

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

BOARD OF DIRECTORS MEETING

OPEN SESSION

Monday, April 6, 1998

1:04 p.m.

Regency Ballroom D
Hyatt Regency Phoenix
122 North Second Street
Phoenix, Arizona 85004

BOARD MEMBERS PRESENT:

Douglas S. Eakeley, Chair
Hulett H. Askew
LaVeeda M. Battle
John N. Erlenborn
Edna Fairbanks-Williams
Maria Luisa Mercado
F. William McCalpin
Nancy H. Rogers (via telephone)
Ernestine P. Watlington

STAFF PRESENT:

John McKay, President
Jim Hogan, Vice President of Administration
John Tull, Vice President of Programs
Victor M. Fortuno, General Counsel and
Corporate Secretary
David Richardson, Treasurer
Edouard Quatrevaux, Inspector General

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MOTIONS: 3, 30, 30, 76, 90, 98, 100

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

2 CHAIRMAN EAKELEY: All right. I would like to
3 call the meeting to order. Nancy Rogers is on the
4 speaker phone in Ohio. And you all have the agenda.
5 Are there any changes or additions to be made to the
6 agenda? Hearing none, is there a motion to approve the
7 agenda?

8 MS. MERCADO: Your Honor -- I am sorry, I am
9 in court all day. I was just going to make a comment.
10 I think that we might want to take some people who
11 didn't get a chance to speak this morning out of order
12 to begin with before we go through the whole agenda.

13 CHAIRMAN EAKELEY: That is fair. That is what
14 I indeed intend to do as soon as we approve the agenda.
15 So subject to that, as soon as we go on the air, we
16 will welcome the Attorney General of the State of
17 Arizona. With that modification, agenda approved?

18 M O T I O N

19 MR. ASKEW: So moved.

20 MS. MERCADO: Second.

21 CHAIRMAN EAKELEY: All those in favor?

22 (Chorus of ayes.)

1 CHAIRMAN EAKELEY: We are in session. First
2 let me just say, on behalf of the Board, what a great
3 pleasure it is to be here in Arizona for this meeting.
4 We try to get outside of Washington a couple of times a
5 year because we learn so much when we do.

6 We had a wonderful morning session this
7 morning by presentations of the Arizona, Colorado, and
8 New Mexico programs, in particular. We had a fine
9 reception yesterday and we are looking forward to our
10 reception in the State Capital this afternoon. All of
11 which has given us a wonderful opportunity to interact
12 and to take back something from what we have gained.

13 It is my pleasure now to introduce the
14 Attorney General of Arizona, Grant Woods, who has been
15 a strong supporter of legal services and in 1995, along
16 with other state attorneys general, sent a letter to
17 the Congress supporting the refunding and
18 reauthorization of the Legal Services Corporation.

19 He also signed the amicus brief regarding the
20 IOLTA lawsuit that is current pending decision in the
21 United States Supreme Court. And it is just a
22 wonderful way for us to open this meeting here in

1 Phoenix by welcoming Attorney General Woods.

2 ATTORNEY GENERAL WOODS: Thank you. You have
3 a whole team of people here to welcome you. So I will
4 be the first to welcome you from this official group
5 and we are glad that you chose Arizona, and I know you
6 chose us only because of our forward thinking political
7 leaders. It had nothing to do with the weather or
8 anything else, but we are glad, at least, you weren't
9 disappointed by the weather, if not by our political
10 leaders.

11 I think that the message I wanted to just give
12 you is that I think it is appropriate that we look at
13 the Legal Services Corporation for what it is, and that
14 is that it is an integral part of our justice system,
15 and that we try to move away from your knee jerk
16 reactions, liberal or conservative or Republican or
17 Democrat, and instead focus on what the justice system
18 is supposed to be about.

19 And I think it is supposed to be about equal
20 treatment and equal access, equal justice under the
21 law. And if I look at the civil justice system, in
22 particular, I think the greatest challenge we have in

1 the civil justice system is in access to the courts and
2 access then to justice.

3 And it would seem to me, then, that this is
4 not a liberal or conservative issue or it is not bound
5 to one party or another. We should all be in favor of
6 everybody having the ability to achieve some sort of
7 justice within our system.

8 And the reality today is, unfortunately, that
9 unless you have an awful lot of money individually or
10 unless you are a company that has a lot of money, if
11 you are a person of modest means or even if you are a
12 middle income American, you find it very difficult to
13 access the justice system.

14 If you are a small business person, people who
15 are always conservatives in particular wave the flag
16 for small business people and yet seem not to realize
17 that small business people have probably the same sort
18 of access problems to the court as a poor individual
19 might have. It is just almost impossible for a small
20 business person to be able to have his day in court
21 because it is too expensive.

22 At some point in time, we put the rhetoric

1 aside and the labels aside and we just try to get on
2 about the business of making our United States
3 Constitution a real document in the lives of Americans.
4 And if we do that, then I think we see that the Legal
5 Services Corporation plays a very key role here.

6 And rather than using it as a political
7 whipping boy, which I believe it has been used for in
8 the past, we would instead sit down together and people
9 would look at the common goals and what the issues
10 really are and figure out how we solve them and
11 certainly then how we fund them.

12 And if we do that and everybody operated in
13 good faith, then I would think you would see that the
14 Legal Services Corporation could spend more of its time
15 focusing on the clientele that it serves rather than
16 trying to worry about its very existence or how to do
17 the same thing with less funding year after year after
18 year.

19 So when this issue came up with the AGs,
20 myself and Skip Humphrey, the attorney general from
21 Minnesota, wrote the letter and passed the letter. I
22 see we got 21 state attorneys general. I don't know

1 how many Republicans I was able to get on that one.
2 Maybe none, I don't know, but I assume there were some
3 on there.

4 And I think, again, that it is just going to
5 take leadership by people standing up and saying,
6 "Let's move beyond the rhetoric and talk about
7 justice." And if you talk about justice, you all are a
8 very real part of that. If I could just conclude by
9 saying, I think attorneys general should be natural
10 allies because I view the attorney general as the
11 peoples' lawyer.

12 I think it should be the one office in the
13 state where average everyday people can have confidence
14 that someone is standing up for them. And certainly
15 that means you are going to be involved in civil rights
16 issues and in consumer issues, that you may often have
17 to take on powerful interests, political or monied
18 interest.

19 And so, you see, in many ways if you are doing
20 your job right as attorney general, I think you are
21 fighting some of the same battles that you all are
22 fighting. Now sometimes we are on opposite sides in

1 the courtroom, but again, as lawyers, we understand
2 that that is okay. That is why we have a justice
3 system and sometimes you win and sometimes you lose and
4 you come back and argue another day.

5 So I did not think it was unusual for us to be
6 allies. I think we should be natural allies and I am
7 proud to be associates, at least in that small way,
8 with this group, and I wish you nothing but success in
9 the future.

10 CHAIRMAN EAKELEY: Well, we thank you for
11 being with us. You know, our new neighbor in our
12 offices in Washington on 751st Street is the National
13 Association of Attorneys General. And Chris Milken was
14 there when I was first assistant attorney general of
15 New Jersey years ago and she is still there and
16 wonderfully supportive.

17 ATTORNEY GENERAL WOODS: Great.

18 CHAIRMAN EAKELEY: But we think there is a
19 natural alliance between the law enforcement community
20 and the legal services community in many ways because
21 we are all there pursuing the same goal, as you so
22 aptly described.

1 ATTORNEY GENERAL WOODS: Great.

2 CHAIRMAN EAKELEY: Well, we thank you again
3 for coming over and for your support, and we look
4 forward to continuing collaboration.

5 ATTORNEY GENERAL WOODS: Okay. Thank you.

6 CHAIRMAN EAKELEY: Thank you. Mr. Verkamp?
7 Then we have Justice Jones? Welcome to -- actually,
8 this New Jersey boy says welcome to Phoenix to the
9 vice-chair of the Supreme Court.

10 JUSTICE JONES: That is why I am here, to
11 welcome you.

12 CHAIRMAN EAKELEY: That is right. Justice
13 Charles Bud Jones is the vice-chief justice of the
14 Arizona Supreme Court. He has served in that capacity
15 since 1997 and was appointed to the Court in 1996. He
16 was in private practice here in Phoenix, I guess, for
17 some 30 years. It really is a pleasure being here and
18 it is a pleasure to be able to welcome you to welcome
19 us.

20 JUSTICE JONES: Thank you. Your words are
21 appreciated. Let me just commence with mentioning the
22 fact that chief justice would liked to have been here

1 and unfortunately he is not. He suffered an accident
2 yesterday in a bicycle race and for that reason, would
3 not be able to be here either way.

4 But I am glad to be here and welcome you on
5 behalf of the Supreme Court of Arizona and tell you
6 that as one who now participates in the judicial
7 process, after 30 years in private practice, I have
8 been able to see from the inside out what goes on in
9 courts and the importance that is attached to affording
10 access to the courts on the part of all Americans.

11 On matters pertaining to the administration of
12 justice, it has been my sense that we see things pretty
13 much the same way as the Attorney General has just
14 expressed from his vantage point.

15 We do not engage in policy-making, as you
16 know, and yet we are concerned about administration
17 matters and certainly about the problems that -- all of
18 the problems that are associated with the lack or the
19 absence of full access to the courts by all Americans.
20 And what Attorney General Woods has just said is true
21 from my vantage point as well.

22 One of the things that I would say is this.

1 As long as we are going to have complicated sentencing
2 schemes in the criminal area and the death penalty in
3 capital cases, our policy makers need to at least
4 posture themselves in a position where they are willing
5 to pay the price for those measures because they take
6 time.

7 The cases that are in the courts tend to clog
8 the system, makes it more and more difficult to get
9 more things through the courts, more things into the
10 courts, to say nothing of the problems that people have
11 simply with the expense associated in accessing the
12 justice system. We have a problem in Arizona right now
13 with respect to post-conviction relief under our
14 Rule 32, which is associated exclusively with capital
15 cases.

16 The vast majority of these cases are handled
17 by appointed counsel. The public defenders' offices
18 are not equipped to handle capital cases, it takes a
19 specialized person or persons. And as a consequence,
20 they have to be appointed and they have to be paid. Up
21 to now, our legislature has been rather reluctant to
22 afford adequate funding for this program. And so we

1 sit somewhat in limbo in dealing with post -- this does
2 not have anything to do with direct appeal.

3 It does have to do with constitutional issues
4 that will arise subsequently in Rule 32 proceedings
5 where, even there, competent counsel must be appointed.
6 And once they are appointed, it takes time, it takes a
7 lot of work, and it takes great expertise. And it is
8 very difficult for us to secure competent lawyers who
9 are willing to sit on these cases at the compensation
10 levels that the legislature has given us.

11 So that is one problems we are facing among
12 many. But let me just say that we, as Attorney General
13 Woods has expressed here moments ago, we sense the need
14 for legal services and for the federal funding that
15 goes into the Legal Services Corporation. It does play
16 a very significant role in assisting many, many people
17 to access the system, which they would not otherwise
18 have.

19 If we are going to have a constitution that
20 works and we are going to protect the rights of people,
21 then it seems to me that what I have just described on
22 a mini-scale at the state level with these PCR

1 problems, undoubtedly it exists in your lives on a
2 grander scale at the federal level on a nationwide
3 basis where funding is simply necessary in order that
4 people's rights can be vindicated.

5 We are grateful that you are here. We are
6 glad to see you folks in Phoenix and we want to welcome
7 you. And I speak now on behalf of the Supreme Court.
8 The work that you are doing is vital to many, many
9 people, not only here, but across the country, and we
10 want you to know that at least we take note of it and
11 recognize it and offer you our support. Thank you very
12 much. It is nice to be here.

13 CHAIRMAN EAKELEY: Thank you very much. Next
14 I would like to introduce Mr. Robert Van Wyck, who is
15 the current president of the State Bar of Arizona and a
16 very strong supporter of legal services and one of our
17 hosts for the evening.

18 MR. WYCK: Thank you. I want to welcome
19 everyone here. It is really an honor to host this
20 meeting in Arizona and it is truly an honor to be in
21 the company of the people here, the attorneys.

22 Our job as attorneys is to be a voice for our

1 clients and that is for individual clients, for the
2 poor, for the disenfranchised, for corporations, for
3 the state, whoever. That is our job is to be a voice.
4 And it is a particular honor for attorneys to be the
5 voice for persons who are disenfranchised or persons
6 who struggle to be heard in the system and to have
7 access to the system.

8 In Arizona, we work hard to bring a voice to
9 individual clients and individuals who desperately need
10 that voice. It is not enough, but it is -- I have some
11 figures on what we have been able to do. Arizona
12 lawyers have contributed over 360,000 pro bono hours in
13 1996 and it is way up now. We have an actual dues
14 checkoff on our bar dues that allows for monies to be
15 paid into the poor legal services support, \$29,000 in
16 1997 was checked off.

17 We have a Sharon B. Fulmer award for
18 outstanding legal services attorney of the year. And
19 that person is honored at the convention every year.
20 We have helped to make legal services a real priority
21 at the Arizona legislature. And I will tell you that
22 John Verkamp has been absolutely instrumental in this

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1 legislation going anywhere.

2 The proposals are in regard to domestic
3 violence and the elderly. And John Verkamp has taken
4 the lead with us on that. He is a fine lawyer and a
5 fine human being and he is a wonderful legislature.
6 And we are blessed, really, to have his voice in the
7 legislature speaking for us.

8 I just want a moment on a personal note. I
9 always wondered when I was doing this kind of work and
10 when much of my work before -- but sometimes, you know,
11 what good am I doing and why do I do this. And that
12 has to be, in the legal services world, a question that
13 is asked more than very often.

14 When I graduated from college, I moved to
15 Albuquerque and I was in Vista for a year and started
16 a -- and worked at their Burton Legal County Juvenile
17 Detention Center with kids, very delinquent troubled
18 kids, started with others a group home and ran that for
19 about three years and then left. I burned out,
20 frankly. Other people took over and it has become now
21 part of a large group of group homes.

22 And I look back and one of the things that

1 always troubled me as I was there and then I left, you
2 know, what good did I do, why did I do that? Four of
3 my kids ended up -- died at some point or were killed,
4 two are in jail, and one of them is doing pretty well.
5 And I wonder what was I doing, what good did I do? And
6 it has to be, again, the question everyone in legal
7 services asks all the time.

8 What good did I do? As I realize what good I
9 did was that for moments of time those kids felt better
10 about themselves and better about their lives than they
11 ever had before and that they ever would. They were
12 safer, they felt less disenfranchised, they felt a part
13 of something. They felt their voices could be heard on
14 some level in the system and that I was able to help in
15 that regard.

16 Why did I do it? I have no idea and I don't
17 think any of us do. That is the way I was wired, that
18 is the way I am still wired, that was the gift that I
19 had at that time, and I was fortunate enough to be in a
20 place where I could do that.

21 For the same reason, I think that I am so
22 proud of people who have stayed with this kind of work

1 for such a long period of time and who are so dedicated
2 because, again, what good do you do? Sometimes it is
3 just those moments, but sometimes it is something more.
4 To give a voice to the disenfranchised, to spend some
5 time where somebody feels a little bit better about
6 themselves and about their family, a little bit less
7 afraid. That is good work and that is why we do it.

8 And again why? It is just the gift that
9 people here have. It is the gift that you have and it
10 is an honor that you share it, and it is truly an honor
11 that you are here and we are proud to have you, and we
12 thank you very much.

13 CHAIRMAN EAKELEY: Thank you. There are a lot
14 of people behind you of whom you should be very proud
15 and from whom we have heard a little bit this morning.
16 And you have just set up some wonderful programs here
17 in the State and it has been our privilege to learn a
18 little bit more from them today.

19 MR. WYCK: Well, that is wonderful and I am
20 trying to speak to both sides and it is kind of -- I
21 speak here, there is no camera there, and then most
22 people are in back.

1 CHAIRMAN EAKELEY: It is a bizarre proceeding.
2 Not only that, we are the volunteers, they are the
3 full-time, dedicated servants.

4 MR. WYCK: I got you. Well, everybody works
5 hard and it is tough work and we appreciate it.

6 CHAIRMAN EAKELEY: Thank you. Next I would
7 like to call Mr. Van Wyck's successor to be, David
8 Leona, who is the president-elect of the Arizona Bar
9 Foundation. And I didn't quite mean the successor that
10 way, but chairman of the Arizona Bar Foundation and
11 also chairman of the Legal Services Allocation
12 Committee.

13 MR. LEONA: Thank you. Like the previous
14 speakers, I am very happy and proud to be invited to
15 welcome all of you to Phoenix, Arizona. On the way
16 here I was thinking about what is the appropriate way
17 to welcome all of you and I was thinking about last
18 night.

19 I happened to be lucky enough to have a ticket
20 to be at the Bank One Ballpark and witness history in
21 Arizona where our local baseball team won its first
22 game. And I thought, it is too bad that we couldn't be

1 at the Bank One Ballpark today where I could look at
2 all of you and say, "Arizona opens its skies to welcome
3 you," and the retractable roof would open up, and it
4 would be an appropriate welcome. We are not there, but
5 I welcome you, nonetheless, on behalf of the Arizona
6 Bar Foundation Board of Directors.

7 I was also thinking about the Bank One
8 Ballpark because I think it is appropriate to think
9 about how that ballpark was built. It was built with
10 tax dollars, and that has been a continuing controversy
11 in the State of Arizona. A \$350 million ballpark was
12 built with tax dollars.

13 And I was thinking, coming here today, we all
14 have to explore alternate ways to make sure that legal
15 services are being provided to everyone who needs them.
16 And the Arizona Bar Foundation has tried very hard in
17 the last few years to be the conduit to many of the
18 things you have already heard. We have to find
19 innovative ways to make sure that we are funding
20 appropriately legal services.

21 The Bar Foundation funds legal services or
22 fulfills its mission by the IOLTA funding that we

1 receive, and we IOLTA dollars to legal service
2 providers throughout the State of Arizona. This
3 morning I am sure you have heard from some of those
4 providers who benefit from our dollars and certainly
5 benefit from your dollars. And we very much appreciate
6 that.

7 The Bar Foundation also uses those same
8 dollars to fund law related education programs. And
9 those are programs that we administer throughout the
10 schools of the State of Arizona, primarily in grade and
11 middle schools, to get one message through. That is
12 citizen responsibilities and violence prevention.

13 It is more of a preventative medicine sort of
14 thing that we hope that certainly kids who learn more
15 about their citizenship and their rights and
16 responsibilities, as well as respect for those rights
17 and responsibilities of others, will be better citizens
18 so they don't need the legal services that legal
19 service programs provide and can be better citizens and
20 more productive citizens.

21 So our foundation is really involved in those
22 two types of programs, but those are limited dollars.

1 And we have been looking at innovative ways to try to
2 make sure that we are doing all we can. One of the
3 things that you have heard from Bob, the State Bar
4 president, is that we have been instrumental in working
5 with the legislature to come up with dollars to fund
6 various programs.

7 Two of those programs that we are working on
8 presently with the State Bar of Arizona and with the
9 legislature is, as Bob mentioned, domestic violence
10 problems and elder abuse problems. We are also working
11 with the Department of Education and their budget to
12 assist in funding some of our law related education
13 programs on citizenship in the schools.

14 So we are very instrumental in working with
15 our legislature to try to come up with some tax dollars
16 to assist in the funding. We are also working with the
17 Supreme Court. You have heard from Chief Justice
18 Jacobson. The Supreme Court has been very instrumental
19 with the Bar Foundation in providing necessary funds
20 for law related education programs.

21 They have given the Bar Foundation seed money
22 to develop programs relative to violence prevention

1 programs in our grade schools, and we have been very
2 successful in developing programs that have even gone
3 nationwide. So the Supreme Court has been a necessary
4 part of what we do in terms of legal services
5 throughout the state as a foundation.

6 Again, we all need to strive to look at
7 innovative ways to make sure that the civil justice
8 system is truly civil and truly just. We all know, as
9 providers in that system, that the civil justice system
10 cannot work unless we are providing equal access and an
11 equal voice.

12 The Bar Foundation is very committed to
13 providing both of those things to the constituency here
14 in Arizona. We applaud all of your efforts in
15 continuing to ensure funding to our citizens throughout
16 the State. We know that you have very difficult work
17 to perform day in and day out and we applaud your
18 efforts, we stand with you, and we thank you for
19 visiting Phoenix, Arizona.

20 CHAIRMAN EAKELEY: Well, we thank you for
21 being here and also the Foundation for co-hosting the
22 reception and welcoming us so well.

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1 MR. LEONA: Thank you.

2 CHAIRMAN EAKELEY: I was trying to think of a
3 baseball metaphor, but I don't follow the game closely
4 enough to mention anything that -- I know that in the
5 legislature just one vote more than a majority is
6 enough to pass an appropriation just the way a
7 three-two win is a three-two win.

8 MR. LEONA: That is right.

9 CHAIRMAN EAKELEY: And I think we could all do
10 with a few extra votes in our respective state and
11 federal legislatures when it comes to upping the
12 appropriation and perhaps -- need I say, dare I say --
13 reducing the level of restrictiveness on what worthy
14 programs can do with those resources. But thank you
15 very much.

16 MR. LEONA: Thank you.

17 CHAIRMAN EAKELEY: I actually should just
18 introduce Stewart Forsyth, who is also here and the
19 executive director of the State Bar of Arizona.
20 Representative Verkamp is not here yet, I think, right?
21 So why don't we ask Joe Kramer, who many of you met
22 last night, and who is chair of the State Bar Legal

1 Services Committee, has a few words of wisdom. Has a
2 lot of words of wisdom, but he is going to share a few
3 of them with us today.

4 MR. KRAMER: Not that many, Mr. Chairman.
5 Thank you, Mr. Chairman, Mr. President, members of the
6 Board. My name is Joe Kramer. I am the co-chair of
7 the State Bar Legal Services Committee. I am an
8 attorney in private practice here in Phoenix.

9 The State Bar Legal Services Committee is the
10 committee charged with the examination of the effective
11 delivery of legal services to those in need in Arizona.
12 The Committee is made up of a diverse group of
13 participants, including private attorneys, public
14 attorneys, and the program directors who spoke with you
15 this morning. The group has been very active in
16 examining issues related to legal services in Arizona.

17 In 1996, the Legal Services Committee was at
18 the forefront of the statewide effort, in response to
19 an LSC request, to formulate a state plan for Arizona
20 for the delivery of legal services. A statewide plan
21 was put together after meetings involving the
22 judiciary, involving the client community, involving

1 the providers. And that document has served as a
2 benchmark for us in the last two years to examine how
3 we are doing.

4 In the last several months, in fact, before
5 LSC's February letter came out, the Legal Services
6 Committee determined that it was time to reevaluate and
7 readdress the issue of the delivery of legal services
8 in Arizona. And I am proud to tell you that as
9 co-chair of the Committee, when this issue was raised,
10 the providers enthusiastically agreed that we should
11 meet and talk and talk about issues from everything
12 from technology to reconfiguration of programs.

13 The group has taken seriously its charge that
14 we should reexamine whether what we are doing today
15 makes sense for today and for tomorrow. We plan, in
16 the next month, on convening a group that will begin to
17 discuss the issues raised in LSC's February letter.
18 And this group will make specific recommendations and
19 will then convene a larger group, in the next several
20 months, to examine the delivery of legal services in
21 Arizona.

22 And I tell you that everything is on the

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1 table. And I believe that we can and we will find a
2 common ground and will put together some solutions to
3 the issues that face us today. On one hand, I believe
4 this is a daunting task. It is a little bit scary.
5 There are obvious issues involved regarding local
6 control, turf management, for lack of a better term.
7 But on the other hand, it is very invigorating and
8 exciting.

9 And I am happy to tell you that I think the
10 participants of the group are excited about doing this
11 and I welcome questions, comments, and input from you
12 today and in the future. I welcome phone calls,
13 suggestions. If you hear about what we are doing, if
14 you have some questions about what we are doing --
15 because this is a process that has no map.

16 We can look at the counties, look at the
17 diversity of Arizona, and realize it is not easy. With
18 a broad client population and with five separate groups
19 that have been around for a long time that each, in
20 their own way, as you heard this morning, do a
21 tremendous job, it will not be easy to sit down and
22 say, "Well, here is a solution or here is one thing

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1 that we should do."

2 But the communication lines are there, I
3 assure you. And we will work very hard to make sure
4 that we, as a state, have a plan and a delivery of
5 legal services that is the most effective possible.
6 Thank you.

7 CHAIRMAN EAKELEY: Thank you. We wish you
8 good luck on that. Obviously, we are all very much
9 committed to strategic funding as an ongoing process
10 and as state planning is part of that, to make sure
11 that that access to justice is the product of a
12 coordinated and concerted effort to maximize use of
13 very scarce resources.

14 You mentioned communication. John Tull this
15 morning, in his report to the Provisions Committee, had
16 reported that, notwithstanding the enormous burdens
17 that changing regulations and resources from the
18 Congress have imposed on the Legal Services Corporation
19 staff, there is still a very real intention and effort
20 to make sure that there was communication from the
21 Corporation also that would hopefully support and
22 inform the state planning process and also learn from

1 it and share that learning with other states.

2 And we do not see state planning occurring in
3 a vacuum or in isolation, one state from the other, nor
4 do we see it as something that takes place outside or
5 other than in a partnership with the Corporation and
6 other funding sources so that we can accomplish this
7 goal and objective. So we wish you well on it, but
8 don't be a stranger now.

9 MR. KRAMER: We won't. Thank you.

10 CHAIRMAN EAKELEY: You know, there have been
11 so many different references to the program letter, the
12 February letter, from the mighty pen of John McKay.

13 MR. MCKAY: John Tull.

14 CHAIRMAN EAKELEY: All right. Well, why don't
15 we proceed with our regular agenda and then when
16 Representative Verkamp arrives, we will interrupt and
17 go back and hear from him. Next we have the approval
18 of the minutes of the Board meeting of February 7,
19 which were circulated in advance of the meeting. Are
20 there any corrections or additions to be made to those?
21 Hearing none, is there a motion to approve as
22 circulated?

M O T I O N

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MS. MERCADO: So moved.

MS. FAIRBANKS-WILLIAMS: Second.

CHAIRMAN EAKELEY: All those in favor?

(Chorus of ayes.)

CHAIRMAN EAKELEY: Opposed?

(No response.)

CHAIRMAN EAKELEY: Next we have approval of the minutes of the Board's executive session on February 7th, which were circulated independently of the Board materials. Any changes or corrections or additions? Motion to approve?

M O T I O N

MS. WATLINGTON: So moved.

CHAIRMAN EAKELEY: Second?

MR. ASKEW: Second.

CHAIRMAN EAKELEY: All those in favor?

(Chorus of ayes.)

CHAIRMAN EAKELEY: All those opposed?

(No response.)

CHAIRMAN EAKELEY: The minutes are approved.

Chairman's and Members' Reports. I guess I will leave

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1 it to John McKay to talk about our hearing in the House
2 Appropriations Subcommittee. I will say a few words
3 about it briefly, but it was a really different
4 experience this time around than the last couple of
5 times around. We were invited in to see Chairman
6 Rogers before the full committee -- the we being John
7 Erlenborn, John McKay, and I.

8 The rhetoric and the temperament seemed a
9 great deal reduced and there seemed to be, in general,
10 with a few notable exceptions, I think an appreciation
11 for the rebuilding and the outreach that the
12 Corporation has been doing and appreciation for the
13 efforts, many efforts, of the Corporation to implement
14 the new restrictions and to satisfy the congressional
15 intent. And along with that, a concomitant willingness
16 to continue to fund us.

17 We had a subsequent meeting at the White House
18 with the head of the OMB and the counsel to the
19 President, the deputy director of the Office of
20 Congressional Relations, at which we learned that we
21 were pretty much about as -- we were more or less
22 better off on our own, in essence, but that there was a

1 concern that the transportation bill, this \$218 billion
2 bill, would squeeze out a great deal, if not all,
3 discretionary spending.

4 And indeed, the congressional leadership had
5 not gone to that level of detail in the budget yet, but
6 by the time we were there two weeks ago, had stripped
7 out of the President's budget all discretionary
8 spending elements to substitute that transportation
9 bill. So it is not as if we are out of the woods and
10 in a rebuilding mode with a non-partisan or bi-partisan
11 consensus behind us and the resources available.

12 I think that the first part of that equation
13 is there in the sense that we are developing, through
14 the leadership of John McKay and John Erlenborn and the
15 hard work of the staff, a new coalition in the
16 Congress, but we are still subject to fiscal policy and
17 constraints and valid budget pressures that, even when
18 they seem to get out of whack, may come back and whack
19 us.

20 So it is just something to be aware of. The
21 Senate Appropriations Committee is not going to be
22 holding hearings, we believe, so that we have the only

1 hearing in the appropriations context.

2 There was a fair amount of mention by the
3 Chairman about the desirability of getting us back to a
4 reauthorization mode and having the authorizing
5 committees deal with the restrictions on the program,
6 but I don't think we are terribly sanguine about the
7 likelihood of that happening this year, although
8 reauthorization remains one of our top strategic
9 objectives for our long-range plan, as you all will
10 recall.

11 In any event, it was a welcome change from the
12 reception received the last couple of years, and I
13 might also add Mauricio Vivero did a beautiful job in
14 preparing us and the materials and the subsequent
15 answers to the follow-up questions that the Congress
16 submitted, the Committee submitted. In any event, that
17 is my report.

18 Ernestine?

19 MS. ROGERS: Nothing at this time. Just I
20 really enjoyed the reception last night and I am glad
21 to be here.

22 CHAIRMAN EAKELEY: Yes. Forgive me. Forgive

1 me for not mentioning that again and saying thank you
2 to those who made possible a wonderful tour and a
3 reception and a sort of get acquainted session with
4 Community Legal Services last night for us, and we are
5 looking forward also to the reception tonight at the
6 State Capital.

7 I also thought that the preparation for and
8 the presentation of the Programs' reports to the
9 Provisions Committee this morning was wonderfully
10 informative, as I think that is the third or fourth
11 time I have said it in the morning. But it can be said
12 again, right, Paul?

13 Maria Luisa?

14 MS. MERCADO: Yes. No, I just want to add to
15 those comments. I think it brings much more to life,
16 for the Board and for the staff, the insurmountable
17 task that the field programs have to do in trying to
18 deliver legal services, in particular to a state as
19 different in geography and cultures and languages as
20 Arizona is.

21 And trying to figure out how to deal with the
22 little dollars that we have and try to at least get the

1 crises clients represented, because we know we don't
2 have the funding to represent all poor clients that
3 need services, but how to do it the most effective way.

4 And it definitely seems that each program in
5 their own way has been doing the most that they can
6 with the money that they have and still trying to find
7 innovative ways to getting that service out there. So
8 we appreciate them spending the time to prepare for us.

9 CHAIRMAN EAKELEY: Edna?

10 MS. FAIRBANKS-WILLIAMS: I was appointed to
11 the Governor's Commission on Childhood Poverty in
12 Vermont. I knew we had a lot of poor people in
13 Vermont, but I didn't realize it was quite so bad as it
14 was until I started working on this Commission. So I
15 certainly hope that we have money coming from the
16 Congress so that we can continue to keep poor people in
17 their homes and keep them on SSI, and things like this,
18 because some of them are really starving out there.

19 CHAIRMAN EAKELEY: Is your commission --
20 congratulations first. One of the things I had wanted
21 to ask the providers, because I have asked the same
22 thing of our governor in New Jersey, but as people are

1 being forced off the welfare rolls, how well is Vermont
2 tracking the kids in those families?

3 MS. FAIRBANKS-WILLIAMS: Well, we are starting
4 to track them, but as far as I can see, the families
5 are -- what is the word I want -- bundling together.
6 If they lose their welfare, then they lose their rent
7 money. And if they are not making enough money or if
8 they are only working 20 hours -- I won't say the name
9 of the companies -- they are only working 20 hours and
10 have no health insurance and don't have money enough to
11 pay the rent, they start crawling in with relatives
12 wherever they can.

13 And then this causes problems because certain
14 things have to count all the money that is coming into
15 the house. So then the house may lose food stamps or
16 it may lose fuel and help. And so this just makes
17 things worse.

18 I haven't figured out yet what we are going to
19 do to solve these problems, but we are hearing -- we
20 have been all over the state in focus groups listening
21 to what people are saying and to what is happening and
22 trying to figure out what we are going to do.

1 CHAIRMAN EAKELEY: Thank you. Nancy Rogers,
2 you are next on the dais for comments or reports.

3 MS. ROGERS: I don't have a report. I am
4 pleased to be able to join you, at least, by phone.

5 CHAIRMAN EAKELEY: How did your speech go
6 today?

7 MS. ROGERS: It went well, thank you.

8 CHAIRMAN EAKELEY: Good. Bucky?

9 MR. ASKEW: The only thing I would say is last
10 weekend I was in Ashville, North Carolina for the end
11 of the ABA Pro Bono Conference in the beginning of the
12 Southeast Project Director's Meeting. The ABA Pro Bono
13 Conference appeared to me to be a raging success. I
14 think they had 600 people there. It was an
15 unbelievable turnout.

16 A lot of energy seemed to be really -- a lot
17 of really good things happening there. Our staff,
18 including our President, was present there and I think
19 Mr. McKay had to deliver about 16 speeches over a three
20 or four-day period and I think began to wonder who had
21 heard him three or four times the last few times he was
22 doing it. But John was there and Cindy Schneider, the

1 program officer for North Carolina, was there and some
2 very constructive meetings were held.

3 And I think it was a very good event for legal
4 services generally, but also for the Corporation in
5 terms of the presence that we had there and the ability
6 we had to meet with program directors, board chairs,
7 state bar people, and others as we move forward.

8 I don't know what they call that letter in
9 North Carolina or else I can't repeat it in this
10 audience. They are taking the letter very seriously in
11 North Carolina and moving that forward. And I think
12 some progress was made there.

13 CHAIRMAN EAKELEY: John Erlenborn.

14 MR. ERLENBORN: Mr. Chairman, I would agree
15 with your remarks concerning the House Appropriations
16 Subcommittee Meeting. I believe that I sensed a
17 feeling among the members of the subcommittee that we
18 no longer are facing a question as to whether there
19 will be a Legal Services Corporation or not, that that
20 is fairly well settled.

21 I think some of the members addressed that
22 with jubilation and others resignation. But in any

1 event, it appears that the attempts to destroy the
2 Corporation are probably in the past, but that doesn't
3 mean that we are in any way out of the woods. The job
4 that we all face now is to see that we get a decent
5 appropriation, and that will not be simple.

6 I don't think we are going to face a zero
7 appropriation, but we could face attempts to cut us
8 back again. And that is certainly the wrong direction.
9 We have to get not only as much as we got in the last
10 two years, but also a substantial increase to begin to
11 try to meet the need. But I think that it is more
12 hopeful than it has been for a number of years.

13 CHAIRMAN EAKELEY: Thank you. LaVeeda.

14 CHAIRMAN EAKELEY: I would just like to echo,
15 as some of the other members have mentioned, how
16 gracious our host and hostesses have been here in
17 Arizona for this meeting and how valuable it is to us,
18 as the Board, to have the opportunity to get out into
19 the field and to hear, while we are here, and to see,
20 while we are here, the work that is being done. I have
21 been recently appointed to a commission to look in
22 Indiana -- I am sorry, Alabama at --

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1 CHAIRMAN EAKELEY: I got you going last night.
2 I am sorry.

3 MS. BATTLE: I have got Mississippi, I have
4 got Indiana, I have got Alabama, I am starting to cover
5 the country, but --

6 CHAIRMAN EAKELEY: And you can.

7 MS. BATTLE: And Missouri maybe. But at any
8 rate, to really revisit the issue of the delivery
9 system in Alabama, both from the standpoint of funding,
10 other funding sources in Alabama, and also the program
11 structure. So I am looking forward to that work, as
12 well as the work that we do here.

13 CHAIRMAN EAKELEY: Congratulations and good
14 luck on it.

15 Bill McCalpin.

16 MR. McCALPIN: I have no report, other than to
17 echo the gratitude of the Board to the hospitality and
18 welcome that we have received here.

19 CHAIRMAN EAKELEY: Thank you.

20 John McKay.

21 MR. MCKAY: Thank you, Mr. Chairman. This
22 gives me an opportunity to report on not just my

1 activities, but also those of your really tremendous
2 staff who take their charge very, very seriously. We
3 know we are all in this to do the sam thing and that is
4 to reach out to the client communities.

5 It is very valuable for our staff who are here
6 and those who will receive reports from us when we
7 return about the work that is taking place here in the
8 southwest in Arizona. We have heard from Colorado and
9 New Mexico.

10 It helps all of us because we have talked
11 about this "inside the beltwayitis" that comes over us.
12 We do need to be out here to hear your stories, to hear
13 how what we do impacts you, and to learn from you in
14 terms of how we can best assist you in doing what it is
15 we are all supposed to be doing, and that is reaching
16 out to clients.

17 And so it always is the clients and we
18 appreciate the opportunity to be here and be one step
19 closer to that process. I want to just start and echo
20 both the comments of our chairman and vice-chairman
21 regarding our testimony before the House Appropriations
22 Subcommittee that handles the LSC appropriation. I

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1 will tell you that it was a massive change from my
2 viewpoint, but that was my first hearing.

3 I think it was a very good response and I want
4 to briefly just indicate what the funding situation is.
5 We have requested \$340 million in funding. We are
6 currently at around \$283 million. We understand, of
7 course, the processes, as John Erlenborn indicates,
8 will -- time will tell what sort of approach some in
9 the Congress might take on this.

10 I think we look forward to this process this
11 year as an opportunity for us, through the
12 appropriation requests that we have made of
13 \$340 million, to continue to provide education and
14 background information about the work that all of the
15 folks in this room do and all of our programs around
16 the country do.

17 We have asked for, in addition to our basic
18 appropriation of \$283 million, approximately 5.5
19 percent increase, as a basic field increase, keeping
20 pace with inflation, if you will, over the last several
21 years, but in order to maintain the basic field
22 service, the 283, which in context, of course, is a

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1 serious reduction over prior years.

2 But as we look at the \$340 million submittal,
3 that we indicate that we look for a basic increase of
4 around 5.5 percent, which takes us slightly over \$300
5 million. And then in two other strategic areas, we
6 have requested funding in the area of domestic violence
7 and the unmet legal needs of children. That is
8 \$23 million. And \$17 million for technology
9 improvements, primarily in the field. In fact, only a
10 small portion of that would be retained for purposes of
11 doing demonstration projects.

12 This occurred through a great amount of
13 discussion with field programs to make certain that the
14 additional funds, if you will, over our current
15 appropriation were accounted for in a way that made
16 sense. One, first and foremost to our client
17 communities, but also to the Congress because we know
18 that the Congress is interested in funding in those
19 areas.

20 So we have tried to make sure that we provide
21 enough information to the Congress about what we expect
22 to do with those funds and the return that we know that

1 project directors and their staffs will get for those
2 additional funds if we are successful in obtaining them
3 from the Congress.

4 So we expect to have a number of opportunities
5 to work with individual members of Congress and as we
6 go through both houses, to work with them and to build
7 on the current level of bi-partisan support that exists
8 in both houses for legal services. And what we want to
9 do is indicate that as the Congress continues to invest
10 in legal services, we will show them the good work that
11 we do.

12 It is a pretty simple concept and we are
13 getting some positive signs from staff and others, on
14 Capitol Hill, that this seems to be a good approach.
15 And so I don't want to be overly optimistic. I think
16 that we do stand a chance of a modest increase in our
17 appropriation in the coming year, and we will certainly
18 report to the Board on a regular basis as we go through
19 this process. And I want to particularly thank our
20 chairman, Doug Eakeley, for a stellar performance at
21 the House Appropriations Subcommittee Hearing.

22 CHAIRMAN EAKELEY: I deferred to the two of

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1 you.

2 MR. MCKAY: Well, I could give specifics, but
3 I think it was an excellent presentation on behalf of
4 the Board and on behalf of the Corporation. And John
5 Erlenborn, our vice-chair, who also made the
6 presentation, brings -- I have said this before. And
7 we are absolutely in his debt for his -- the history
8 that he brings and the credibility that he brings as a
9 former member of the Congress.

10 And first and foremost, the articulate way in
11 which our vice-chairman talks about the work that we
12 do, how important it is, and how the Congress really
13 needs to trust us to be a part of the justice system,
14 as the Arizona Attorney General so eloquently put it a
15 little bit earlier in this hearing. So our thanks to
16 both Doug Eakeley and to John Erlenborn for a really
17 terrific job.

18 I also want to thank Mauricio Vivero, who in
19 his really just very first couple of months on board,
20 did an outstanding job in putting together what is
21 really a new approach. The numbers aren't tremendously
22 different, but the approach we are taking is a

1 different one.

2 The educational opportunity that we have to
3 build on our bi-partisan support has presented
4 challenges. And he has worked along with John Tull,
5 along with Dave Richardson, along with Jim Hogan, a
6 number of our staff in OPO, folks who have worked very
7 hard to make sure that as we present these numbers to
8 the Congress, that we are in a position to answer the
9 questions that they ask us.

10 And I think we have done that in a very, very
11 good way. We will build on that success in the future,
12 but I wanted to thank them publicly here for their very
13 hard work. Doug did relate to the rest of the Board
14 and to those here about our meeting at the White House.

15 I want to say that I was very impressed with
16 and grateful for the support of the Administration.
17 They are very well engaged. I think that the Office of
18 the Council to the President, the First Lady's Office
19 to the Legislative Affairs within the White House are
20 very, very supportive and engaged on the mission of the
21 Legal Services Corporation.

22 So I am pleased to report that that is a very

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1 fruitful relationship and extremely helpful. And we
2 are grateful to the President and to the White House
3 staff who have been assisting us in this. I should
4 report also that we continue to have very excellent
5 contacts.

6 As a follow-up, Mr. Chairman, to yours and my
7 meeting over at the Department of Justice with the
8 deputy attorney general, Eric Holder, we have followed
9 that up with a number of meetings attended by John
10 Tull, myself, Jim Hogan, Mauricio Vivero, others who
11 have been in contact now at various levels in the
12 Department of Justice.

13 This is particularly useful, I think, to those
14 who are here to know that we want to continue working
15 with the Department on funds that they may have
16 available for the field, both in VAWA grants and in
17 VOCA grants.

18 CHAIRMAN EAKELEY: Explain those acronyms.

19 MR. MCKAY: Well, I was afraid you were going
20 to ask me to do that.

21 CHAIRMAN EAKELEY: Violence Against Women Act.

22 MR. MCKAY: Yes. I don't have much, but I get

1 confused about the availability of funds for the field,
2 but there are funds available for domestic violence
3 representation. There is a \$12 million fund which has
4 been available and should be available for a broader
5 use by our recipients.

6 There has been some confusion out in the field
7 and I think, in reality, some confusion within the
8 Department as to the availability of those funds. They
9 have been up front about that and have assigned working
10 groups now to make certain that as grant applications
11 go out, they go out to our recipients and that, with
12 regard to the \$12 million fund, that those are
13 available for a broader representation on domestic and
14 family law situations.

15 There are also VOCA funds, which are
16 available. Some of those are available only for
17 restraining orders. And there are restrictions that
18 are statutorily placed there.

19 But the important thing is that the Department
20 has now -- we have now forged a number of contacts at
21 various staff levels in the Department of Justice to
22 make sure that we get clear information about those

1 funds out to the field and that in the future, we have
2 a clear understanding of the role of the Legal Services
3 Corporation in providing representation for civil legal
4 services and the role that the Department of Justice
5 can play in continuing to advocate for adequate funds.
6 So we are very pleased with that.

7 As far as our government relations efforts go,
8 we will continue, through Mauricio Vivero's leadership,
9 to, now as our appropriation begins to move through the
10 Congress, spend as much time as it takes to work with
11 members of Congress to explain our appropriation
12 request and to continue to explain why we, at the Legal
13 Services Corporation, and all of our recipients are
14 doing such -- how we are doing such an excellent job in
15 reaching out to client communities.

16 I had an opportunity to meet with the chairman
17 of the House Appropriations Committee, I went there
18 with Jim Wayne from Capital Area Legal Services in
19 Baton Rouge, Louisiana. We met with Chairman
20 Livingston and had, I think, an excellent meeting with
21 him.

22 Also I wanted to report to you on the

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1 activities of the Office of General Counsel. Just to
2 briefly mention here -- I am not sure if Victor Fortuno
3 is here. I think he is there in the back. The
4 Corporation, I think, certainly as all Board members
5 know and most folks here know, are defendants in
6 lawsuits in Hawaii and New York. Both of those cases
7 at the District Court level were resolved in favor of
8 the Corporation.

9 Both of those matters have been appealed.
10 Both appeals were argued during the month of March.
11 The Hawaii case was argued in San Francisco before the
12 9th Circuit on March 13th, and the Velazquez case,
13 which is the New York case, was argued in the 2nd
14 Circuit on March 20th. We will keep the Board informed
15 as to any developments. If we do get an opinion, we
16 will certainly let the Board know immediately.

17 CHAIRMAN EAKELEY: An interesting footnote to
18 the Hawaii case is that former United States Supreme
19 Court Justice Byron White was on the panel. And Tom
20 Williamson, our pro bono counsel from Covington and
21 Burling, flew out and argued the case on our behalf.

22 MR. MCKAY: And Victor Fortuno was present for

1 that argument. I would also like to thank Tom Smegal,
2 who is not here today, unfortunately. You may have
3 mentioned this, Mr. Chairman, but he was unable to be
4 with the Board. And Tom was there at the hearing to
5 lend his support, which was much appreciated by us.

6 We all view this as an unfortunate thing in
7 the sense that we have -- our community has been in
8 ways forced to litigate this issue out. But clearly,
9 in terms of indicating to the Congress our and the
10 Board's support for the commitment, I should say, of
11 making sure that congressional statutory requirements
12 are carried forward in the form of regulations and that
13 when those regulations are then challenged, that the
14 Board and the Corporation staff will do what is
15 necessary to defend them.

16 And that is what has occurred in both of those
17 cases. None of us, I think, really like to see this,
18 but I think our counsel, our outside counsel, are to be
19 congratulated and thanked for their tremendous work.
20 Both of the law firms that are representing the
21 Corporation are doing so on a pro bono basis and our
22 staff, in Victor Fortuno's office, have done, I think,

1 a terrific job in handling that issue.

2 Just a couple of quick references, sort of
3 in-house matters. We have in the Office of the
4 Comptroller and in the Office of Information
5 Technology, we have been doing a tremendous amount of
6 work as we have attempted to automate and computerize
7 our payroll system, a tremendous amount of time put in
8 both by David Richardson and Joan Kennedy and along
9 with our support staff in OIT to make those things
10 happen.

11 We are working hard and these efforts bear
12 fruit because I want to report to you that under GIMS,
13 which is our computerized system of gathering field
14 data, the grant applications that were submitted this
15 year, 99.6 percent -- all but, I believe two
16 programs -- submitted their reports over the Internet
17 to us.

18 And this is more than just some neat technical
19 trick. What it really means is that we are able to
20 gather important field data and turn it around in an
21 incredibly short period of time that was not -- we were
22 not able to do in the past.

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1 I think that John Tull reported to the
2 Provisions Committee that the two programs that did not
3 file over the Internet were our island programs and the
4 question was whether they were able to get a clear
5 enough line to transmit that data over the Internet.

6 It has been very helpful to us, as we gather
7 this information, to be able to compile it in total
8 form and have it available, both for the Board and for
9 the Congress, in order to respond to questions that
10 they have, which come to us very frequently.

11 Those Board members, who themselves have
12 e-mail addresses, may have gotten the first benefits of
13 our total reports because I think I forwarded to all
14 Board members with e-mail addresses Ted Faris'
15 compilation of the initial data that was received, in
16 terms of our 1997 information. Did anybody get that?
17 Well, you may have to train your president on using his
18 e-mail a little better, but I am hopeful that you will
19 have it.

20 MS. BATTLE: You have to check your e-mail,
21 right?

22 MR. McKAY: Yes, the e-mail does have to be

1 checked. I wanted to thank Bucky Askew also, who
2 mentioned his presence at the meeting in Ashville,
3 which was the ABA Pro Bono Conference, and echo his
4 remarks. I thought it was a tremendous outpouring of
5 interest and attendance by bar leaders, by folks who
6 run pro bono programs, by many of our recipients who
7 were present.

8 Bucky has been tremendously I would say
9 useful, Bucky, in that you have been to some of these
10 meetings with -- some with project directors, some of
11 others who have interests particularly in our state
12 planning initiatives. It is not true that we point to
13 Bucky and say that it is his fault.

14 It has been very useful and helpful, one, to
15 have his guidance and his wisdom, but, two, to have the
16 chair of our Provisions Committee present at some of
17 those meetings. It has been very helpful. And I
18 wanted to thank you. He has taken a huge amount of his
19 own time and time away from his family to be there and
20 it has been very helpful to us.

21 I did, as he pointed out, attend that meeting,
22 as did a number of our staff. I think it was an

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1 important meeting for us because we do have, in North
2 Carolina, a situation where a one-year grant was given
3 at a time in which most of the programs were entitled
4 to, under our normal time frame, to receive three-year
5 grants.

6 And so there has been quite a bit of
7 attention, both within the state and I think outside of
8 the state. I want to report that we had a very good
9 meeting with all the project directors. Their board
10 chairs were invited on a Saturday morning in Ashville,
11 North Carolina. Many strong opinions stated from a
12 number of different directions.

13 Our main function was to be there and to
14 listen and, where appropriate, to provide what guidance
15 we can as North Carolina and other states begin to move
16 through this planning process. I have also met, since
17 the Board last convened, with representatives from
18 Pennsylvania, including the incoming president of the
19 Pennsylvania Bar Association.

20 I have recently returned from Texas where I
21 met with all of the project directors in Austin, Texas
22 and then continued on to Weslaco, Texas where I had a

1 meeting, a long promise meeting, with David Hall and
2 his staff at TRLA. It was very educational, I think,
3 all the way around.

4 And I want to say that as the Board has
5 appreciated this opportunity to hear from project
6 directors in Arizona, New Mexico, and Colorado, I
7 appreciated the opportunity to hear about the excellent
8 work that is being undertaken by staff attorneys and
9 other staff and volunteers in south Texas, where there
10 really are some very similar -- Paul, you showed the
11 photographs in the border area around Nogales.

12 And to be in the colonias along the south
13 Texas border, the photograph you showed, you just ought
14 to consider it to be very similar to the situation that
15 is occurring in south Texas.

16 I will also tell the Board members that Jim
17 Hogan and I made a little side trip while we were there
18 to Port Isabel, Texas and the site of the Pro Bar
19 function, which is a joint venture by the American Bar
20 Association and the State Bar of Texas. And it is a
21 truly outstanding program where while they are not
22 grantees of the Corporation, but they represent

1 individuals who are seeking asylum upon entry into the
2 United States.

3 And a typical -- not typical, but a very
4 difficult issue, some of which will, I think, make
5 sense to project directors here, where you have a
6 tremendous legal need and no local -- essentially no
7 local lawyers upon whom to request pro bono services.
8 And even if you had funds to pay for lawyers there,
9 there still aren't lawyers present unless you bring
10 them in.

11 And that is exactly what this project does, it
12 brings volunteer lawyers in to do this work. And I
13 really commend the American Bar Association and others.
14 These are access to justice issues, even though they
15 are not directly within our purview, and I wanted to
16 indicate that to you.

17 While I was there, a lawyer drove up in a
18 recreational vehicle, an RV. I mean, this was a big
19 RV. And he was on his sabbatical from his law firm. A
20 patent lawyer who decided that the best way to spend
21 his time would be to go down and handle some of these
22 asylum proceedings. And it was really inspirational to

1 see that occurring.

2 I also met with the NLADA Civil Council in
3 March. We had a very good discussion. Again, you
4 wouldn't be surprised to have me tell you that state
5 planning was an issue of significant concern to NLADA.
6 And with council members, Bob Gross and I did some
7 additional discussion about state planning, answered
8 questions, and I certainly appreciated the hospitality
9 of James Head and NLADA.

10 And so if Clint is here -- he was here a
11 moment ago -- to thank him for another opportunity to
12 make that presentation. I will be giving the
13 commencement at Gonzaga Law School graduation in May
14 and I am looking forward to being back out in my home
15 state, but I will have the opportunity to speak to new
16 law school graduates, as Nancy Rogers so kindly
17 arranged for me at Ohio State last year.

18 And I wanted to finish by talking about the
19 activities of our Office of Administration and Human
20 Resources, which is headed by Joan Kennedy, and the
21 work that is being done there. We are moving forward
22 on our efforts to obtain compensation -- the

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1 comparability study for compensation within the
2 Corporation.

3 We think that there are issues involving both
4 internal and external equities, in terms of staff
5 compensation, and I know for project directors who are
6 here, this all sounds very, very familiar. It is, in
7 part, I believe, a product of the necessarily radical
8 cuts to staff that occurred at the Corporation. And
9 now we think is the right time to look at this.

10 An RFP did go out for a comparability study,
11 we simply weren't apparently prepared to pay enough
12 money because we got no responses to our RFP. Under
13 Joan Kennedy's leadership, we have reached out to folks
14 who we sent the RFP to so that if we did get the
15 information back on that -- we expect to be sending the
16 RFP out, but we will need to consult with our budget
17 folks, Mr. Hogan, Mr. Richardson, and others, to make
18 sure that we can do this.

19 We will probably, in the short run, bring in a
20 consultant to give us some initial advice. We have
21 some fairly pressing staff issues that will need to be
22 resolved. And I won't go into those in detail, but

1 wanted to alert the Board to that.

2 Let me just wrap up this part by telling you
3 that we had a wonderful celebration at the Corporation.
4 We do this from time-to-time and the Board isn't aware
5 of it. And I wanted to just let you know that we
6 celebrated African-American Heritage Month throughout
7 the month of February. We did it in a highly
8 technological way, in the first instance, which was
9 under Charles Crittenden's leadership. It was Charles
10 who authored these lists.

11 We got little bits of African-American history
12 by e-mail, which all of us read, I think, very
13 carefully. And it was an education and a motivation to
14 all of us. And then we did have, on February 13th, a
15 celebration, within the context of African-American
16 Heritage Month, but the committee who put it together
17 decided that we should celebrate all cultures and
18 heritages represented by our staff at the Corporation.

19 And so had you been wandering the halls of the
20 Legal Services Corporation on that day, you would have
21 seen a lot of different attire worn by people to
22 celebrate their heritage. We had a terrific luncheon

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1 attended by all of our staff and including members, of
2 course, of the Inspector General's Office. And it was
3 a wonderful event for us that we hope to continue to
4 build this sort of an environment within our
5 Corporation.

6 So I want to just conclude by thanking the
7 Board for their support for the work that we do as
8 staff members and for me to publicly acknowledge and
9 thank our hard working staff members, some of whom are
10 present and some of whom are continuing to carry our
11 mission forward in Washington.

12 CHAIRMAN EAKELEY: We have a tight schedule
13 and a guest to welcome, but before we do, let me just
14 follow up on one thing, if I may. It partly came out
15 of the presentation in the morning listening to Lillian
16 talk about training government workers to deal more
17 effectively with low income mutual clients. Part
18 hearing a little bit more about the specific problems
19 of dealing with special needs of Native Americans and
20 migrant farm workers.

21 And then part just being reminded of these new
22 very substantive discussions with the Department of

1 Justice and how to make the law and funds, made
2 available through the law, more available to legal
3 services providers.

4 Shouldn't we be doing the same thing?
5 Shouldn't we be having a meeting with Alexis Herman,
6 the Secretary of Labor, to talk about what more
7 interactions legal services providers in her department
8 might have, and do the same with Ken Apfel at the
9 Social Security Administration, and Bruce Babbitt at
10 Interior for Bureau of Indian Affairs, and Donna
11 Shalala at Health and Human Services?

12 I mean, that is one thing that we can do
13 because of our presence in Washington. It is already
14 overtaxing an overtaxed staff, but I think that there
15 may be lessons in these new discussions with the
16 Justice Department that can be extended.

17 We can certainly set up the meetings with the
18 secretaries. And I just think it is worth pursuing.
19 And I just invite people from the field to react, not
20 today, but just give some thought to how the
21 Corporation can help the federal government, in these
22 particular areas of greatest need, perform better in

1 serving the people.

2 MS. MERCADO: And in particular, because a lot
3 of those departments and agencies can do the type of
4 impact litigation that we cannot.

5 CHAIRMAN EAKELEY: I was even thinking of
6 straightforward delivery issues and delivering better,
7 and here is some programs that we can provide eyes and
8 ears and hands and feet for people who are charged in
9 Washington with delivering services in these
10 departments with many vaster resources than what we
11 have, but they just don't get it or get out to it or
12 get to the people with the greatest needs.

13 So I just -- consider that. Because these
14 discussions with the Justice Department have proceeded
15 very effectively and we are sort of -- we were welcomed
16 like long lost cousins when we reintroduced ourselves
17 the other day.

18 MR. MCKAY: Yes. And I do think there are
19 some greater opportunities to do that. We have had
20 some meetings with other agencies, some at our request,
21 some at theirs. FEMA, for example, where, you know,
22 when we do have a federally declared disaster, there

1 are issues. Those are some technical issues that often
2 are faced by people out in the field when there has
3 been a disaster.

4 CHAIRMAN EAKELEY: I was just sort of thinking
5 what would DNA counsel us to say if we had a meeting
6 next week with Bruce Babbitt, and how he is running --
7 how is the Department of -- the Bureau of Indian
8 Affairs running.

9 MR. MCKAY: Well, I could guess, but I don't
10 think that -- and we appreciate that suggestion. We
11 appreciate that suggestion. I think you are right.

12 CHAIRMAN EAKELEY: Any other questions,
13 comments, or anything of John? Fine. Then what I
14 would like to do is introduce Heidi McKay, who is here
15 to speak on behalf of the Maricopa County Bar. Thank
16 you for the wonderful reception last night, which your
17 bar association sponsored. It was a very nice welcome
18 for us and introduction for us to the community here,
19 which is a wonderful community.

20 MR. MCKAY: May I correct you and just say it
21 is Heidi McNeil. You may not know this, but we are old
22 friends, but not brother and sister.

1 MS. McNEIL: Or otherwise. Thank you very
2 much. And obviously we are very honored to have the
3 Board meeting here in Phoenix. We hope you are
4 enjoying our weather. We finally have gotten past El
5 Niño, the constant rain that we have been having for
6 the last couple of months.

7 I am sorry I missed the reception last night,
8 but at this time of year, our house is basically a
9 revolving door of all my relatives, my husband's
10 relatives from the midwest coming down to visit.

11 So in any event, I am here on the Maricopa
12 County Bar Association behalf. I am the
13 president-elect. Technically, I am not supposed to
14 become the president-elect until June, but our
15 president has had health problems and he resigned in
16 the last month. So everybody in the chain of command
17 moved up. So I have moved up a little earlier than I
18 planned.

19 In any event, I just wanted to very briefly
20 talk about some of the things that the Maricopa County
21 Bar Association is doing on various fronts. And I am
22 pleased to see that Pat Brown, who is the director of

1 the Volunteer Lawyers Program -- Pat, do you want to
2 stand up and wave your hand.

3 That is one of the primary programs that the
4 Maricopa County Bar has been in partnership with for
5 many years. And it is just an excellent program. And
6 Pat is just an excellent leader, which is one of the
7 reasons why it continues to do well and will obviously
8 continue to do well in the future.

9 What we do, primarily, there are several types
10 of projects that we have ongoing, besides the Volunteer
11 Lawyers Program. The main topics that we focus on are
12 meeting the tremendous unmet need that there is for the
13 areas of domestic relations and child support,
14 landlord-tenant, consumer issues, HIV AIDS assistance,
15 bankruptcy, and more.

16 And I also notice that Joe Kramer sitting in
17 the front row is here. He was one of the founders of
18 the HIV AIDS clinic that was formed through the Young
19 Lawyers Program a few years ago and has been extremely
20 successful.

21 We provide, through the volunteer lawyers to
22 the Volunteers Lawyers Program, provide thousands and

1 thousands of hours to that program a year. I believe
2 that we have over 1,300 attorneys right now that are on
3 the active roster for taking cases. And in 1997, there
4 were approximately 4,000 clients that were served
5 through the program. And that was through these
6 various areas.

7 Now obviously one of the problems that we have
8 is a lot of cases that come in, that there is a need
9 for that case to be handled, but they don't fit within
10 the particular guidelines of VLP. A lot of times the
11 VLP screening attorneys go out and they actually find
12 an attorney in the community that will take it on on a
13 pro bono basis.

14 We also have put into place, through the Young
15 Lawyers Program -- and I will say this with a fondness
16 in my heart because when I was -- I still am
17 technically a young lawyer, although I got in on a long
18 grandfather clause like John McKay did. But several
19 years ago, the chair of the Young Lawyers, Mike Bedkey,
20 who I am sure a lot of you are familiar with, he
21 inspired an idea called GAAP, which was called Greater
22 Access and Assistance Program.

1 And essentially what it involved was where
2 legal services ended, in terms of the type of need it
3 could provide the 125 percent poverty guidelines, or
4 whatever particular guidelines are in the communities,
5 the GAAP program was put into place to somehow fill the
6 gap for those cases where the client simply did not
7 meet the guidelines for the programs that were in place
8 in the community.

9 And this program, through the Young Lawyers,
10 was intended to take care of those very critical cases
11 where they absolutely needed an attorney and could get
12 one through that program. Through the program that was
13 ongoing at the national level, our Young Lawyers here
14 in Maricopa county put a program together. It is
15 called the Modest Means Program.

16 And that has been in place for two or three
17 years and is a program now that other Young Lawyer
18 groups from around the country are essentially using as
19 a role model for putting into place in their
20 communities.

21 We also have, through the various committees
22 of the Bar, we have the public lawyers that do a

1 tennies, T's, and Tots drive at Christmas time where
2 they put together tennis shoes and, essentially
3 necessary clothing and toys of all sorts for children
4 in the community. The Domestic Violence Committee of
5 the Bar Association, which is actually another Young
6 Lawyer's group, they are extremely active on all issues
7 on the domestic violence front.

8 And they put on a very successful drive in the
9 month of October, which is Domestic Violence Awareness
10 month, where they do this necessities drive. And they
11 go out and they obtain all kinds of shampoo,
12 toothpaste, clothing, appliances, furniture. All
13 things that women's shelters need and also things that
14 the women, when they are ready to leave the shelter,
15 can take with them to set up their own apartment or
16 house or whatever.

17 And that has been just an extremely successful
18 program as well, in terms of helping the shelters every
19 year stock just some of these basic needs that people
20 really forget about. And that also has been a program
21 that a lot of bar associations from around the country
22 are modeling.

1 It is a very simple program to do, it doesn't
2 cost anything, other than volunteer time of going out
3 and soliciting these things. And they go to a lot of
4 hotels and organizations like that and get all the
5 little sample shampoos, toothpaste, soaps. I mean, it
6 is one of those programs that it is very easy to get a
7 corporate sponsor to buy into.

8 We also have, with YLD week coming up the
9 first week of May, there is a lot of programs that go
10 on that week. We have Call a Lawyer Hotline, we have
11 legal fairs where people can come and get free legal
12 advice. That week alone we get a lot of people who get
13 their attention in terms of what kind of projects that
14 we have going on.

15 We also have, on just a regular basis -- it
16 has been going on for many years -- our lawyer referral
17 service, which again, those individuals who -- they can
18 pay for legal services, but perhaps can't pay, you
19 know, an hourly rate of \$100 an hour or 150.

20 A lot of the lawyers that are members of our
21 lawyers' referral service take cases on reduced fee
22 bases or just a fee that -- or some sort of flat fee

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1 rate that is less than otherwise might be paid in the
2 community, depending on what the need is. And that has
3 been a pretty good program in terms of referring a lot
4 of different cases and getting clients the needed legal
5 services.

6 One thing that we have been very proud of is
7 this year -- and I think we have now had it over the
8 past six or seven years -- what is called the
9 Barristers Ball. It is always held in January and it is
10 an occasion for lawyers to actually get dressed up and
11 look nice instead of having their boring business
12 clothes on and it is held at a nice resort. And every
13 year we try to come up with a worthy sponsor.

14 And this past year -- or not sponsor, but the
15 entity that is actually going to get proceeds from the
16 silent auction that is held in conjunction with the
17 Ball. This year the donor company was the Volunteer
18 Lawyers Association.

19 And through Pat Brown's help as well as all
20 the people involved with the Volunteer Lawyers Program,
21 we raised over \$18,000, which was the highest amount
22 that the Ball has raised. And I think everybody was

1 extremely pleased with how that went.

2 We are very much in tune with the funding
3 needs and the funding issues that LSC faces on a daily
4 basis and keeps John McKay hopping on the Hill
5 testifying and trying to make sure that the people that
6 are there are also conscious of all that. So, you
7 know, we do what we can also, as a bar association, to
8 keep the attorneys here aware of the issue and make
9 them do what they can in terms of donations as well to
10 support the LSC effort.

11 That is essentially it. I don't want to take
12 up too much more of your time, but just a brief
13 overview of what we are doing here. And again, thanks
14 so much for inviting us here and we are glad that you
15 chose Phoenix to have your meeting.

16 CHAIRMAN EAKELEY: Well, so are we. Thank you
17 for hosting us. Thanks for a wonderful overview of a
18 very active program. Thank you for Pat Brown also.
19 She took us on a tour of her offices last night at the
20 reception.

21 MS. McNEIL: Good.

22 MR. MCKAY: Mr. Chairman, may I just add one

1 thing before President-Elect McNeil leaves. She has
2 too much modesty, I think. The GAAP program that she
3 refers to was headed up by Heidi McNeil and she is, in
4 large part, responsible for the fact that this Modest
5 Means Approach -- there are just a number of people who
6 don't qualify as legal services clients because of the
7 125 percent statutory requirement, but are in very
8 great need. It is a wonderful program. It was Heidi's
9 leadership that has resulted in this program being
10 replicated all over the United States.

11 MS. McNEIL: That is probably why they
12 grandfathered me in as being a young lawyer. Thank you
13 again. And I am sorry that I can't be your sister,
14 John, but -- or vice-versa. Thank you.

15 CHAIRMAN EAKELEY: Thanks. Next on our agenda
16 is the report of the Operations and Regulations
17 Committee. And boy, what an agenda you had this
18 weekend, LaVeeda.

19 MS. BATTLE: Yes. I am very happy to report,
20 though, Mr. Chair, that we finished yesterday in
21 lightening speed in half the time that we thought it
22 would take us to cover our agenda. We did have on

1 yesterday a very aggressive agenda to address about
2 five regulations. We ended up addressing four out of
3 the five.

4 The Inspector General has decided to continue
5 to look at 45 CFR Part 1641, which is the regulation
6 addressing debarment suspension and removal of
7 recipient auditors, in light of some comments that he
8 received in the briefing or that his counsel received
9 in the briefing that we got. And so we will be looking
10 at that particular regulation a little bit later on.

11 We have today, for the Board, one regulation
12 that we are presenting as a final regulation. You
13 should have before you a copy of 1644, which is the
14 regulation on disclosure of case information. 1644 is
15 a result of Section 505 of our 1998 appropriations act,
16 which was commonly known as the Burton amendment. And
17 it requires us to disclose -- or our recipients to
18 disclose the name, address, and parties of actions in
19 which the recipient has petitioned the court for
20 relief.

21 We did a proposed regulation at our last
22 meeting. We sent it out for comment. We received, I

1 believe it was, about three comments back. The
2 comments were insightful about the issues in the Burton
3 amendment. There were concerns about whether or not we
4 had adequately addressed the issue of whether -- if
5 there was harm that could come from the disclosure --
6 that there could be preclusion from having to disclose
7 the name of a client if there was harm.

8 In the appropriations act there was language
9 which did indicate that Congress was concerned about
10 that issue as well. So if a client might be harmed by
11 it, the recipient has the opportunity, in its own
12 judgment, to determine that that disclosure does not
13 have to be made. But in all instances other than that,
14 the disclosure is required.

15 The disclosure requirement, under 505, is that
16 the name and address of the parties must be disclosed
17 and the nature of the case as well. We did discern
18 that, of course, PAI attorneys are not covered by this,
19 but attorneys who are employees of the recipients are
20 covered.

21 And the disclosure has to be made to the Legal
22 Services Corporation in semi-annual reports and, as

1 well, in accordance with 505, the disclosure has to be
2 made available to the public upon request as well. And
3 we decided to leave it up to the recipients as to how
4 they would make that particular disclosure to the
5 public. But it has to be in writing because the law
6 requires that.

7 You have 1644 before you. I would like to
8 take that one up separately because actually the other
9 regulations that I am to report on today are proposed
10 regulations. So I will simply give you a general
11 report, but the Board does have to act on 1644.

12 CHAIRMAN EAKELEY: Do you want to convert your
13 report into a motion then for approval?

14 M O T I O N

15 MS. BATTLE: Yes, I would. I would move that
16 the Board adopt 1644, the disclosure of case
17 information regulation, as amended by the committee on
18 yesterday.

19 MR. ERLNBORN: Second.

20 CHAIRMAN EAKELEY: Is there any further
21 discussion?

22 MS. BATTLE: I would just like to add that the

1 procedure for this, as always, would be that the
2 preamble, which goes along with this regulation, will
3 be added in conformity with the changes that were made
4 on yesterday. The staff generally gets that to me and
5 I approve it and that goes out with any editing changes
6 in the preamble that I deem necessary.

7 Bill McCalpin reminded, on yesterday, is
8 circulated for a 10-day period to all the members of
9 the Board so that if there are any questions about the
10 preamble and, as well, the regulation, Board members
11 have an opportunity to comment before it is actually
12 published in the Federal Register.

13 CHAIRMAN EAKELEY: All right. Any further
14 discussion or questions? Hearing none, all those in
15 favor?

16 (Chorus of ayes.)

17 CHAIRMAN EAKELEY: Opposed?

18 (No response.)

19 CHAIRMAN EAKELEY: The ayes have it. The
20 regulation passes.

21 MS. BATTLE: Passes. Okay. We also
22 considered on yesterday a series of regulations, three

1 actually, that stem from a change in our appropriations
2 law pertaining to the issue of debarment. The three
3 regulations that we looked at on yesterday are 1625,
4 which relates to denial of refunding, 1623, which
5 addresses suspension, and 1606, which addresses
6 debarment.

7 As a result of the change in our
8 appropriations law, there used to be, on behalf of
9 recipients, extensive hearing rights provided by the
10 Legal Services Act in 1007(a)(9) and 1011 of the Act.
11 When the Corporation was redesigned in 1996 and grants
12 are now made on a competitive basis, the whole
13 underlying pen for debarment and defunding was premised
14 upon automatic refunding, which is no longer the case
15 for legal services' recipients.

16 And now since there is no right for refunding,
17 the appropriations act essentially nullified those
18 provisions, in the Legal Services Corporation Act, and
19 Section 504 of our 1998 appropriations law authorized
20 the Corporation to debar a recipient for good cause
21 from competing for future grants.

22 So now the design for addressing the issue of

1 the removal of a recipient now is a debarment
2 procedure. And so what we did was to take the three
3 regulations that have been promulgated under
4 Sections 1007(a)(9) and 1011, and we redesigned them so
5 that they now comport with what the law now requires us
6 to do. In order to do that, the first thing that we
7 are going to put out for comment is the removal of
8 Section 1625, denial of refunding, because that is no
9 longer at issue.

10 The second issue that we addressed on
11 yesterday was the issue of suspension in 1623. And in
12 1623, what we have done is to propose a regulation
13 which will design an opportunity, or an opportunity for
14 the Corporation, to make a decision to suspend funds
15 temporarily for a 30-day period, up to 30 days, no more
16 than 60 days, and only 60 days if there is an agreement
17 between the recipient and the Corporation to extend
18 past the 30 days.

19 This is, in effect, a short-term remedy if
20 there is some non-compliance that the Corporation needs
21 to get addressed in a prompt manner. The suspension
22 can be followed by a termination. So there is the

1 opportunity to do a suspension and if the suspension as
2 a remedy does not work and does not result in some sort
3 of compliance action on behalf of the recipient, it can
4 follow with a termination. And termination is, of
5 course, 1606.

6 But essentially, 1623 will deal with the issue
7 of suspension. When there is a temporary suspension,
8 at the end of the temporary suspension, the recipient
9 does receive the funds. So with a suspension, there is
10 no reduction in the amount that a particular recipient
11 receives because the funds have been suspended for a
12 period of time.

13 Under 1606, the debarment procedures, in
14 accordance with what I have just set out to you in 504,
15 the Corporation can debar a recipient for good cause,
16 but this debarment is a prospective remedy, which means
17 that the recipient is not able to compete for future
18 grants.

19 We walked through that debarment regulation on
20 yesterday. We are going to put it out for comment. We
21 made some changes to what we received from the staff in
22 some areas. Mr. McCalpin had some interest in the

1 debarment procedure being fashioned, as would be a show
2 cause proceeding, to show cause why a debarment should
3 not take place.

4 It is designed based on a proposed decision
5 being noticed to a particular recipient with the
6 recipient given a certain specific time to respond to
7 the proposed notice of debarment with an opportunity
8 for an informal conference or/and an opportunity for a
9 hearing.

10 And all of these are in place in order to
11 mediate the issues that are underlying a debarment
12 prior to going forward with a hearing. Under this
13 regulation, the due process, which is notice and an
14 opportunity to be heard prior to a final decision, will
15 play out by the fact that the President has an
16 opportunity to appoint a hearing officer, unlike the
17 procedure which was in place before where the hearing
18 officer had to always be an independent person outside
19 the Corporation.

20 Under these proceedings, the hearing officer
21 can be an employee of the Corporation. The hearing
22 officer is empaneled to hear from both sides, from the

1 Corporation as well as from the recipient, and to issue
2 a recommended decision within a time certain after the
3 hearing has commenced.

4 The recommended decision is provided to the
5 President, who makes a final decision after considering
6 the full record and recommended decision. After a
7 final decision has been made, then the debarment become
8 effective, based on the terms of the decision issued by
9 the President.

10 During the interim, there is a provision in
11 this regulation that while these due process procedures
12 are in progress, the recipient is entitled to receive
13 interim funding. So just as any other due process
14 proceeding, there is no taking until there has been an
15 opportunity for a hearing and a final decision by the
16 President.

17 There is also, in this provision, in
18 accordance with the provisions in our appropriations
19 act, is the authority, if this debarment takes place
20 and it results in a termination before the end of the
21 term of the existing grant, for recompetition to take
22 place so that that service area continues to receive

1 some attention once a particular recipient has been
2 removed from continuing to serve in that area.

3 As I have mentioned to you, this, of course,
4 is a proposed regulation. After we have had an
5 opportunity to complete doing the preamble indicating
6 the areas where we have some interest and comments, it
7 will be going out to the Federal Register.

8 We anticipate a 60-day comment period and
9 hopefully will be able to present at our next meeting
10 to you the kinds of comments we have gotten, the
11 changes we have made that we think are appropriate as a
12 result of those comments, and be able to present to
13 this Board a final regulation in those areas. And I
14 see my chair has left us, but -- oh, I am sorry. Our
15 vice-chair is now in charge. But that is my report,
16 Mr. Vice-Chair.

17 MR. ERLENBORN: Thank you very much. You have
18 nothing further?

19 MS. BATTLE: We have nothing further.

20 MR. ERLENBORN: Then I call upon Maria Luisa
21 to report for the Finance Committee.

22 MS. MERCADO: Yes. Ours will be very brief.

1 I think our meeting yesterday was probably one of the
2 shortest we have ever had, and I don't know if that is
3 good or bad financially.

4 Basically, Mr. Chairman, the basic item that
5 we dealt with, as far as the Finance Committee, was the
6 consolidated operating budget for the five-month period
7 ending February 28, 1998. And basically we are pretty
8 much in line. By now we would have spent about 41.67
9 percent of the budget for the year, but we are,
10 respectively, for the management and administration,
11 35.67 and for the OIG 32.97 percent. So we are pretty
12 much in line with where we are supposed to be.

13 There were a couple of items. All of you
14 should have received in your Board book the operating
15 expenses. And I would just bring to your attention
16 that on page -- one item on page 45, the Americorp
17 Funds was not originally an item, although we did
18 accept the consolidated operating budget back in
19 February with the understanding that our budget would
20 be modified with the Americorp Funds of 886,032, which
21 is only a pass-thru.

22 It is not money that necessarily goes to any

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1 of our grantees or attorney of our M&A line. But
2 nevertheless, it does affect the total number for our
3 budget by that amount.

4 The other items that should be noted, also in
5 that same line, is that if you will look at number 5
6 under Section 1(a), grants from other funds available,
7 the 14,500 that was spent was for an emergency, again
8 dealing with our programs that had flooding problems.
9 And there are still left, under item number 2, special
10 emergency funds, 13,595 that can also be used for
11 flooding or for some other items for our grantees on
12 any particular assistance.

13 The other item that I would like to bring to
14 your attention is that in the page 48 for temporary
15 employee pay. That is higher than usual. And that
16 item, along with the other item that deals with the
17 other operating expenses is also higher. And the
18 reason for that is that because of all the new
19 migration of the programs. You can see that better on
20 page 49. If you will look at temporary employee pay,
21 we have 64.33 percent.

22 We overspent a little bit, but at the end of

1 the year that should even out. But it is because of
2 the new -- the reentry of information that we have with
3 the new computer system that we have and new programs
4 for financial and human resources systems, as well as
5 any other operating expense, which is the 47.73
6 percent. But overall, by the end of the year, that
7 should even out and shouldn't be a cause to worry for
8 anyone.

9 And pretty much that is -- everything else is
10 in line with our expenditure. And that is all our
11 Finance Committee report had, other than also in your
12 budget book there is a Finance Committee timetable,
13 which just moves the date and time in which we submit
14 Budget Marks and which we submit COBs for the following
15 year and appropriations hearings and so forth. And
16 that is just merely for your information.

17 CHAIRMAN EAKELEY: And adjusted to meet our
18 changed meeting schedule.

19 MS. MERCADO: That is correct.

20 CHAIRMAN EAKELEY: All right. Any questions
21 of Maria Luisa? All right. Thank you very much.
22 Thank our Controller, David Richardson, for a good job

1 keeping things under control, and to Jim Hogan for
2 keeping David Richardson under control. Next is Bucky
3 and the Board's Provision for the Delivery of Legal
4 Services Committee report.

5 MR. ASKEW: Thank you. Mr. Chair, everybody
6 was there for the meeting this morning. So there is
7 certainly no need for me to go over what was done
8 there. There are no action items coming out of the
9 Committee's work.

10 The one thing I would say is the Board
11 chairman and I had a discussion after that meeting and
12 decided that given the experience of the last two
13 committee meetings and the value we have seen in having
14 these sort of panel presentations, field reports,
15 discussion of issues, that we are going to make an
16 effort at every Provisions Committee Meeting, at least
17 for the rest of this year, if not all in the future, to
18 have panels like that appear before the Provisions
19 Committee so that we can keep grounded in why we are
20 here, who we are serving, what the bottom line role we
21 have is.

22 Because I think there has been a tendency in

1 the past to sort of fall into all the work we need to
2 do and lose touch with who we are serving and why we
3 are serving.

4 So for the next few meetings, we will -- of
5 course, we are going to Chicago in September and we
6 will work with those folks there to have a panel, but
7 for the June meeting in Washington, we will find a way
8 to bring some field people in and have another
9 approach, maybe, on another set of issues and continue
10 that to become maybe a tradition at the Provisions
11 Committee.

12 CHAIRMAN EAKELEY: And I am looking at Victor
13 Fortuno as this follow-up, but I think the thought also
14 is if it is possible, and it may not always be possible
15 because of the significant agenda items on other
16 committees' schedules. It would be good to schedule
17 the Provisions Committee to meet alone so that as many
18 or all of the Board could participate or at least
19 attend those committee meetings. That committee
20 meeting. All right. Thank you.

21 MR. ASKEW: That concludes my report.

22 CHAIRMAN EAKELEY: Bill McCalpin. The Board's

1 1997 Annual Performance Review Committee report.

2 MR. McCALPIN: Thank you, sir. At the meeting
3 on February 7th, this Committee presented its report
4 and recommendations. The recommendations were adopted.
5 In view of comments, questions, suggestions made at
6 that time, the Committee was continued, in effect, to
7 consider the report.

8 On February 18, a notice -- communication was
9 sent to each member of the Board soliciting comments,
10 suggestions, questions with respect to the report that
11 had been filed. As I reported to the Committee earlier
12 today, no comments, criticisms, suggestions or
13 questions were received in connection with that
14 communication.

15 Therefore, the Board concluded, in its meeting
16 earlier today, that the report presented to the Board
17 on February 7th is the report of the Committee and no
18 further action was required by the Committee with
19 respect to it. The Board may do with the reports
20 whatever it chooses.

21 CHAIRMAN EAKELEY: Well, let me do it this
22 way. Does anyone have any questions or comments or

1 anything else to say about this subject? Hearing none,
2 I think you had a motion that you wanted me to consider
3 tomorrow.

4 M O T I O N

5 MR. McCALPIN: I move that the 1997-'98 Ad Hoc
6 Performance Review Committee be disbanded --
7 discharged.

8 MS. WATLINGTON: Second.

9 MR. ERLENBORN: Do we need a motion to have
10 the report or is it just right?

11 MR. McCALPIN: Well, I suggested to the Chair
12 that it be received, accepted, whatever.

13 CHAIRMAN EAKELEY: It is received. No
14 modification is added to it. The Board has already
15 acted upon it at our last meeting. But, I mean, if
16 the --

17 MS. MERCADO: Well, I mean, I guess with the
18 implied knowledge or express knowledge that when that
19 performance evaluation comes up again, then I guess it
20 will be the '98 Performance Evaluation Committee and
21 there will be a different committee.

22 CHAIRMAN EAKELEY: There will be a new

1 committee.

2 MS. MERCADO: But it does mean it is a
3 complete -- right -- a complete abolishment of the
4 Committee.

5 CHAIRMAN EAKELEY: Right. I don't think we
6 need -- I don't see the report as something requiring
7 action because the action was the reviews that were
8 recommended by the Committee.

9 MR. McCALPIN: Right. And the recommendations
10 were adopted.

11 CHAIRMAN EAKELEY: That is correct.

12 MR. McCALPIN: So I move that the Committee be
13 discharged.

14 MR. ERLNBORN: I will second that motion.

15 CHAIRMAN EAKELEY: Any discussion? All those
16 in favor?

17 (Chorus of ayes.)

18 CHAIRMAN EAKELEY: Opposed?

19 (No response.)

20 CHAIRMAN EAKELEY: The Committee may stand
21 down. This leaves Bill McCalpin, by my calculation,
22 without an ad hoc committee to chair for the moment.

1 We will work on it between now and June. All right.
2 Next, the Inspector General's report.

3 MR. QUATREVAUX: Thank you, Mr. Chairman. I
4 am pleased to report to you, as John Tull indicated, a
5 peak season for grantee audit reports is upon us and I
6 am pleased to report that we are entirely prepared for
7 it. We have completed an upgrade of AIMS, the Audit
8 Information Management System. Really it was not that
9 great of an upgrade. We were fortunate to get it
10 pretty right the first time.

11 So what we have done is modified some screen
12 formats and the reporting form itself. We have already
13 begun to receive reports from the independent public
14 accountants via the Internet. The deadline for those
15 grantees, and it is by far the bulk, are due -- is
16 April 30th. We have granted one or two extensions,
17 thus far, based on compelling circumstances.

18 We have also initiated the fiscal year '98
19 field audits, which, as I reported to you last time,
20 focus on time keeping and case management systems;
21 particularly, the quality and reliability of the
22 information being reported to the Corporation. And we

1 have begun to notify the auditees. We expect to
2 complete 10 such audits before the end of the year.

3 We also published a report on our survey of
4 grantees' views of their contacts with the OIG, as well
5 as responses prepared by OIG staff to questions and
6 comments submitted by grantees in the course of the
7 survey. That is available at our web site,
8 <http://oig.lsc.gov>.

9 And last I would like to report to you two
10 personnel actions. I have hired two senior audit
11 officials as assistant IG for audits. I hired, as I
12 notified you, a gentleman named Leonard Koczur who has
13 some 35 years of audit experience, about half in the
14 General Accounting Office and the other half in OIGs of
15 the Department of Commerce and FEMA. In both of those
16 organizations, at one time or another, he served for
17 extensive periods as the assistant IG for audits.

18 I have also hired a Mr. Fred Gedrick, who is a
19 senior auditor who headed up, within the State
20 Department Office of Inspector General, their special
21 reaction team, an organization which was created to
22 respond to particularly urgent or sensitive matters

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1 originating with either the Congress or the Secretary
2 of State. So I am very pleased with these selections.
3 They are both on staff and working right now while we
4 are here.

5 CHAIRMAN EAKELEY: We should just make note to
6 introduce them when we are in Washington at our next
7 meeting.

8 MR. QUATREVAUX: Will do.

9 CHAIRMAN EAKELEY: I thought the questions and
10 answers were very interesting and helpful. Do you plan
11 on sort of doing that on a periodic basis every year or
12 two?

13 MR. QUATREVAUX: Well, the strategic plan
14 really has it set up for a three-year cycle. It was
15 useful, extremely useful in terms of insight. There is
16 a lot of misunderstanding in the field as to what we
17 do, which is not surprising, but we do work at that.

18 And I hope, as more and more of our grantees
19 gain familiarization with the use of the Internet, that
20 they will see these web sites, both the Corporation's
21 and the OIG's, although we are part of the Corporation.
22 Both of these web sites are loaded with lots of

1 information for grantees and really a lot of their
2 answers to their questions are there.

3 CHAIRMAN EAKELEY: I saw one question about a
4 response rate or some telephone calls not getting
5 returned in two to three days. And I am looking also
6 at the President when I encourage everyone to try to be
7 as responsive as we can, within this very important
8 organization, to calls coming in. And I think part of
9 the response was to try e-mail.

10 MR. QUATREVAUX: Yes.

11 CHAIRMAN EAKELEY: Look at our web site. And
12 we can't afford to hire a full-time person to answer
13 phone calls, but I think that we all have to -- I mean,
14 it just seems to me that as a standing standard
15 operating procedure for people who are in the office on
16 a full day, they should try, just as a matter of rule,
17 return all phone calls that day.

18 MR. QUATREVAUX: Sure.

19 CHAIRMAN EAKELEY: But I thought it was
20 noteworthy that you printed that criticism and your
21 response because it is a good way to remind people that
22 this is a service organization. One other question and

1 then I will open it up, but you heard me ask David
2 Richardson this yesterday. But are you -- is your
3 operation pretty well assured of being millennium bug
4 free?

5 MR. QUATREVAUX: Yes, it is.

6 CHAIRMAN EAKELEY: And do we have any
7 procedure in place for checking more than the software
8 and the hardware that might be affected? Is there any
9 type of risk assessment that anyone has looked at to
10 see whether or not any other aspect of our operation
11 may be affected by the millennium bug?

12 MR. QUATREVAUX: Well, we haven't done that.
13 I did have the benefit of listening to John Koskin, who
14 is heading the President's initiative on the Y2K
15 problem, as it is referred to in Washington. And the
16 most interesting aspect to me of his remarks were that
17 the government can't simply be satisfied with ensuring
18 that its own systems are free of this.

19 CHAIRMAN EAKELEY: Yes.

20 MR. QUATREVAUX: But the interfaces to
21 industry, to state governments, to foreign governments,
22 the world indeed is wired together.

1 CHAIRMAN EAKELEY: That is what I meant by the
2 risk assessment. And indeed, there is a lot of concern
3 at the Board of Directors level and a number of
4 corporations about corporate liability for failure to
5 do a prudent and duly diligent risk assessment of how
6 that changeover into the new era may affect operations
7 of the organizations.

8 MR. QUATREVAUX: We would have been greatly
9 concerned were it not the case that the Corporation is
10 in the process of installing brand new off the shelf,
11 with some modification, but brand new standard
12 software.

13 CHAIRMAN EAKELEY: I caution only that there
14 is a tendency to think that it is solved when you solve
15 the software/hardware within the shop, but it is not.
16 And we have got to be sure that we are anticipating
17 where some of these other problems might arise in
18 preparing to cope with it. Anyway, we are spending a
19 lot of time on that right now. Any other questions of
20 the IG? All right.

21 Thank you very much. Now since you are the
22 first up in our closed session, Ed, you might as well

1 stay there while I take a vote to close the meeting for
2 the executive session portion that was previously
3 noticed in the Federal Register, namely, a briefing by
4 the Inspector General on the activities of the OIG and
5 then consider and act on the General Counsel's report.

6 I might say, for the public who is being
7 excluded at the moment, that I anticipate we will be
8 back in open session within 10 minutes perhaps or less.

9 I think what we should also do is let the
10 minutes reflect that Mr. Askew had to leave to catch a
11 plane. Was there a motion to go into executive
12 session?

13 M O T I O N

14 MS. FAIRBANKS-WILLIAMS: So moved.

15 CHAIRMAN EAKELEY: So moved. Second?

16 MS. WATLINGTON: Second.

17 CHAIRMAN EAKELEY: All those in favor?

18 (Chorus of ayes.)

19 CHAIRMAN EAKELEY: Opposed?

20 (No response.)

21 CHAIRMAN EAKELEY: We are now in executive
22 session.

1 (Whereupon, at 2:57 p.m., the meeting was
2 adjourned to executive session.)

3 CHAIRMAN EAKELEY: Nancy, are you still there?

4 MS. ROGERS: Yes.

5 CHAIRMAN EAKELEY: We are back in open session
6 and are opening the record up for public comment. We
7 had the public comment at the beginning of the session.
8 Hearing no public comment, then we need to consider and
9 act on other business.

10 We have our next Board meeting in Washington
11 the second weekend in June. Don't forget. And we are
12 working on a couple of possible special things. It is
13 the 12th and 13th of June. And we will look forward to
14 seeing you all then if not before.

15 MS. PERLE: The NLADA annual dinner is the
16 night before.

17 CHAIRMAN EAKELEY: The NLADA annual dinner is
18 the night --

19 MS. PERLE: Thursday night.

20 CHAIRMAN EAKELEY: Thursday night. That was
21 inadvertently good timing on our part.

22 MS. PERLE: No, it wasn't inadvertent at all.

1 CHAIRMAN EAKELEY: We planned it?

2 MR. McCALPIN: What is the 12th, what day of
3 the week?

4 CHAIRMAN EAKELEY: Friday. Oh, no, I am
5 sorry.

6 MS. PERLE: Yes, it is Friday is the dinner
7 and Saturday is the Board meeting.

8 MR. McCALPIN: The dinner is the 11th?

9 MS. PERLE: Yes, Thursday night.

10 CHAIRMAN EAKELEY: Okay. And we have a
11 reception at the State Capital in a couple of hours at
12 5:00 o'clock. Is there any other business? Do we have
13 a motion to adjourn?

14 M O T I O N

15 MR. McCALPIN: So move we adjourn.

16 MS. WATLINGTON: Second.

17 CHAIRMAN EAKELEY: All those in favor?

18 (Chorus of ayes.)

19 CHAIRMAN EAKELEY: The ayes have it. We are
20 now adjourned. Nancy, thank you very much for hanging
21 in there with us.

22 (Whereupon, at 3:14 p.m., the meeting was