 voluminous package of materials from staff here and reviewed
7 that in order to give us background on the program we were
8 visiting. We also went through a day and-a-half of training
9 to familiarize ourselves with the method we would be using in
10 conducting the program evaluation.

11 And we were given materials that would provide
12 guidance to us in doing interviews and the performance
13 criteria that we were to be using to evaluate the program and
14 make a report on the program.

15 As Ramon had stated, most of the time at the
16 program we spent interviewing case handlers. We spent a good
17 deal of time also interviewing members of the private Bar,
18 both volunteer attorneys cooperating through the PAI program,
19 and attorneys who were members of the Bar association who
20 sometimes were not cooperating.

21 We talked to community agencies, organizations,
22 client Board members, Board officers, and would follow up and

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1 talk to individuals who may not have fit into any of those
2 categories but who came up in discussions with case handlers
3 or agencies.

4 In doing the review, we used the current version of
5 the performance criteria. In the course of doing the various
6 reviews I have done over the past year and-a-half, the
7 performance criteria has evolved and changed, as we have
8 provided feedback on what we felt worked, what didn't work,
9 what was redundant, what was missing. And the staff have
10 been very good in taking our comments and trying to make the
11 performance criteria more workable.

12 In its present form, there are four performance
13 areas. They touch on -- performance area one, for instance,
14 is dealing with how well a program assesses the legal needs,
15 the most pressing legal needs of the client community and how
16 they target their resources to address those needs. And
17 there are a number of more defined criteria under that area.

18 The second area has to do with how well the program
19 engages the client community and serves the client community.
20 And again, I believe there are three criteria under that area
21 that we look into.

22 The third performance area has to do with how well

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1 the program provides services to the clients -- I should
2 restate that -- how effective the program is in its
3 activities in accomplishing results on behalf of the clients.
4 And the greater portion of that performance area deals with
5 legal representation, although it also includes criteria that
6 cover pro se clinics, continuing legal education, and other
7 activities.

8 And then, finally, the fourth area deals with how
9 well the program is managed and how well the Board operates
10 in governing the program.

11 We use guides to interview all of the people we
12 interview, and it's interesting the responses we get to some
13 of the questions, such as, "That's the first time anybody
14 came and asked me why I was doing something in a certain way
15 on a particular case."

16 There were even instances not in the program I
17 visited, but one of the comments from another peer reviewer
18 was a comment that -- this was in a branch office in a remote
19 location -- that no one had ever gone to that branch office
20 to talk to anybody about what they were doing. And we make a
21 real effort to talk to as many case handlers as we can.

22 Depending on the size of the program and the size

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1 of the team visiting the program, you may not be able to talk
2 to everyone. But you make a real effort to cover as much
3 ground as you can.

4 We get into depth on cases -- the recommended
5 amount of cases you talked to a case handler about was five
6 cases. And I found that I rarely got to five cases, because
7 the cases that we discussed were interesting, the case
8 handlers knew what they were doing, knew why they were doing
9 it, and before they started doing anything, asked the client
10 what they wanted to achieve.

11 It was an educational process for myself and the
12 other members of the team. And in all of the visits I have
13 done, it's interesting in that I probably get as much from
14 the visit as the program does, because I learn a lot about
15 other ways of doing things and different approaches to
16 similar problems.

17 The overall impressions I came away with from these
18 visits are that we have some real tremendous people out there
19 in the field providing excellent services. They're doing a
20 lot of work. They're spending a lot of time serving the
21 clients. And they oftentimes don't get much recognition or
22 appreciation for that.

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1 They were happy to talk to somebody about their
2 cases other than the people they talk to all the time within
3 the office. They are proud of what they're doing. And in
4 talking to client organizations and the private Bar and
5 community agencies, they have a tremendous amount of respect
6 in the community for what they are able to do, recognizing
7 that they can't do everything and could use a lot more
8 resources to do what they are trying to do.

9 And I think the overall impression of the program
10 staff is that it's a tremendous switch to have people coming
11 into their program from LSC who are actually interested in
12 the work they are doing.

13 That's pretty much all I have to say. If you have
14 any questions -- there are other areas I didn't cover, but I
15 guess I'm not really sure what aspects of the visit you're
16 interested in.

17 CHAIR ASKEW: Nancy?

18 MS. ROGERS: We're wondering, as we do these test
19 runs, whether we can afford to do all of them as expensively
20 as we have done the first few. And what I wonder, in terms
21 of cutting back, just as a hypothetical, if there was a
22 choice between cutting back the visit by a day or cutting out

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1 MR. MULLEN: I thought I got past that.

2 CHAIR ASKEW: She's a law student.

3 MR. MULLEN: I know. Again, I don't know, really.

4 I would want to consult with a person who went through the
5 training for the first time and ask them, because I don't
6 know how valuable the training was to them.

7 CHAIR ASKEW: Fair.

8 Edna?

9 MS. FAIRBANKS-WILLIAMS: No. I don't have any
10 questions.

11 CHAIR ASKEW: Paul, let me ask you this. If you
12 got a phone call from a fellow project director in New Jersey
13 who said, "Look, they have just called me and asked to borrow
14 my director of litigation for a week to go off to Idaho to
15 visit this program. Why should I let them do this?" or, "Why
16 should I let this person go? It's going to cost my program a
17 week's worth of this person's time. Is it worth it to the
18 program to allow this person to take a week to go off on a
19 visit?" what would you say to that director?

20 MR. MULLEN: I would tell them it was worth it.
21 There's a lot that can be learned. Of course, it would
22 probably depend on what program the person was visiting. But

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1 if you send a staff person to a program that is doing good
2 work, that staff person can learn an awful lot.

3 CHAIR ASKEW: So there's a double-edged quality to
4 this, in the sense that -- and you spoke to this. But every
5 member of the team, hopefully, is learning something that he
6 or she can take back to their program or take back even to
7 their practice or their client community that hopefully could
8 be useful to that program or that community from what they
9 have seen at these other programs.

10 So you think it's legitimate of us to say as we're
11 recruiting these people that "We think you will learn
12 something from this. You're not just giving your time away;
13 you're performing a public service"? "That is there as an
14 aspect of that to it, but you also will be gaining something
15 from the experience."

16 MR. MULLEN: Yes. That's my opinion, yes.

17 CHAIR ASKEW: Doug?

18 MR. EAKELEY: Just to follow up on that, that
19 assumes, I suppose, that the program is not fundamentally
20 problematic.

21 MR. MULLEN: Right. If it's a good program, yes.

22 MR. EAKELEY: And I infer from what you said and

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1 take directly from what Ramon said that the project you
2 visited and his review team's experience with his program
3 generated positive results and feedback?

4 MR. MULLEN: Yes. I expect as time goes on and a
5 greater number of programs are visited -- I think there will
6 different types of responses. And I think you will also have
7 more feedback and more questions about whether this criteria
8 that we are using is valid, issues like that.

9 MR. EAKELEY: How applicable and/or effective would
10 this evaluation process and the performance criteria be in
11 dealing with a problem-ridden, uncooperative project?

12 MR. MULLEN: I think it would be very effective in
13 highlighting the problems and making very clear why these
14 problems are considered to be problems.

15 I should also mention as a program director in New
16 Jersey, my program has been evaluated by an earlier version
17 of this performance criteria. In New Jersey, the IOLTA
18 funding source uses an earlier version of this to do program
19 evaluations. And I think it's an effective tool.

20 CHAIR ASKEW: Nancy?

21 MS. ROGERS: Just one more choice question. If we
22 have to cut back -- and we don't know yet whether we do -- in

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1 the amount of money spent per visit and the choice was
2 expanded, you could cut back a day, you could eliminate
3 training for all but the Chair, and the third choice was that
4 you could not pay the team, which of those three would you
5 pick?

6 MR. MULLEN: I assume somebody would pay the team.
7 It's a question of who.

8 MS. ROGERS: LSC wouldn't pay the team.

9 MR. MULLEN: You would be asking the program that
10 was sending the team member.

11 MS. ROGERS: Right.

12 MR. MULLEN: Given the third choice, now, I will
13 pick that one.

14 CHAIR ASKEW: Yes?

15 MR. EAKELEY: Did your review include the private
16 attorney involvement component of the program?

17 MR. MULLEN: Yes. We would talk to the volunteer
18 coordinators. There were three coordinators in Legal
19 Services of Southern Piedmont. And we talked to
20 participating attorneys about the cases they did.

21 MR. EAKELEY: Did you apply the performance
22 criteria or the PAI performance criteria in utero to that

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1 aspect of the --

2 MR. MULLEN: Well, I'm not familiar with the
3 latter.

4 MR. EAKELEY: Well, neither am I. There's
5 something that we're going to see in a little while that
6 deals with evaluation of private attorney involvement
7 programs. But did you have sufficient tools in order to
8 evaluate the PAI element of the program?

9 MR. MULLEN: I think so. It's interesting, though.
10 You get a variety of different PAI programs, and you get a
11 tremendous variety in the amount of participation in the
12 various programs. And even within Southern Piedmont, there's
13 variety from county to county.

14 So what we tended to focus on more was the
15 systematic issues involving how they go about recruiting, how
16 effective they have been at recruiting, how many cases are
17 referred, what types of cases are referred, and then talking
18 to the private attorneys about a case they handled. So it's
19 not as in-depth, as far as the case handling aspect, as in
20 interviewing the staff case handlers.

21 CHAIR ASKEW: You heard Ramon's comments and
22 constructive criticism in specifically the issue of follow-up

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1 technical assistance, how do we now implement the changes
2 that have been recommended. Do you have any initial response
3 to that or suggestions about how the Corporation could
4 respond to that?

5 MR. MULLEN: I would make an additional comment,
6 and that is while we're there on site, we are so pressed for
7 time to interview as many case handlers and agencies and
8 other individuals as possible and then to do a draft report
9 on site prior to the exit interview that it is difficult for
10 us, unless there is something very apparent and we have an
11 easy answer -- and usually, there aren't easy answers --
12 there isn't much time on site to follow up and give the
13 feedback or the suggestions for improvement.

14 And I think also, there's a problem in that there
15 isn't or hasn't been that much -- there hasn't been enough
16 communication among programs on good ways to do things. So I
17 think what needs to be done is a building up of resources and
18 a better communication of resources, so that we know what
19 other people are doing and how they are addressing certain
20 problems.

21 And that's why I think it takes me to go on these
22 visits to learn. I mean, that's a rather difficult way --

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1 you have to spend a week visiting a program -- to find out
2 certain things. There has got to be an easier way.

3 And there should be resources available to
4 programs, not only in the context of follow-up of these
5 visits, but in a general sense, where a program director or
6 staff person could contact someone and say, "Listen, we're
7 trying to address this issue involving our in-take process or
8 our priority-setting process. Who in the country would be a
9 good person to talk to?" I don't think there's enough of
10 that.

11 CHAIR ASKEW: Sort of a clearinghouse of
12 information. We hope the program officer concept will
13 address that at some point.

14 Any other questions for Paul?

15 (No response.)

16 CHAIR ASKEW: Thank you very much for being here
17 today.

18 MR. MULLEN: Thank you.

19 CHAIR ASKEW: Excuse me. John?

20 MR. TULL: I came in late to this session. We were
21 busy on other business downstairs. And you may already have
22 spoken to the point of the value of the self-evaluation that

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1 I understand is part of the process now. And I wondered if
2 you cared to comment on how you see the value of it and how
3 you see it could be improved, in part, to answer Nancy's
4 question about efficiency and economy.

5 MR. MULLEN: Well, I'm not familiar with the self-
6 evaluation process. I haven't seen the instrument that is
7 used. Prior to our visit, there was a program -- a self-
8 profile, but I believe that is different than what you're
9 speaking to. I believe there's a different instrument that
10 programs will use for self-assessment. I'm not sure.

11 MR. TULL: There's actually two. The self-profile
12 is what we sent to the programs that were visited in July,
13 which is basically to get baseline information. The self-
14 evaluation, which is designed to make the program look at
15 itself, not necessarily generate anything that comes to us,
16 has not been tested yet.

17 Because the notion of that is to do that several
18 months, maybe even six months in advance of a visit in order
19 to let that sort of percolate throughout the program. And
20 because of the time frame for these, that hasn't been done
21 yet. And we're still wrestling with the same issues of
22 economy and size with regard to that than we are with the

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1 other issues.

2 CHAIR ASKEW: Well, thank you for being here, Paul.
3 And thank you for all the visits you've done. We're
4 dependent upon folks like you to make this process work, and
5 it's very helpful to us that you're doing it.

6 MR. EAKELEY: Come back to New Jersey from time to
7 time, though, Paul. We need you there, too.

8 MR. MULLEN: I plan on staying there for a while,
9 though. Thank you.

10 CHAIR ASKEW: Thank you.

11 John, to back up, maybe, I think it would be
12 helpful to the committee if you did do just a quick overview
13 of what's in your memo, in terms of where we stand with some
14 of these. And the confusion around self-assessment probably
15 points out the fact that maybe we need a little bit of a
16 status report on where we are, and then we'll talk some about
17 where we're going.

18 MR. TULL: Okay. I thought what would be helpful
19 is -- as a way to get at that would be I'll talk about a few
20 of the issues, a quick overview, and then a few of our issues
21 that have come out of our questioning of issues like cost and
22 is this going to work and how it all fits together. And then

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1 Danilo will talk a little bit about some of the work that has
2 been done in actually implementing this and looking at
3 reports and reviewing programs and that sort of thing.

4 Let me start with the second half first, which we
5 have tended to talk about compliance first and then
6 performance evaluation second. And since we just heard from
7 the peer reviewers, I won't add a lot to what they said,
8 other than saying that the questions that they raised are
9 ones which have come back to us both in our own analysis and
10 in discussions with the directors of the programs that were
11 reviewed and the peer reviewers.

12 We had an extensive debriefing first, a massive
13 debriefing of a meeting by phone of 27 people, including all
14 of the project directors and a selection of peer reviewers.
15 And then the staff of OPEAR individually called and debriefed
16 each peer reviewer to ask a series of questions around
17 training and whether the materials worked and what could have
18 been done better on site, et cetera.

19 And then PICA met on September 9th and discussed --
20 heard from Ramon, heard from some of the peer reviewers.
21 Marion Hathaway, who was a client peer reviewer and is a
22 member of PICA, was there and had an opportunity also, then,

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1 to review the results of our debriefings. And it led to, I
2 think, a very rich discussion of some of the issues that have
3 come up here, as well.

4 The one that I would highlight now is, we haven't
5 yet come to grips with how to meet the desire for the need.
6 But it was very clear from the debriefings and from the PICA
7 meeting that the concern about how to get the most benefit
8 out of the peer reviews in being able to interact with the
9 peers and to draw from their insights was one that a lot of
10 time was spent on.

11 And there was some discussion of trying to build
12 into the process some capacity for interaction with the peer
13 reviewers, as Ramon suggested, two weeks later, to have an
14 on-site exit interview, because that is useful.

15 But then, after the kinds of questions that Ramon
16 clearly has been asking himself, after that has percolated
17 throughout the staff, to then try to build into the process a
18 way to have people probably by phone because of cost issues
19 have a conference call -- a lengthy conference call with
20 whomever the program selects and with the peer reviewers to
21 resurface those questions and really push on an interactive
22 discussion around it.

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1 Obviously, each one of these things continues to
2 raise the question of costs, because that's more time. It
3 involves telephone calls and that sort of thing, which do
4 have a cost attached, although my own personal judgement
5 about that is that peer review serves two very important
6 functions. One is to assess quality and to carry out our
7 responsibility under the Act to assure quality and efficiency
8 and effectiveness.

9 It also is an enormously significant, in my view,
10 intervention in the system to improve programs. And the mere
11 fact of asking the questions and doing what Paul said, which
12 is someone said, "Why do you do that?" that that series of
13 questions around a whole range of things and the self-
14 assessment process that Mr. Brooks asked about are all
15 designed to make programs more reflective of their own work.
16 And that reflection will presumably increase the quality.

17 So even though there is added cost to building in a
18 loop-back two weeks later, the degree to which what we're
19 serving here is program improvement, that that may well be a
20 cost that's worth bearing. And it's not a cost of
21 evaluation, it's a cost of technical assistance, really.

22 MS. ROGERS: Why do they always look at me when

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1 they say "costs"?

2 (Laughter.)

3 MR. TULL: Because we're anticipating the next
4 question.

5 CHAIR ASKEW: You're the professor.

6 MR. TULL: Let me just cite two things that --
7 before Danilo talks about some of the specifics of what has
8 been done. We have reported over and over again that one of
9 the conceptual bases of this design is to separate compliance
10 from performance evaluation and to have two separate
11 processes: First, to allow each to be pure unto itself and
12 to, I think, improve, therefore, the capacity of both the
13 function to carry out what they need to do; and second, to
14 allow us to approach compliance with what have been the basic
15 principles that we have talked about from the beginning and
16 that were, I think, woven into the Board's principles adopted
17 in December.

18 And that is to make it cost effective and
19 efficient, to not repeat the mistake of the past processes,
20 which was very resource intensive, just looking at
21 compliance, number one; and number two, to make it something
22 which is real and which is a frequent look at compliance.

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1 And the process that has been designed involves a
2 series of steps. First, what we have in our own papers, have
3 been calling a "certification of compliance," whether that's
4 the proper term is one of the questions that has been raised
5 about that whole instrument and that whole approach.

6 What has been designed by the staff and has been
7 interacted with with PICA, in terms of its content and its
8 structure, is a document which is 61 pages long, covers
9 virtually every aspect of the regulations. PICA and others
10 being lawyers, many of them -- not all, but many of them --
11 of course, raised what is a legitimate question, which is,
12 "Can one really certify to compliance with such a complete
13 document, and what are we really asking a program director to
14 do and the Board to do?"

15 And we're just wrestling with that question now and
16 wrestling with the question of, "Do we need to ask about
17 virtually every aspect of the regulation, or are there some
18 that are less important than others that we could not ask or
19 we could cluster together?" Again, that is a cost-
20 effectiveness question that we're now wrestling with and was,
21 I think, behind some of what Ramon said, in terms of needing
22 to step back from this and say, "What are we building here?"

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1 The second step of the process is the program
2 auditor checklist. And what we have been working toward is
3 testing out whether we can use program auditors to do a
4 compliance check of selected parts of the regulations.
5 Clearly, not all. There's many which require kinds of
6 judgements which an auditor would not be prepared to
7 undertake or which would be simply too expensive for an
8 auditor to do.

9 But again, through an interactive process with PICA
10 and an enormous amount of analysis which has gone on on the
11 part of the staff, we have come up with what is a fairly
12 lengthy document and have had that reviewed by three program
13 auditors and have had extensive discussions with the
14 inspector general, who is working with us, helping us
15 approach it from that office's perspective as folks who have
16 a responsibility for the audit function.

17 And again, a significant issue in that and a very
18 direct issue in that is the cost question, because this is a
19 cost which programs incur to pay someone else to do this
20 work. And the estimate from the three program auditors who
21 reviewed the checklist and reacted very positively to it and
22 excitedly to it was that they estimated and all agreed that

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1 the cost increase that they saw from the checklist that they
2 reviewed would be a 25 to a 35 percent cost that will occur
3 in audits.

4 That's a significant amount of money, and it raises
5 the question of can we contract that, can we do it on a less
6 frequent basis. And what we have not yet done is actually
7 field tested with the program to see if, in fact, that amount
8 of time is one that is going to generate that. But that's
9 clearly a question which is on the plate in front of us and
10 needs to be looked at.

11 And if it is too costly, then there are costs
12 associated with looking at those issues some other way,
13 obviously. Because if staff does it, then we're paying staff
14 to do it. So it's a complex issue, but one that we're
15 clearly needing to come to grips with.

16 The third step of the process is a desk review.
17 And at this point, I'm going to defer to my colleague,
18 Danilo, as to what has been done in the rest of the
19 compliance process, as well as the oversight, which is the
20 next set of steps as we move through this.

21 Before I defer to Danilo, I do want to say that Mr.
22 Forger in his comments alluded to the work that has been done

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1 and mentioned a number of people, one of whom was Danilo,
2 another was Leslie, and others. I want to say that I would
3 add to his comments my gratitude for the work that has been
4 done by Danilo and by his staff, that this is -- in reading
5 the report, I think you will get a sense that there has been
6 an enormous amount accomplished.

7 And it has been accomplished because of a real
8 dedication and effort on the part of folks here and in the
9 staff and really very seriously doing what Ramon described to
10 you, which is a real effort to approach this very seriously,
11 recognizing that this is building something which is unique.
12 And it's important that it be done right, and it's important
13 that we think analytically very carefully and that we also be
14 open to the feedback which comes from the field and others,
15 because that's the best way to test it out.

16 And any kind of interaction around it at any level,
17 discussions here, discussions in the staff, all helps to
18 improve the product. And they have really been very diligent
19 in all steps of that. And I think we all owe them a real
20 debt of gratitude.

21 MR. CARDONA: Good afternoon. My name is Danilo
22 Cardona. And I'm an assistant to John Tull, director of

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1 OPEAR.

2 I like to call myself in charge of productivity.
3 We'll talk about numbers, not necessarily about costs. I
4 want to stay away from that if I can, if I may.

5 (Laughter.)

6 MR. CARDONA: With regard to -- what is missing in
7 that report also is that on March the 1st, when John Tull
8 asked me to become his assistant, we hadn't heard that 71
9 reports from the prior administration needed to be completed.
10 And at this point in time, we have already issued 69 final
11 monitoring reports since that time, with only two missing.

12 One is Alaska Legal Services, which we were
13 supposed to receive the comments today. And the other one is
14 Community Legal Services in Connecticut that we expect to
15 receive the comments soon. And then, we are done with the
16 past reports on the visits.

17 Most of the 69 reports have been issued. I think
18 the completion of the 69 number was around July of this year.
19 So we're just waiting for those two reports.

20 Going to the desk reviews, which is one element of
21 the compliance process, when we started in July testing the
22 desk reviews, we did select 30 programs to conduct the desk

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1 or 35 more programs to send for desk reviews.

2 We have been checking, as well, on the -- since
3 July, since we initiated the process of the desk review, we
4 have been checking on the time it takes staff to complete
5 those desk reviews. Obviously, when we started the
6 completion of the checklist, it took about three days. Now,
7 we are down to one and-a-half days in completing the
8 checklist.

9 And we can easily say that between two to two and-
10 a-half days, the whole process is completed properly, unless
11 we have a major problem. We have been tracking the time as a
12 staff, as I said, and that's what it takes to do a desk
13 review.

14 The other aspect of the paper review that we do
15 here in the Corporation is a review of the annual audited
16 financial statements of the programs. Thus far, I have three
17 persons mainly dedicated to that who have completed since
18 April of this year about 200 to 205 -- the numbers there have
19 changed because I went and double-checked some letters that I
20 have signed and everything, and it comes to about 200 to 205
21 programs that we have reviewed their audited financial
22 statements.

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1 The rest of them are coming in right now, because
2 our fiscal year ends in June. And so they are coming in.
3 And as they're coming in, we'll be reviewing them. Most of
4 them, we have issued them letters. If they don't have any
5 exceptions noted in the report, we have issued them a no
6 exception letter. We have done about 150 of those no
7 exception letters.

8 The other ones, we have requested further
9 information, comments on their internal controls and comments
10 on the supplement letter that should accompany those
11 statements. And we are in constant contact with the programs
12 and dealing with all the fiscal issues that we can assess
13 from the review of the financial statements.

14 The status of the self-study -- I hope to have in
15 my hands a self-study document ready by October the 13th. We
16 have submitted to the PICA group for comments a portion of
17 how we envision the self-study of a program, and we have
18 asked them to do comments. I plan to retrieve some comments
19 and pursue some follow-up on Monday, but the staff is going
20 to have ready a completed document on October the 13th. So
21 we will duly circulate the document when it is finished.

22 With respect to the other legs, as I referred to

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1 them, of the compliance, we have also, as you heard from
2 John, an independent auditor checklist that we are in the
3 process of reviewing with the fiscal staff here in order to
4 incorporate the comments of the inspector general and
5 incorporate the comments of the three auditors that we have
6 the debriefing and we submitted the checklist for their
7 comment.

8 It is a mighty task. It is a 36-page checklist.
9 And we are wrestling with the issues of what an auditor can
10 do, what an auditor can't do. And as well, we have to take
11 into account the estimation of the costs that they gave us,
12 between 25 and 35 percent above the normal audit cost.

13 I anticipate that we will have some final document
14 to submit again by the end of next week, perhaps. It is a
15 very slow and difficult process to deal with these issues,
16 but we'll do our best to have that completed.

17 As part of the evaluation cycle, the peer
18 evaluation of our programs, we have already set five programs
19 to be evaluated in the last two weeks of October. And today,
20 I have signed letters for another five programs to be peer
21 reviewed in November of this year.

22 And if we have enough time and staff is available

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1 and programs in December, we will try to have peer
2 evaluations in December. December is a very difficult month
3 to conduct evaluations, because most of the staff are away or
4 in the holiday spirit. And we will try to accommodate all
5 those things and see how many peer evaluations we can conduct
6 in December of this year.

7 Do you have any questions?

8 CHAIR ASKEW: Thank you.

9 Nancy?

10 MS. ROGERS: I just want to say I couldn't be more
11 pleased with what the staff has done, working with the
12 community and using what was developed by Bill to the ABA and
13 Kathleen to the Competitiveness Project, doing it so quickly,
14 while at the same time maintaining the compliance checks,
15 introducing what is really a brand new way to look at
16 quality.

17 I think it's really an astonishing effort. And
18 those people who have been working together to do that so
19 quickly deserve much praise.

20 CHAIR ASKEW: Any other Board members have
21 questions?

22 (No response.)

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1 CHAIR ASKEW: I would second what Nancy has to say.
2 Let me ask you, John -- the status of the performance
3 criteria -- Paul mentioned that they have gone through
4 several drafts. And I assume the feedback you're getting,
5 they're continuing to be worked on. Do you have a sense of
6 when they're going to be in something you might call a
7 "final" or a "status"? Is that coming up any time in the
8 near future?

9 MR. TULL: Yes. One piece of the debriefing of the
10 peer reviewers and the project directors was to ask them did
11 they work and how might they be changed. And they're now
12 going through the third incarnation or the creation of their
13 third incarnation based on those comments. And we have a
14 habit of setting shorter deadlines than are realistic.

15 The discussions about the performance measures at
16 PICA were to move very quickly on them, in hopes that we
17 might have something for the October visits. That's unlikely
18 to happen, because there's sort of a complex process of
19 working with them and with us.

20 But I would hope by November that we would have a
21 redraft of those and would be able to again circulate them
22 and share them with the committee, at least that hopefully

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1 last incarnation, if not penultimate incarnation of this.

2 CHAIR ASKEW: Well, I would suggest to you that
3 once they are ready in some sort of final form, that you do
4 circulate them probably to every Board member to read. I
5 think it would be very instructive for us to see what it is
6 you're looking at when you go into these programs.

7 And Paul went over very quickly some of those
8 items. And I think they would be of great interest for all
9 of us to see and then for any comments we might have. I
10 guess for our December meeting, they probably wouldn't be out
11 before the November meeting. But I think it would be very
12 useful for us to see those.

13 Anything else anybody wants to touch on on this
14 topic?

15 (No response.)

16 CHAIR ASKEW: Before we go to the items I mentioned
17 earlier, John, let me have a conversation with you, maybe,
18 about the work of this committee and the issues that we,
19 together with the staff, are going to have to be addressing
20 over the next few meetings in the next few months.

21 I'm sorry Doug isn't here, because I know this is
22 something he has raised and is interested in. But the

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1 jurisdiction of this committee, of course, is quite broad.
2 And the issues facing us touch on almost every aspect of
3 Legal Services delivery and the work of this Corporation.
4 And we have been, with the staff, caught up in the issue of
5 reforming the monitoring and evaluation process.

6 And, as Nancy said, we're well down the road there
7 and have done a lot of good work there. And now, there are a
8 lot of other issues facing us. What Doug has suggested,
9 which I think is a very legitimate suggestion, is that we
10 look at sort of short-term issues that this committee needs
11 to address, some mid-term, and then long-term.

12 And I think by "short term," he had in mind over
13 the next six months the next three or four committee
14 meetings. Then, over the next 12 months, sort of mid-term.
15 And then longer term would be everything beyond that. Let me
16 suggest -- and you comment on and agree or disagree with me
17 -- the way we might discuss this.

18 The breakup in your operation between OPEAR and OPS
19 -- it would be my perception that from the OPEAR perspective,
20 finishing up all that you have been talking about this
21 afternoon continues to be the highest priority for your
22 division. That, along with hiring new staff, the program

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1 officers, would be the major items over the short term for
2 the next six months.

3 And would you anticipate that within six months,
4 that most of this would be completed? And by that, I mean
5 the performance criteria are adopted, the process is pretty
6 much in place the way it's going to be working, from both a
7 compliance and peer review process that we have a lot of --
8 most of these issues settled and in place in a way that we're
9 going to be following them for the next period of time?

10 MR. TULL: Yes. Certainly, the basic design,
11 subject, I think, to what we need to continue to do, which is
12 to always look at how it's working and to make adjustments --
13 but I would think in six months, the basic design should be
14 completed and fully in place and operational, yes.

15 CHAIR ASKEW: Okay. Over the next few meetings,
16 perhaps you could just quickly keep us informed of how that
17 all is going. But I think we seem to be comfortable with
18 where it is today and that as you wrap those things up, just
19 let us know. And then we can turn our attention to other
20 issues that we haven't been able to address because of the
21 importance of this over the next few meetings.

22 But you will keep us up to date on that. And

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1 hopefully, at the end of that six months, we will be there.
2 And I would second what you just said about constantly
3 testing. Ramon asked that we not institutionalize some of
4 these things completely until we're comfortable with them.
5 And I know you agree with that. And we will keep watching
6 these things, all of this. And if they need adaptation or
7 change, you will do that, incorporate that in your review of
8 it.

9 In terms of OPEAR as distinguished from program
10 services, the law school clinic issue will come back up
11 again. And we're going to hear from Nancy about some work.
12 But that has to be a short-term issue, I would presume,
13 because we have to adopt criteria and actually decide what
14 we're going to do with those funds in the next six months.
15 Is that right?

16 MR. TULL: That's correct.

17 CHAIR ASKEW: So hopefully, by the December
18 meeting, we could be discussing and maybe deciding on
19 criteria for the use of next year's money. Is that too
20 ambitious, or do you think that's possible?

21 MR. TULL: No, no. That's easily done. I think
22 there's already work underway on that, both that Nancy will

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1 report on, as well as follow-up on what was done last year.
2 So certainly, that's on our time table, and we expect to meet
3 it.

4 CHAIR ASKEW: Doug, you missed the beginning of
5 this. But what we're doing is having a discussion about
6 short-term, mid-term, long-term priorities, which you had
7 suggested and we agreed would be useful.

8 MR. EAKELEY: Thank you.

9 CHAIR ASKEW: And we're doing this one by talking
10 about OPEAR first. And the first priority for OPEAR on the
11 short term is to complete all of these things that we have
12 just been talking about, monitoring, evaluation, performance
13 standards, all those things. And John is saying you can get
14 that done within six months. So we'll just keep abreast of
15 that.

16 Anything else under the particular purview of OPEAR
17 as compared to program services that will be going on over
18 the short term?

19 MR. TULL: Well, these things collapse together, to
20 some degree. But the issue which Ramon raised of what comes
21 next, in terms of what can be offered to programs in the way
22 of technical assistance, either technical assistance that we

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1 can identify and broker, pay for, or provide ourselves is one
2 of the issues which is on the plate now and will become
3 increasingly so because we are pushing programs now to think
4 about these questions.

5 And as we staff up, one of the things we want to be
6 able to staff up to do is to respond more effectively to
7 programs around technical assistance needs and to begin to
8 work with some issues within the delivery system which are
9 not specific to a program but which affect a large number of
10 programs, issues of helping programs with technology and
11 merger, where that's appropriate, and those kinds of things.

12 So as we staff up, we'll be able to begin to focus
13 attention on that. And I certainly would expect that we in
14 our interaction with programs will be doing that more and
15 more this fall. And we'll keep the Board apprised of what
16 happens with that.

17 CHAIR ASKEW: So the short-term issue there is what
18 can you do now with current resources to do the things Ramon
19 mentioned. The longer-term issue is what in the '96 budget
20 request or in the '96 appropriation can be devoted to
21 increased technical assistance for programs.

22 MR. TULL: Right.

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1 MR. EAKELEY: Well, the '96 budget request really
2 is a two- to three-month time span. And we need, I think,
3 input in terms of preliminary priorities and a basis for
4 evaluating the costs and the benefits of those priorities.

5 MR. TULL: The discussions that we have had about
6 those issues at a staff level have, I think, identified some
7 priority areas, clearly, ones which are upon us and need to
8 be addressed.

9 The question of precisely how they might be
10 addressed, such as what is the best way to address technical
11 assistance, and should we be encouraging the capacity outside
12 the Corporation and funding it, should we be funding other
13 organizations, should we be doing it ourselves, those kinds
14 of questions will involve a longer-term set of questions that
15 I think the view is that the director of OPS will come in
16 with a goal of helping us address issues of research in
17 thinking through those kinds of issues, that he or she will
18 move the agenda a great deal in terms of putting the meat on
19 the bones there.

20 But I think you're right, that there's a short-term
21 question of what bones are we going to be looking at. And
22 that's correct.

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1 MR. EAKELEY: And a need for the Board to be
2 involved at an early stage in the discussion and development
3 of these types of decisions, because it's almost too late in
4 the process to be presented with a recommendation in the
5 context of a budget submission. And, indeed, I don't think
6 that that's the right place to deal with the policy issues
7 that are implicit in the choices, in any event.

8 CHAIR ASKEW: And this is an issue that crosses
9 over both OPEAR and OPS, right? You both will have technical
10 assistance responsibility, you'll both be doing technical
11 assistance?

12 MR. TULL: Well, I think as conceptualized now,
13 there is a crossover, that the distinction between the two
14 would be that OPEAR is the part of the Corporation's
15 operation which will most directly interact with programs
16 around their operation. And when a program has a need for
17 technical assistance, it will work with that program.

18 The OPS relationship to that will be to do the
19 longer-term research, planning, thinking about what we need
20 to try to be working toward in terms of a more permanent
21 institutional capacity to meet that and to think through some
22 of the more longer-term issues that this committee began to

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1 think about and to hear about a couple of meetings ago -- I
2 guess two meetings ago.

3 CHAIR ASKEW: Well, let's talk about those issues
4 under the responsibility of program services. Services to
5 the institutionalized is an issue; training would be an issue
6 under that; person's responsibility; technical assistance, as
7 we have been discussing it; PAI. Now, where would that fall
8 in the division in your perception of how these two divisions
9 would operate?

10 MR. TULL: Again, making the same division, there
11 are a number of very significant issues regarding the use of
12 private lawyers that have to do with a very thoughtful look
13 at the best ways that private lawyers can be used to provide
14 service and extracting from the experience of the past the
15 lessons which will guide us to make better use of lawyers in
16 the future.

17 That's a planning and research issue which
18 immediately flows into OPEAR's operation, in that OPEAR is
19 the part of the Corporation which interacts with programs
20 around how they operate.

21 And certainly the vision I carry in my head is one
22 of an enormous flow of information back and forth between OPS

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1 and OPEAR on issues like that, so that OPEAR's interaction
2 with programs extracts from that interaction which can inform
3 the considerations of OPS and what OPS in its process in its
4 deliberations determines as issues that should be undertaken
5 or changes that are appropriate, that that would be something
6 that would happen through OPEAR.

7 And that's also, I think, a short-term and a long-
8 term issue, because we have immediately on us an opportunity
9 to begin to extract that. It's a long and difficult
10 question.

11 MR. EAKELEY: Although Paul Mullen's comment
12 suggested that the summer evaluation process did not look --
13 and perhaps it was just because of research -- was not as
14 output focused with respect to PAI as it was with respect to
15 the other elements of the program. That may have been a
16 misimpression on my part. But we get back to performance
17 criteria and how you evaluate the role of PAI, as well.

18 CHAIR ASKEW: Edna?

19 MS. FAIRBANKS-WILLIAMS: One thing I would be
20 interested in in the PAI is what questions you have in there
21 about how the program is training their PAI lawyers and what
22 they're training them for. Some of our PAI lawyers will only

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1 take certain cases, and some will say, "I don't know anything
2 about that, so I don't feel qualified to take that case."

3 So I feel sure that if there is the proper training
4 for the PAI, that they would take more cases than what they
5 do. Now, we have some cases that are really giving us a hard
6 time. This PTSD, post traumatic stress syndrome, from wars
7 and so on, so forth -- a lawyer will say, "I have no idea
8 about an SSI case or getting the VA pensions for something
9 like this. I have had no training."

10 So they will refuse to take the case. So somewhere
11 in there, we have to have the training for the PAI people.
12 That should be one of the questions.

13 MR. TULL: And I think the question is one that
14 fits in both clusters of issues. It's a question of how best
15 to do that and who has done that well and what lessons we can
16 extract from that as a longer-term look at what we need to do
17 in the future to improve and constantly improve that effort,
18 the private attorney involvement effort, and more
19 immediately, as we interact with programs, look at their PAI
20 plans which they submit to us, et cetera, to be sensitive to
21 issues such as that. That's correct.

22 CHAIR ASKEW: We're still talking about short-term,

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1 six-month sort of projects. Under program support is also
2 client engagement. Is that right?

3 MR. TULL: Yes.

4 CHAIR ASKEW: And I guess I'll save this for Edna
5 and Ernestine and James. But the anticipation is that that's
6 a six-month, short-term project.

7 MR. TULL: Yes. And there's, as you'll hear,
8 significant work underway. And it will extend into the
9 future.

10 CHAIR ASKEW: And then all the cluster of issues
11 around support.

12 MR. TULL: Yes.

13 CHAIR ASKEW: We'll be hearing from the delivery
14 working groups and the other support groups about that, and
15 we'll be having to make some decision about that over the
16 short term.

17 MR. EAKELEY: Well, when in the short term is that?

18 MR. TULL: Well, this is another one where they
19 both -- I think they collect together. There are short-term
20 issues around what to do -- some immediate short-term issues
21 which will be before the committee and the Board in November
22 at the next meeting around what to do with the allocations

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1 for national and state support for next year.

2 MR. EAKELEY: For this year.

3 MR. TULL: I mean for this year, the year we're in.
4 Right.

5 MR. EAKELEY: For tomorrow?

6 MR. TULL: Right, for tomorrow. That's right.

7 MR. EAKELEY: Next year is tomorrow.

8 MR. TULL: Which will affect allocations and
9 programs starting January 1st. Those decisions need to be
10 made and will be before the Board, because those will affect
11 grants that are made.

12 And then, there's the question of a set of issues
13 affecting support for next year, which are longer-term
14 issues. They're immediate short-term issues because there's
15 a lot of work that has been done on them.

16 They have long-term implications, in terms of what
17 the Board and the Corporation feels is appropriate in terms
18 of strengthening the support system, both at a state level
19 and a national level and what should be done to shore up
20 weaknesses that are there, to fill in gaps that are missing,
21 to develop capacities which may not be present now.

22 And those are issues which -- certainly, a great

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1 within which to start thinking about it. Clearly, final
2 decisions can't be made that soon. But I think the Board's
3 going to need more input. And we just need to be brought up
4 to the same level or the same ballpark level as you in the
5 field, in terms of current policy considerations, options,
6 and the case one might make and take to the Congress to fund
7 them.

8 MR. TULL: And I think that's correct. And it's a
9 daunting agenda. We happen, I think, to be -- certainly not
10 ahead of the curve, but we're, I think, on the curve on that,
11 because a significant amount of work has gone on already in
12 those areas. I believe the working group is meeting next
13 week for -- or support is meeting next week for three days.

14 We'll be present at those meetings and interacting
15 with them around the issues that are on that list you just
16 described that needed to be on a -- we need to at least begin
17 to get a clear idea, and the Board needs to be apprised of
18 the work that has been done and brought into the loop as to
19 what the thinking is and the direction things appear to be
20 possibly going of what would be appropriate.

21 The issues that the delivery working group wrestles
22 with relates both to what institutions outside the

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1 Corporation do, in terms of they're really making
2 recommendations for the entire system, but there clearly are
3 issues which the Corporation needs to come to grips with,
4 which is where do we spend money, where does the Board decide
5 to spend money in an appropriate way to do the institution-
6 building. And I think we're on a course where those two
7 lines will intersect at the November meeting.

8 CHAIR ASKEW: And the last thing that I identified
9 -- and you didn't tell me what I've missed -- is recruitment
10 and retention of attorneys. And it's under the program
11 services division. Is that right?

12 MR. TULL: Yes.

13 CHAIR ASKEW: So now, are there any other short-
14 term matters, say, for the next six months that you see
15 bringing before the committee that we're going to have to
16 address, or does that cover the --

17 MR. TULL: I think that covers it. I'm sure we'll
18 all tomorrow morning think, "Wow, we forgot that one; how
19 could we have?" But --

20 CHAIR ASKEW: That's not --

21 MR. EAKELEY: You'll have another chance tomorrow
22 morning.

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1 MR. TULL: Good. That's right. So I think that's
2 the complete list.

3 CHAIR ASKEW: There seems to be plenty to do, to
4 me.

5 MR. TULL: Right. We're not running around
6 searching for more items to come on board.

7 CHAIR ASKEW: Right. Can you tell us the status of
8 the hiring of the director of the program services division,
9 what Alex anticipates the timetable to be for having a person
10 on board for that position?

11 MR. TULL: The job announcement has gone out, and
12 it will close November 15th. So hopefully, shortly after
13 that, we'll be able to hire, and Alex will be able to make a
14 choice, and that person will be able to come on board as
15 quickly as possible, because we need some help in that area.

16 Program officer positions have been announced and
17 close October 31st. We're advertising for 10 for the Board
18 in July. I think the report was that we thought it would be
19 appropriate to start with from 6 to 10.

20 We advertised for 10, and the numbers that we'll
21 hire will be a function of -- we're looking for some high-
22 quality people, and we're going to make sure we have high-

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1 quality people. So whether we'll hire 6 or 10 will be a
2 function of --

3 CHAIR ASKEW: The response you get?

4 MR. TULL: Yes, of the response that we get. And
5 part of this process is to test that out.

6 CHAIR ASKEW: Okay.

7 Any other questions for John or Danilo?

8 (No response.)

9 CHAIR ASKEW: Thank you. You have a full plate,
10 and the new director of program services will certainly have
11 a full plate. So we'll hear from you at the next meeting,
12 right?

13 Let me ask James -- if you would come forward,
14 James. And we can talk about the issue of client engagement.
15 John, if you would stay there, because I want to go into the
16 issue of loan repayment regulations.

17 Can you bring us up to date on that, James?

18 MR. HEAD: Yes.

19 CHAIR ASKEW: Thank you.

20 MR. HEAD: Good afternoon. I know it's getting a
21 little late. I will try to be brief. I'll try to be more
22 efficient, actually. Because I think this is probably one of

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1 our most daunting challenges.

2 I'm James Head, and I am continuing to serve, to
3 some extent, as a consultant for the Corporation staff after
4 the transition was over. And in my West Coast life, I'm the
5 director of the National Economic Development Support Center
6 out in Oakland, California.

7 On a note of personal preference, I again would
8 like to thank a number of you who I talked to. As Alex
9 mentioned earlier, I was offered the position of director of
10 OPS.

11 And for a number of reasons, none of which had to
12 do with the excitement of the range of issues that you just
13 talked about, sort of raises for anybody who would work on
14 them, as well as working with the wonderful people at the
15 Corporation and this Board and the issues related to where
16 the Legal Services Corporation and Legal Services is going in
17 the future. I just wanted to again indicate that my sense is
18 that I still get goosebumps about the range of those issues
19 and the excitement of being able to work on them.

20 But for many reasons, I decided that it was just
21 not the right timing and the right place to take that
22 position. But hopefully, soon, you will have someone who you

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1 can then really feel -- won't feel the pressure of, in terms
2 of it.

3 I was asked before the transition was over to begin
4 to work with Edna and Ernestine on the development of the
5 Corporation's approach, in terms of client engagement, and
6 wanted to report to you on where that process was and where
7 we think it's going. And I would hope that Edna and
8 Ernestine will also add to this or correct me if my statement
9 of where I think we are is different from where they think we
10 are.

11 Let me first say that, again, I think that this is
12 an issue that will provide a great deal of clarity for the
13 Corporation and for Legal Services in the future, because it
14 is one of the issues that we have had to neglect, I think,
15 wrongly, for a very, very long time.

16 And it's probably an issue that was not even what
17 we would all consider to be right, in terms of the
18 relationship and what we were doing back before the early
19 1980s and much less over the last 12 to 14 years.

20 What we were asked to do was to begin to try to
21 develop an approach that would begin to get the Board and the
22 Corporation staff engaged in this notion of what to do with

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1 client engagement, partly, I think, to be informative and to
2 be forward thinking about it, but partly, also, I think, to
3 address the time constraints, Doug, that you were just
4 mentioning, the fact that we do have a line item for client
5 initiatives. And there needs to be something done in that
6 regard.

7 What we have found out, however, in terms of
8 beginning to look at this issue, is that it is not one that
9 we should quickly, if possible, try to develop or to move
10 forward but should do so in a thoughtful process and in a
11 process that also brings into perspective the thinking of
12 others in the field who have thought about it and, most
13 importantly, a process that brings into thinking the clients
14 themselves, who are the ones who are to be the primary
15 beneficiaries of whatever we do.

16 What was decided was that a start point for this
17 would be an attempt to bring together a group of people in a
18 conference setting in November that would be a mixture of
19 experienced and new client leaders to be selected through a
20 process that we developed, as well as some Legal Services
21 staff and some from the outside, "the outside" being other
22 organizations and groups that serve our client constituency

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1 and would have something to contribute in terms of how we
2 should view the issue of client engagement.

3 We want to begin a dialogue and a discussion about
4 a range of issues related to client engagement, including
5 what the role of the Corporation should be in that process,
6 how Legal Services' programs are currently responding in
7 their own local communities to these issues, what are some
8 model examples of client engagement that are being done that
9 could potentially be replicated in other places, and what
10 lessons have we learned from them, and what are the critical
11 issues that we should keep in mind as we try to move forward
12 with developing some criteria and some way to look at this
13 issue.

14 The thinking was to do this conference also as a
15 way to supplement the work of the delivery working group on
16 client engagement and client involvement, which also
17 currently has a process going on and on which Edna currently
18 participates as a representative from the Board, so that what
19 we were trying to develop -- what they were trying to develop
20 would hopefully begin to come into focus for the Board, as we
21 move down this road of having to make some decisions about
22 the allocation of the funding in this year's budget, as well

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1 as future allocation of funding.

2 Let me sort of tell you what I think this
3 conference is not designed to do. It is not designed to give
4 the Board a set of sort of things to fund, if I can put it in
5 sort of that broad perspective, partly because we don't think
6 that we're in a position to do that, and partly because we
7 think this is an issue that is much more complex than Dave
8 Letterman's lists of 10 things that we should do.

9 At the same time, however, it is the beginning of a
10 process we feel that should continue in some way. What we
11 would expect to come out of this conference is a couple of
12 things. One is, I think, a better informed group of people
13 about what those range of issues are and how they should
14 potentially be approached.

15 Secondly, we are contemplating that the information
16 that comes out of the conference will be recorded and put
17 into some written form that can be shared with programs
18 around the country, as well as with clients around the
19 country who have an interest in this.

20 And thirdly, we would hope that there will be an
21 action plan that will come out of this that will look at
22 future steps that can be done and what those future steps

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1 should be, in terms of the Corporation's role, as well as in
2 terms of the role of the client community in participating in
3 this process.

4 The conference has been scheduled for November the
5 17th through the 20th in Detroit, Michigan. I probably
6 shouldn't -- we picked Detroit for a couple of reasons, the
7 main of which was that when the Board was to go to Detroit,
8 in deciding not to go to Detroit, there were some outstanding
9 issues with the hotel. And so we have piggybacked on that to
10 be able to resolve those issues, hopefully, and to save us
11 some resources, in terms of going ahead and using Detroit.

12 Detroit is not exactly in the West. It's not
13 exactly in the middle of the country. But it is accessible,
14 we think. And we think it can provide us with what we need
15 and what we want to do.

16 The format for the conference is really to have a
17 series of sort of panel presentations around the issues that
18 I mentioned earlier and then to have small group facilitated
19 sessions, so that people will have a real opportunity to
20 interact and to expound, dissect those issues raised by the
21 panel presentations.

22 And then, that information will be processed with

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1 the larger group, again, to try to see if there's consensus,
2 to see where there are areas that need additional work, and
3 to see if we can generate a level of information that will
4 better fully inform the Board of where these issues are and
5 what we should be looking to do.

6 Let me lastly say that this process -- and we have
7 been conscious about not wanting to have this process be too
8 far ahead of the delivery working group process. We want to
9 stay parallel with them and to have a real level of
10 interaction and crossfertilization with their work, because
11 we think that that is critically important to building a
12 consensus around this.

13 However, we have made it clear to them that the
14 Board does have some time constraints that it must meet, in
15 terms of these issues. And if neither of us, including this
16 process that we're working on, as well as their process, can
17 totally meet that time frame, what we hope is to have a level
18 of information that will give the Board the fullest ability
19 to make some decisions about how best to begin to look at the
20 allocation issues from a policy standpoint, in terms of
21 client initiatives and will give the staff the fullest
22 ability to develop some criteria for how this should be done.

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1 I should alert a number of the Board members that
2 all of you are invited to come, if you so wish. And we will
3 certainly try to make room for you, because we think that
4 that interaction will be important. But there are certain
5 members of you that we do feel also would be important to
6 have participate in this conference. And I will be talking
7 to you, obviously, individually about that, in terms of your
8 schedules and your willingness and desires to do so.

9 I'll stop there and let Edna and Ernestine make any
10 comments, in terms of the process I've outlined and described
11 as to whether I've covered everything or not.

12 MS. FAIRBANKS-WILLIAMS: Well, I think you've
13 covered everything except that you haven't told them about
14 our participant profile questionnaire. In order to find
15 participants from all over and to find participants from
16 different organizations and affiliations, backgrounds and so
17 on, he developed a profile questionnaire that lists whether
18 you're an eligible client, whether you're an LSC staff,
19 whether you're a client Board member, or whether you're an
20 "other," regardless of what you are.

21 So I'm pleased with that. And it also asks for
22 dietary needs and reimbursement for child care and disability

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1 needs, because it's very hard to get clients to certain
2 things, if they don't have child care. So if they have child
3 care, they're liable to get there.

4 MS. WATLINGTON: Well, I'm excited about it,
5 because this is giving the client Board members an
6 opportunity to really try to do what they are supposed to be
7 doing, and that's being an advocate on the Board and, I would
8 say, educating the other Board members and the other people,
9 you know, just what we feel we can better service the client
10 community, which is the ultimate goal in being client Board
11 members.

12 And to have this type of input and involvement with
13 other clients in the beginning like this and really get a
14 more defined -- what client initiative and client involvement
15 is and with input with others in doing it in a partnership
16 with the program staff and Board members, it just can't be
17 anything but a very positive accomplishment. And even if we
18 don't, the fact that we're attempting it, I'm very pleased
19 and happy about it.

20 CHAIR ASKEW: Great.

21 Doug?

22 MR. EAKELEY: We were invited to participate in the

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1 Attorney General's access to justice initiative that has been
2 ongoing for some time. But one of the main focal points for
3 that effort is on alternative dispute resolution. And it
4 seems to me that there is a very substantial learning
5 experience in what we're about to deal with that could very
6 well lend itself to some of the initiatives going out of the
7 Justice Department.

8 And we came away from the meeting at noontime today
9 looking for points of intersection, where what we know and
10 learn and experience can be shared with Justice in ways that
11 will enhance the effectiveness of the legal system. And
12 there's an opportunity with this conference to move forward
13 together on that a lot further, too.

14 They were very interested in client involvement and
15 representation and nonlawyer participation in providing
16 access. And I just mention that not because I have anything
17 specific in mind, but because I think there might be
18 something there to develop for the conference and following
19 and maybe even to invite one or more of the participants
20 within the Justice Department who are leading this effort to
21 participate or just attend and take back to their task force
22 some of the experiences learned.

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1 MS. FAIRBANKS-WILLIAMS: We have a dispute
2 resolution in Rutland courts, which has worked very well.
3 And it's not all lawyer-driven, I would say. There's quite a
4 few of the dispute people who are not lawyers. And I have --
5 what do I want to say? I have participated in some of the
6 disputes on behalf of clients. And the discussion has been
7 very good. And some of the stuff has never gone to court.
8 It has been settled outside of court.

9 MS. WATLINGTON: Doug, since you're involved in
10 that, I think it would be very nice and I guess a diplomatic
11 move to allow her to pick who she thinks would --

12 MR. EAKELEY: There's actually a multidisciplinary
13 task force with subgroups that has got co-Chairs. And we
14 have got the names of all of the participants. And, indeed,
15 virtually everyone was there at this relatively hastily
16 convened meeting today at noontime.

17 But I think we can plug in -- we have been asked to
18 participate more fully. Martha Bergmark joined me. And I
19 think that there's a wonderful opportunity that has just been
20 opened up that this represents.

21 MS. FAIRBANKS-WILLIAMS: We definitely should
22 invite some of those people to this client --

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1 MR. EAKELEY: Yes.

2 CHAIR ASKEW: I noticed James is making a note of
3 that, I assume, to follow up on.

4 MR. HEAD: Yes, I am.

5 CHAIR ASKEW: Great.

6 Any other questions or comments?

7 (No response.)

8 CHAIR ASKEW: Thank you very much, James, for
9 staying involved in this. This is long overdue. And we're
10 hopeful of the results it will produce. Good luck.

11 MR. HEAD: Thank you.

12 CHAIR ASKEW: And I'm sure we'll be hearing from
13 you, one way or another, over the next month or so.

14 MR. HEAD: Yes.

15 CHAIR ASKEW: Nancy, can you tell us of what has
16 happened with the law school clinic issue since the last
17 Board committee meeting?

18 MS. ROGERS: Yes. Last year, in putting together
19 the guidelines for funding for the law school clinic program,
20 we solicited and received lots of written comments and calls
21 and even testimony. And it was very helpful, I think, in
22 shaping the policies.

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1 The people we heard from most frequently were
2 potential recipients of funding giving us guidance as to how
3 they would like the program to be set up. And we thought
4 after that experience that it would be very helpful to ask
5 someone who wasn't a potential recipient but who had a great
6 deal of experience with the Legal Services community, with
7 the clinical community, and with legal education to provide
8 some informal consultation to the Board to guide them as they
9 move into the next funding cycle in the development of
10 policies.

11 And Doug Eakeley suggested to us after talking with
12 us somewhat that a person who fit that very ably was
13 Professor Michael Tiger, who is a Chaired professor at the
14 University of Texas who has over his career been very
15 interested in the provision of legal services for the poor
16 and has been in a situation in which he has developed and
17 participated in clinical programs in law school but presently
18 wouldn't be a potential recipient of any Legal Services'
19 funding under this program.

20 And he agreed to do so at no charge. And at the
21 conclusion, I'm going to suggest that our committee suggest
22 to the Board a resolution of thanks, because what Professor

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1 Tiger did was to spend a great deal of time consulting with
2 Legal Services' lawyers, consulting with those in clinical
3 legal education, consulting with private attorneys who were
4 involved in providing pro bono service, and even interviewing
5 the president of a foundation who had been involved in
6 evaluating and funding Legal Services' programs.

7 And we just received and thought we would put on
8 the agenda for next month's committee discussion his
9 conclusions after doing this interviewing. And they are, I
10 guess in a nutshell, that the most effective use of the
11 money, given funds that are out there for other purposes and
12 the size of funds that are available, are policies that would
13 place law students into Legal Services' programs for
14 substantial amounts of time.

15 And he goes through some discussion as to why he
16 thinks that is the most cost effective, in terms of the goals
17 of the Legal Services Corporation in general and in terms of
18 the way that law school clinics are set up. And law students
19 are attracted to Legal Services.

20 He also speaks favorably about an idea of
21 sabbatical programs for Legal Services' lawyers, although he
22 clearly makes that a lower priority in his estimation.

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1 MS. ROGERS: I do move that we recommend a
2 resolution to the full Board, a resolution of thanks.

3 CHAIR ASKEW: Do I hear a second for that?

4 MS. FAIRBANKS-WILLIAMS: Second.

5 CHAIR ASKEW: All those in favor, say, "Aye."

6 (Chorus of ayes.)

7 CHAIR ASKEW: Could I ask you to take
8 responsibility for drafting such a resolution?

9 MS. ROGERS: Yes.

10 CHAIR ASKEW: To be signed by the Chair. You
11 already have one in front of you?

12 MS. ROGERS: No, not yet.

13 MR. EAKELEY: What do you think, she's Bill
14 McCalpin?

15 (Laughter.)

16 MR. EAKELEY: He left the room.

17 CHAIR ASKEW: John Brooks?

18 MR. BROOKS: If it's not premature, Nancy, I wonder
19 if it would be informative to the rest of the Board to have
20 copies of Professor Tiger's report.

21 CHAIR ASKEW: Sure. We can have those ready by
22 tomorrow to hand out.

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1 MR. BROOKS: Good.

2 CHAIR ASKEW: Thank you, Nancy.

3 The last issue under "Other Business" is the loan
4 repayment regulations at the Department of Education. Nancy
5 Rogers was attentive enough reading her mail to see this
6 going around and faxed it to John and faxed it to myself, and
7 we found out that comments were due by today, I believe; is
8 that right?

9 MR. TULL: Monday.

10 CHAIR ASKEW: Monday on these regulations. And
11 they are of import to Legal Services' programs. And so John
12 and the staff got to work on it.

13 And, John, can you tell us quickly what this
14 entails and what your comments are?

15 MR. TULL: Well, I'll state it briefly, and if you
16 have detailed questions, Richie Haley from the staff can
17 probably answer them better, or Kathleen Welch has also
18 worked on this issue.

19 Apparently, the issue involves a proposed
20 regulation from the Department of Education which would move
21 loans rather than being made by banks being made by the
22 federal government. And there's a set of approaches to how

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1 that would be done.

2 There's a very specific issue that affects the
3 capacity of -- and a rather detailed issue of -- it affects
4 the capacity of the loan repayment process as suggested in
5 the regulations to encourage or not to discourage people with
6 heavy loans from working for Legal Services' programs and
7 other public interest groups.

8 And that is, specifically, that they do allow --
9 that they propose allowing a person to defer and to reduce
10 the amount of money that they would pay on a loan if working
11 for a Legal Services' program or a public interest law
12 entity. But they would compound the interest during that
13 time period.

14 And it happens that compounding it means that the
15 actual impact of that, in terms of extending the size of the
16 loan and the length of the loan, is enormous. And it's a
17 fairly specific suggestion, that they're not required to
18 compound the interest, that it be direct interest. And a
19 letter has been drafted to send to them. We thought it would
20 be useful to let the committee know that that was going to
21 happen first, in case there was any concern about that.

22 CHAIR ASKEW: Great.

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1 MR. EAKELEY: Direct or simple interest?

2 MR. TULL: That should be simple interest, rather
3 than compound. I'm sorry. I didn't mean direct. Thank you.

4 MR. EAKELEY: I thought that's what you said.

5 MR. TULL: That's exactly what I'm sure we said.

6 CHAIR ASKEW: The way we found out about this is
7 that Phil Shrag at Georgetown has written a lengthy analysis
8 of these regulations. And mostly, it's praiseworthy. What
9 they're doing is very important and useful to students and to
10 law schools. But there's one detail about it, in terms of
11 public interest. It would be very helpful if they changed
12 one specific thing.

13 MR. EAKELEY: Who is the "they" that --

14 CHAIR ASKEW: The Department of Education. These
15 are regulations implementing a change, I assume, from last
16 year's DOE authorization or whatever. And what it allows is
17 the loans that students have to be -- if a student chooses to
18 accept employment in an organization, specifically, Legal
19 Services or a public interest organization, the loan payment
20 would be calculated on their income, rather than on a flat
21 payment schedule.

22 They can't meet flat payment schedules, because

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1 they don't earn enough. This would be no more, I think, than
2 15 percent of their income; is that right? That would be
3 their annual loan repayment, which would allow them to work
4 in Legal Services and still meet their loan obligations. The
5 question is, all that that's being deferred into the future,
6 whether that's compound interest or simple interest. He's
7 suggesting simple interest.

8 MR. EAKELEY: No, I understood the issue. I was
9 asking about the who, because this is a perfect example of
10 what we were talking about the Justice Department today,
11 which was to encourage different Cabinet agencies to reach
12 out in advance of developing new programs to involve Legal
13 Services' advocates to help identify issues that might be
14 subsurface and/or to make new laws or regulations that affect
15 either our poverty population clients or their future
16 advocates more user friendly.

17 And I'll just figure out a way to go back to DOE
18 and say, "Don't forget Legal Services next time."

19 CHAIR ASKEW: And the comment will go in on Monday,
20 right?

21 MR. TULL: Yes, sir.

22 CHAIR ASKEW: Thank you. Well, they responded to

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1 that very quickly, so we appreciate that. It's an important
2 issue.

3 Any other business to be brought before the
4 committee?

5 (No response.)

6 CHAIR ASKEW: Do I hear a motion that we adjourn
7 today's meeting?

8 M O T I O N

9 MS. FAIRBANKS-WILLIAMS: So moved.

10 CHAIR ASKEW: Second?

11 MS. ROGERS: Second.

12 CHAIR ASKEW: All those in favor, say, "Aye."

13 (Chorus of ayes.)

14 CHAIR ASKEW: We stand in adjournment. Thank you.

15 (Whereupon, at 5:15 p.m. the meeting of Board of
16 Directors Committee for the Provision of Legal Services was
17 adjourned.)

18 * * * * *

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