

LEGAL SERVICES CORPORATION  
BOARD OF DIRECTORS

OPEN SESSION

Saturday, February 1, 2003

9:00 a.m.

The Washington Court Hotel  
525 New Jersey Avenue, N.W.  
Washington, D.C.

BOARD MEMBERS PRESENT:

Douglas S. Eakeley, Chair  
Hulett H. Askew  
LaVeeda Morgan Battle  
John T. Broderick, Jr.  
John N. Erlenborn  
Edna Fairbanks-Williams  
F. William McCalpin  
Maria Luisa Mercado  
Nancy H. Rogers (by telephone)  
Thomas F. Smegal, Jr.  
Ernestine P. Watlington

STAFF AND PUBLIC PRESENT:

Victor M. Fortuno, Vice President for Legal Affairs,  
General Counsel and Corporate Secretary

## STAFF AND PUBLIC PRESENT (con'd):

Randy Youells, Vice President for Programs  
 Mauricio Vivero, Vice President for Governmental  
     Relations and Public Affairs  
 John Eidleman, Acting Vice President for Compliance and  
     Administration  
 Leonard Koczur, Acting Inspector General  
 Laurie Tarantowicz, Assistant Inspector General and  
     Legal Counsel  
 David Maddox, Assistant Inspector General for Resource  
     Management  
 David L. Richardson, Treasurer and Comptroller  
 Mattie C. Condray, Senior Assistant General Counsel  
 Eric Kleiman, Communications Director  
 Michael Genz, Director, Office of Program Performance  
 Robert Gross, Senior Counsel, Office of Program Performance  
 Don Saunders, Director for Civil Legal Services, NLADA  
 Linda Perle, Senior Attorney, Legal Services, Center for  
     Law and Social Policy  
 Frank Strickland, Attorney, Strickland Brockington Lewis,  
     L.L.P. (Nominee)  
 Robert Dieter, University of Colorado (Nominee)  
 Thomas Fuentes, Tait & Associates (Nominee)  
 Michael McKay, McKay Chadwell (Nominee)  
 Florentino Subia (Nominee)  
 Lillian R. BeVier, University of Virginia School of Law  
     (Nominee)  
 Alice Dickerson, Director, Office of Human Resources  
 Patricia Hanrahan, Special Counsel to the Vice President  
     for Programs  
 L. John Ross, Chairman, Special Committee of Legal Aid  
     Indigent Defendants

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

CHAIR EAKELEY: Good morning. Happy New Year.

Is there a motion to approve the agenda as circulated in advance?

## M O T I O N

MR. ASKEW: So moved.

MS. MERCADO: Second.

CHAIR EAKELEY: All those in favor?

(Chorus of ayes.)

CHAIR EAKELEY: Opposed?

(No response.)

CHAIR EAKELEY: The ayes have it.

Are there any corrections or additions to be made to the minutes of our meeting of November 9, 2002?

MR. McCALPIN: Mr. Chairman?

CHAIR EAKELEY: Mr. McCalpin.

MR. McCALPIN: Directing your attention to the top of the third page, at another board meeting recently it was suggested that at least a brief reference to the subject of corrections to prior minutes be made.

We don't have the prior minutes before us. We

■ don't know what it was. So I think it's a useful suggestion  
■ if there would just be at least -- I'm not talking about  
■ punctuation or --

■ CHAIR EAKELEY: Right.

■ MR. McCALPIN: -- grammar, or that sort of -- but  
■ substantive corrections, that there be at least a brief  
■ reference to what they are.

■ CHAIR EAKELEY: I agree. I'm looking at our  
■ secretary, and he is nodding in affirmance that it will be  
■ taken care of in futuro.

■ MR. McCALPIN: Thank you.

■ A PARTICIPANT: By Mr. Fortuno.

■ CHAIR EAKELEY: Right. Any other -- are there any  
■ corrections to be made to these minutes?

■ (No response.)

■ CHAIR EAKELEY: Hearing none, is there a motion to  
■ approve the minutes of the November 9, 2002 --

■ M O T I O N

■ MR. McCALPIN: So moved.

■ MR. ASKEW: Second.

■ CHAIR EAKELEY: All those in favor?

■ (Chorus of ayes.)

■ CHAIR EAKELEY: Opposed?

■ (No response.)

■ CHAIR EAKELEY: The ayes have it.

■ Next, we have the minutes of the executive session  
■ of the Board's meeting of November 9. Are there any  
■ corrections or additions to be made to those minutes?

■ (No response.)

■ CHAIR EAKELEY: Hearing none, is there a motion to  
■ approve them?

■ M O T I O N

■ MS. BATTLE: So moved.

■ CHAIR EAKELEY: Second?

■ MS. WATLINGTON: Second.

■ CHAIR EAKELEY: All those in favor?

■ (Chorus of ayes.)

■ CHAIR EAKELEY: All those opposed?

■ (No response.)

■ CHAIR EAKELEY: The ayes have it.

■ Next, we have approval of minutes of the Board's  
■ special session on strategic direction which took place on

■ November 8, 2002.

■ Again, any corrections, additions?

■ (No response.)

■ CHAIR EAKELEY: If not, all those in favor?

■ (Chorus of ayes.)

■ CHAIR EAKELEY: Opposed?

■ (No response.)

■ CHAIR EAKELEY: The ayes have it. There is a "to"  
■ missing at the top of page 230, t-o, but so be it.

■ We also had a telephonic meeting on November 25,  
■ 2002, to approve the -- whatever it is we approved.

■ A PARTICIPANT: Semi-annual.

■ CHAIR EAKELEY: Semi-annual message to the --

■ A PARTICIPANT: Semi-annual.

■ CHAIR EAKELEY: -- to the Congress. Any changes to  
■ those minutes?

■ (No response.)

■ CHAIR EAKELEY: Hearing none, is there a motion to  
■ approve them?

■ M O T I O N

■ MS. FAIRBANKS-WILLIAMS: So moved.

MS. MERCADO: Second.

CHAIR EAKELEY: All those in favor?

(Chorus of ayes.)

CHAIR EAKELEY: All those opposed?

(No response.)

CHAIR EAKELEY: The ayes have it, and the minutes are approved.

Now, first I want to welcome the six nominees, and wish them very hasty confirmation. We have with us today Frank Strickland from Georgia, Robert Dieter from Colorado, Lillian BeVier from Virginia, Thomas Fuentes from California, Michael McKay from the state of Washington, and Florentino Subia from Texas. Welcome and best wishes.

Also, I want to recognize and acknowledge Jonathan Ross representing SCLAID. It's always nice to have you with us too, John.

Special recognition and thanks for his safe return is due to John Broderick. We said this yesterday, but let me say it at the full board meeting. John, it's really just wonderful to have you back and have you participating again.

MR. BRODERICK: Well, people say to me now, "Nice



■ to see you." I said, "It's nice to be seen." So it's nice  
■ to be back, Doug.

■ CHAIR EAKELEY: I thought that the -- with the  
■ exception that Bill noted on the minutes, I thought that the  
■ minutes -- we had been doing a very good job capturing the  
■ substance of the presentations in the minutes. And I think  
■ that that's a very nice improvement and record of what is  
■ taking place at the Board's meetings.

■ I also wanted to commend the staff for the quality  
■ of the reports that have gone into the last couple of Board  
■ packages. They have been informative, and they have been  
■ timely, and we have gotten them in advance of the meeting,  
■ even more importantly.

■ I also just wanted to mention a fascinating two  
■ days I spent in Beijing at the beginning of December. It was  
■ my third trip as the guest of the Chinese government, in the  
■ process over five years of developing a legal aid system,  
■ both criminal and civil.

■ And I was the -- there were four so-called foreign  
■ experts presenting not just to the administrative justice  
■ this time, but also to the Office of Legislative Affairs

■ which are actually responsible for drafting the legislation.

■ Congress had just come out with a four year plan  
■ recommending or including the implementation of a legal aid  
■ plan for China. And the night before I arrived outgoing  
■ president, Jiang Zhi Men, had given a speech on the event of  
■ the 20th anniversary of the Chinese constitution, in which he  
■ dwelled on the importance of the rule of law, and called for  
■ the implementation of legal aid as a priority.

■ It's a bit daunting. There are 1.4 or so billion  
■ people in China, mostly poor. There are 120,000 lawyers.  
■ And how you do anything with those numbers is extraordinary.

■ But there seems to be a very real commitment, at  
■ least at the central government level, and also with a number  
■ of legal aid lawyers that I have gotten to know over the  
■ years to this process. And we may see something as early as  
■ February.

■ But I filed my report with our ambassador and the  
■ president, and we'll see where that leads. But it's -- as I  
■ think I mentioned, it was quite extraordinary to be invited  
■ five years ago.

■ And I called the State Department at the time to

say, "equal justice in communist China," but there has been such a transformation going on that there is a lot that doesn't meet the eye, of course. But it was very interesting to be there and to be participating, at least on the margins of it.

So, anyway, that is my report. Now we'll go around the table for the Members' Reports. Ernestine.

MS. WATLINGTON: Nothing personally. This isn't the committee report yet, huh?

CHAIR EAKELEY: No.

MS. WATLINGTON: Okay.

CHAIR EAKELEY: Just members' reports. Edna, we're delighted to see you back and looking so well.

MS. FAIRBANKS-WILLIAMS: I wanted to report on my usual, but I didn't do a map this year because I didn't have time. But I do have a little note from my executive director. I have enclosed county and town data for our 2002 cases.

I am happy to report at Beecher Falls, Brejuana Corners, Coventry, Florence, Lake Sunset, Mackendo Falls, and Bershire, are all represented. These towns all have their

mail from a different bigger town. And I was giving him a hard time because he was listing the cases from coming from the town where the mail come from, and not from the town or residence.

CHAIR EAKELEY: I bet you were giving him a hard time from the hospital bed.

MS. FAIRBANKS-WILLIAMS: Well, I did have a telephone conference from there.

Of the counties, the smallest county was 27 cases out of that county; the largest county was 625, that's Burlington; and 369 from Rutland County; 325 from Washington County; 332 from Windsor County, and every case is listed by county, and by town of residence.

CHAIR EAKELEY: Excellent. How are the beavers?

MS. FAIRBANKS-WILLIAMS: Pardon?

CHAIR EAKELEY: How are the beavers?

MS. FAIRBANKS-WILLIAMS: Oh, the beavers are terrible. They have closed off roads, and giving us a really hard time.

CHAIR EAKELEY: Bucky.

MR. ASKEW: There are two things I'd like to

■ mention:

■ (1) As many of you have read, the newest staff  
■ attorney at the Atlanta Legal Aid Society is named Roy  
■ Barnes, our former governor, who has gone to work for Atlanta  
■ Legal Aid for six months as a volunteer.

■ And some people were very suspicious about what  
■ he's doing, and whether it had other implications. But he  
■ assured people that he wanted to be a staff attorney handling  
■ everyday cases.

■ And that's, in fact, what he's doing. He has an  
■ office and he is interviewing clients and representing  
■ clients for Atlanta Legal Aid. He has a long history with  
■ the program that he acted upon.

■ And Tuesday night out at Emory, the law students  
■ gave their annual public interest awards, and gave an award  
■ to a staff attorney at Atlanta legal aid for her work on  
■ predatory lending which the General Assembly is now trying to  
■ undo because the law was too aggressive that they adopted  
■ last year, and it was working too well.

■ So the bankers are back in trying to get it undone.

■ But Roy Barnes was there and got a standing ovation, and

from the 100-and-so students, and the other 100-and-so people. And he was there to honor the staff attorney for the work she has done over the last 10 years on predatory lending in the state.

So it's a very good feeling. And all three people who got these students awards were from Atlanta legal aid, in one capacity or the other, a board member, and two staff people.

The other thing I mentioned to you, the president of the ABA, A.P. Carlton, has set up a commission and asked them to try and define the practice of law.

And they have come up with a draft definition which has scared a lot of people all the way from the Department of Justice and the Federal Trade Commission, who see it as a restraint of trade, to people like legal services lawyers, who see it possibly interfering with the use of paralegals, or with some of the work we do.

And it's being attacked from all sides. So I am not sure that it's really going to survive this process. But I was asked to testify next week in Seattle before the Commission, on behalf of Legal Services, NLADA, LSC, and

others, and just express our concern and opposition to the draft definition.

And the position we are taking is you really can't define it in a way that's going to satisfy all the huge numbers of constituencies involved in the practice. And this is being attacked all the way from bankruptcy lawyers to the government because of the various aspects of it.

So we have submitted written testimony. And I may or may not testify next week just asking them please to back off. His motivation for it is quite good. What he wanted to do is define the practice so that it would increase Access to Justice, and explain to the public the role that lawyers play in society.

But once you get into the details of it, it becomes very difficult to do without writing a definition that's so narrow that it excludes a lot of work that, not only private practitioners do, but public interest lawyers do.

CHAIR EAKELEY: I have seen the testimony. I think it might be a good idea to attach it to the minutes of meeting.

Could we do that, Victor, so that everybody has a

■ chance to see it?

■ MR. FORTUNO: Yeah.

■ CHAIR EAKELEY: Good, thanks.

■ MR. ASKEW: That concludes my report, Mr. Chairman.

■ CHAIR EAKELEY: Thank you, Mr. Askew. Tom.

■ MR. SMEGAL: Thank you. I attended the oral  
■ argument before the United States Supreme Court in the IOLTA  
■ case. And as recently as Wednesday, I reported to the Legal  
■ Aid Society of San Francisco that I thought the decision  
■ would be favorable to IOLTA.

■ Now I have through the course of this year bet on  
■ the 49ers and the Raiders large amounts of money, so how far  
■ we go with that -- anyway, I found the interchange with the  
■ lawyers to be -- I think optimistically favorable. I don't  
■ know if Don Saunders wrote it up, he was there. And I think  
■ Justice O'Connor is a swing vote. And I think it might go 5-  
■ 4, with a ruling that it isn't an impermissible taking under  
■ the Fifth Amendment of the Constitution.

■ CHAIR EAKELEY: Thank you. Thank you, Tom. Bill  
■ McCalpin. We're coming back to our Vice Chair, and then our  
■ president.



MR. McCALPIN: Okay.

CHAIR EAKELEY: If you want to wait to compare -- compose your remarks for a little while longer, we'll go to LaVeeda.

MR. McCALPIN: I just want to say that until recently, I have had only the antiseptic view of state planning that one gets from a seat at this table. I have now been introduced to a more inside and seamier look at state planning in one state, and it hasn't always been pretty.

A PARTICIPANT: Is there a hidden message?

CHAIR EAKELEY: And we'll leave it at that. But for our next Provisions Committee meeting --

MS. BATTLE: We'll let you have the mike.

CHAIR EAKELEY: Maria Luisa.

MS. MERCADO: I guess the only thing, related thing, that I can say is that I was at a National Rural Housing Conference in December.

And my key role was to try and get all these rural housing advocates to try and work in partnerships with our legal aid programs around the country, to help them leverage and do housing for poor people in rural areas.

■ We had a Rural Symposium in Nebraska several months  
■ ago that Legal Services put together. And, of course, one of  
■ the unfortunate things about being in rural America is that  
■ you have lack of access to everything, to health care, to  
■ housing, to jobs, you name it. And, of course, Legal  
■ Services plays an integral part in this.

■ And so, in trying to work those kinds, so that  
■ Randi knows it, we're still continuing to work that and  
■ networking, and trying to provide access to all of those  
■ services, and, of course, in particular, legal services to  
■ people in rural America. And that coordinated effort  
■ continues.

■ CHAIR EAKELEY: John Broderick.

■ MR. BRODERICK: Mr. Chairman, I don't have a  
■ report, but with your indulgence I would like to make a few  
■ remarks. I don't know whether this is our last meeting with  
■ the Board, and I hesitate to say this. But I do want to do a  
■ couple of things in a few moments:

■ Number one, I want to publicly thank President  
■ Clinton for the opportunity that he gave me over the last  
■ nine years to be here.

Secondly, I want to thank the members of the Board, who have not only been phenomenal friends to me, but great example of service to me.

When we met at the White House at the Old Executive Office Building nine years ago, and everyone introduced themselves and described their background in legal services, I knew immediately why you were nominated. I had no idea what I was doing there. And nine years have passed, but the feeling remains.

I also want to acknowledge the staff who worked for this corporation, who are just enormously, wonderfully dedicated people, and for the field, and for the organizations that care about the rights of poor America, with whom I have had the privilege to get acquainted.

And when I came on this board I was not a member of the judicial branch of government, and I have been for much of my service here. And I have considered it a great privilege to have been able to do both.

And about a year ago, when I was at the court one morning my phone rang which doesn't happen as much as I'd like it to. And I picked it up and it was a woman calling me

■ from Nashua, New Hampshire, who was very desperate.

■           And she said to me, "I need your help. I'm being  
■ evicted." And so, I said, "Ma'am, I really can't help you.  
■ It's not what I do. I'm an appellate judge." And she was  
■ having none of that.

■           So she continued to tell me about her problem, and  
■ I listened as I could. And I said, "Ma'am, you really need  
■ to go to the Nashua District Court, and they can probably  
■ help you. I just can't help you."

■           And she said, "You know, I never expected you to  
■ understand, as you have never been poor, and you have never  
■ been homeless," and she hung up the phone. And she was right  
■ on both counts.

■           And I have thought about that conversation many  
■ times since. And I filter it through the politics of  
■ Washington and the country, as it relates to the work of this  
■ corporation.

■           That woman doesn't care about the politics of the  
■ Legal Services Corporation, or those who favor it, or those  
■ who oppose it. She needed help with a real problem. And I  
■ hope that this corporation going forward will remember people

like that, who need help, that only this corporation and its field can provide.

And the last thing I want to say is we had a meeting at our court about a month ago with some members of the state legislature. And we were sitting in our courtroom, and they were asking questions.

And I said to them, "There are very few rooms in the United States which you enter for simple reasons. Specifically, what happened and what's just? There are very few rooms in the country whose purpose is to answer those questions."

And one of those rooms is a room that I work in every day in Concord, New Hampshire. And, to the extent, that average people and poor people in this country cannot get those questions answered in their own life circumstances, we have a much greater problem than we think.

And so I hope that the new board, when constituted, enjoys your service here. I hope this corporation can continue its mission. The unmet legal needs in this country are enormous. They are far more important than the politics of the moment, or the politics of the day.

■                   And I want to close by saying, which I said there  
■ were a couple of new board members today, that yesterday one  
■ member of this Board asked us after nine years of service  
■ which of us were Democrats, and which of us were Republicans?

■                   And that was the highest compliment that person  
■ could have paid to this Board. And I hope for all of those  
■ of you who are coming that after your years of service that  
■ somebody in good faith can ask the same question.

■                   And I wish you well. And I want to thank the  
■ people who have fundamentally changed my world view of the  
■ law and the rights of poor Americans during my nine years of  
■ service here. Thank you.

■                   CHAIR EAKELEY: That's very nice. I should note  
■ for the record also that I think John was honored as an  
■ honorary fellow of the New Hampshire Bar Foundation last week  
■ for his commitment to access to justice and the rule of law.

■                   MR. BRODERICK: Well, I just want to comment. I  
■ was a fellow. I had to pay dues to be a fellow; and then I  
■ became an honorary fellow. It's a lot like getting an  
■ honorary ticket to the Super Bowl after you have bought one,  
■ but it was still nice.

CHAIR EAKELEY: Thank you. Let's dial up Nancy,  
and then we'll --

(Interruption to proceedings.)

CHAIR EAKELEY: Are you there?

MS. ROGERS: Yes.

CHAIR EAKELEY: We're just going through our  
members' reports, and then we were coming to LaVeeda. And  
unfortunately, we dialed you in after John Broderick gave a  
very eloquent and heart-felt set of comments. We didn't want  
-- he didn't want to call them a report, but they were very  
fine. LaVeeda.

MS. BATTLE: Thank you, Mr. Chairman. I have a  
very brief report. Like my colleague, Bill McCalpin, I have  
been involved in my state in state planning, and Alabama is  
about to be reconfigured into one state program.

So we presently have about three programs. And our  
meeting throughout the state -- and we have had telephonic  
meetings, as well as in-person meetings. The last meeting  
was actually held at my office last Friday, and we're about  
to in-panel a Transition Committee.

So it is from the outside remarkably different from

the wonderful reports that we get about how things go. But it's a very exciting time I think in Alabama. We get most of our funds for Access to Justice for civil legal means in Alabama from Legal Services.

And our hope is that through this process we are going to be able to double and triple the amount of money that we're able to provide for Access to Justice.

CHAIR EAKELEY: Great.

MS. BATTLE: We're starting out with big plans, and we're hoping that we get somewhere.

CHAIR EAKELEY: Did I hear you say that you have invited Judge Newton to come down and rally our troops?

MS. BATTLE: I am going to consider that -- doing that.

CHAIR EAKELEY: I think that would be great.

MS. BATTLE: If we could get her, she would be just -- the enthusiasm that she showed. We did -- we were able to, Mr. Justice, get one of the members of our Supreme Court to join with us. And I think he is going to be attending some of the meetings which will be a major push for us in Alabama. So we're working on it.



CHAIR EAKELEY: Dean Rogers.

MS. ROGERS: I have no report.

CHAIR EAKELEY: How are things out in Ohio?

MS. ROGERS: People are still celebrating. I think we'll celebrate through August, when football season starts again.

CHAIR EAKELEY: All right. Any other comments or questions from the members' reports?

Next then, the acting inspector general's report. Len.

MR. KOCZUR: Thank you, Mr. Chairman. Good morning.

CHAIR EAKELEY: Good morning.

MR. KOCZUR: I want to start with the annual corporate financial audit. We normally present the report to the Finance Committee at this time of the year.

But the audit has been delayed this year primarily because of a number of new reporting requirements, particularly, there is a narrative discussion that needs to be prepared. And there are some other technical issues that we are still working on.

■                   So the audit is not completed. We don't have a  
■ date for completion, but I expect it to be hopefully within  
■ six weeks or so at the maximum.

■                   CHAIR EAKELEY: When you say technical, I take it  
■ the difficulties are not substantive or systemic?

■                   MR. KOCZUR: Well, there are some substantive  
■ discussions going on about how to report some of the data  
■ associated with our involvement with the trend.

■                   CHAIR EAKELEY: But are the financial books of  
■ account sound?

■                   MR. KOCZUR: The LSC books are sound. That work is  
■ essentially completed, as it normally is. It's these  
■ secondary issues that we're dealing with right now. But they  
■ don't allow the completion of the audit, and therefore, the  
■ preparation of the Audit Report.

■                   What that also means is that the corporate tax  
■ return, which is due February 15th, will not be ready by  
■ then, and we're requesting an extension. It's a three month  
■ extension. It's an automatically given by the IRS, so that  
■ should present no problem.

■                   Some of the data from the financial statements need

to be reproduced on the tax reports -- tax returns. So, obviously, we can't do that at this time. The tax return is not a major issue. It's just procedural and we'll get it done. And there is no -- there is no penalty associated with that.

We're continuing our program integrity audits. Since the last board meeting, we issued a report on middle Tennessee and the Cumberlandands. There were no program integrity issues.

There were a couple administrative-type findings, and the program director agreed with the report and is implementing the recommendation. In fact, as I recall, he sent a one or two line response saying, "Yes, we agree and we're going to fix it."

For the future, we're going to continue to do the program integrity audits. We have a minimum of four planned for this year. And we're going to do some work that was delayed from last year.

We're going to start a TIG grant audit where we're looking at what did the grantees accomplish with the technical grant money that we gave them?

■ And we are also going to start a survey of PAI  
■ looking at the various ways PAI programs are implemented.

■ CHAIR EAKELEY: We are trying to back away from  
■ over use of acronyms --

■ MR. KOCZUR: Oh, I'm sorry, the private attorney --

■ CHAIR EAKELEY: -- at least for this transitional  
■ period. And the TIG is technology innovation grant?

■ MR. KOCZUR: Grant, yes.

■ CHAIR EAKELEY: And the program integrity audits  
■ are just what they sound like?

■ MR. KOCZUR: Right, program. And we look at  
■ whether grantees are complying basically with 1611, primarily  
■ with the transfer of funds to other organizations who are  
■ doing prohibited -- or maybe doing prohibited activities.

■ And we do get into a number of other regulations  
■ that are kind of associated with that. For example, the  
■ regulation dealing with the reporting of activity where the  
■ grantee's attorney is the attorney of record for a case filed  
■ in court.

■ CHAIR EAKELEY: And, Len, what are you going to be  
■ looking at in the private attorney involvement area?

MR. KOCZUR: This is going to be a broad-ranging survey initially just to determine what types of programs are out there, how the various grantees implement program -- PAI programs, and then would do an audit to see -- select several of them to see how well the program works, how many attorneys are involved, how many additional cases perhaps that they are able to handle because of their programs.

Particularly, if it's a good program, we'd expect that number of cases. That's our ultimate. But, first, we have to get kind of a handle on the various types of programs that are out there.

We have seen the audits done by the independent public accountants, the annual financial audits. There is a wide range of programs out there. So we want to follow up and just get some more information about them, and then selected several for audit.

The Georgia Mapping Project, we gave the presentation yesterday. So I don't think there is any need to -- you know, I think most of the board members were at that meeting.

CHAIR EAKELEY: Well, I want to commend you on

■ that, the presentation, and on the project. It's been a long  
■ time coming, we're all painfully aware of. But I think that  
■ the -- that the end product was very impressive and  
■ informative.

■ MR. KOCZUR: Thank you. As you know, we had to  
■ overcome some issues there at the start.

■ CHAIR EAKELEY: And you did a good job on.

■ MR. KOCZUR: That delayed that. And I think  
■ everyone is happy including our two grantees from --

■ CHAIR EAKELEY: And you are to be commended on that  
■ in particular.

■ MR. KOCZUR: Thank you. Well, that concludes my  
■ report. In the executive session, I'll discuss  
■ investigations a little bit, and the litigation that we're  
■ involved in.

■ CHAIR EAKELEY: Just one suggestion -- well, and  
■ then I'll turn it over to the other board members.

■ But, as you get into the private attorney  
■ involvement audit, I think it would be very helpful to the  
■ Board and to management if you could share your insights into  
■ the programmatic side of this.

■ It's something that we really haven't been able to  
■ explore because of resources and commitments in other areas.

■ But I think it's an overlooked area that can benefit from  
■ additional attention and support and encouragement. And,  
■ hopefully, you'll be able to find some lessons there for us.

■ MR. KOCZUR: Certainly, I do. And, quick, Randi  
■ and I talk very frequently about this. So she will know what  
■ we are doing, the grantees we are visiting, and that type of  
■ thing. So there will be close coordination.

■ And, of course, anything that we see that demands  
■ immediate attention, or anything that looks really positive  
■ that she should know about, we'll let her know long before we  
■ put out a report.

■ CHAIR EAKELEY: Thank you. Any other questions for  
■ the inspector general?

■ All right. Thank you very much.

■ MR. KOCZUR: Thank you. General Erlenborn,  
■ president's report.

■ MR. ERLENBORN: Well, thank you, Mr. Chairman. I  
■ am pleased to report that management has been busy and has  
■ had a productive past few months.

I am submitting a written report that extensively details our most recent activities for the Board's review, and to become part of the record. However, I would like to highlight a few items of interest.

As many of you know, last week the LSC program is facing budget cuts as a result of the census funding reallocations. We saw the potential life preserver from the United States Senate.

As part of the Omnibus Appropriations Bill that passed the Senate on January 23rd, an amendment was adopted by voice vote that would raise the LSC's fiscal year 2003 appropriation by \$19 million, to ensure that no service area will receive less funding from LSC for fiscal 2003 than the area received in fiscal year 2002.

This amendment, sponsored by Iowa Senator Tom Harkin, must still pass the Senate House Conference Committee, but would bring LSC's total fiscal year 2003 appropriation to \$348 million plus.

If approved, I am pleased to report that this amendment enjoyed broad support in the Senate with 12 co-sponsors including Republican Senators Gordon Smith of Oregon



■ and Pete Domenici of New Mexico. We will keep the Board  
■ posted as the Omnibus Appropriations Bill makes its way  
■ through the Conference Committee and to the president's desk.

■ The Appropriation Bill and the president's State of  
■ the Union message this week has kept the newly convened  
■ Congress busy. However, our Office of Governmental Relations  
■ and Public Affairs has been active in reaching out to members  
■ in this period and conducting visits and interviews with  
■ returning, as well as freshman representatives and Senators.

■ In the past several weeks, Mauricio and his staff  
■ have visited and talked with Senators Pete Domenici and John  
■ Cornyn of Texas, and Representatives Linda Sanchez, Denise  
■ Majette, Arthur Davis, Raul -- and I can't pronounce it --  
■ Raul Grijalva -- I think -- Brad Miller, John Carter, and  
■ Bill Janklow. We are also continuing to promote our work  
■ through the placement of positive news coverage and editorial  
■ pieces.

■ Last month, for instance, Mauricio published an  
■ Op/Ed in the Atlanta Journal Constitution praising Governor  
■ Joy -- Governor George -- Georgia Governor -- excuse me --  
■ Roy Barnes for his plans to become a full-time pro bono legal

■ aid attorney. In working with our grantees, we continue to  
■ generate a steady stream of positive news throughout the  
■ country.

■ On the program side, Randi Youells, our Vice  
■ President for Programs, has had a very busy past few months.

■ That's nothing new, by the way. Visiting and speaking to  
■ several programs and continuing work on our state evaluation  
■ estimate.

■ In November, Randi traveled to Milwaukee to  
■ participate in the NLADA annual meeting. And, in conjunction  
■ with that event, convened a meeting between LSC and  
■ representatives of our Native American Indian programs to  
■ examine a variety of important issues.

■ Early in January, Randi traveled to Washington  
■ State to join our state planning evaluation team during its  
■ test of the LSC draft state planning evaluation tool. This  
■ project employed a design team of legal services leaders to  
■ create and test an instrument that LSC could use in assessing  
■ state planning performance around the country.

■ Washington state was selected as a site because it  
■ is a statewide LSC program with a long history of state

■ planning. Our evaluation team conducted a second test in  
■ Kentucky, chosen because it has more than one LSC grantee,  
■ and recent engagement in the state planning process.

■ A more complete description of these activities was  
■ given at yesterday's Provision Committee meeting. There is  
■ also a very useful description of the Washington state pilot  
■ evaluation on the January 17, 2003, issue of the NLADA  
■ update.

■ I would also like to take this opportunity to  
■ acknowledge a new employee to join our program team. Colleen  
■ Cotter, formerly Deputy Director of Indiana Legal Services,  
■ and a member of their state planning body, has been retained  
■ to work on an initiative where we will study and examine  
■ outcomes and related performance measures for our grantees.

■ Colleen will collect and analyze material on  
■ outcomes and related performance measurement systems  
■ currently in use for legal services programs across the  
■ country. These outcome and related performance systems are  
■ designed to assess the equity, quality, and efficiency in  
■ legal services agencies.

■ Certainly, we have made great strides on the

program front, and our Office of Legal Affairs has been equally productive. Since the last board meeting, OLA has been busy working on several open rulemakings.

LSC published notices of proposed rulemaking on the corporation's rules on financial eligibility and procedures for disclosure of information of the Freedom of Information Act.

Additionally, we have continued work on the pending property issues concerning Pisgah Legal Services in the state of North Carolina, Carolina Regional Legal Services, and Neighborhood Legal Assistance Program.

A detailed summary of our progress with these programs is included in your material, the Board's material, and I encourage you to read further.

Finally, I would like to mention the work of our Office of Compliance and Enforcement. During this reporting period, OCE conducted 10 on-site reviews: Five of these visits were on Case Service Report/Case Management System reviews for programs in Alaska, Mississippi, and Colorado; two visits were follow up visits from a prior review; one visit served as a review of 1610, one was a complaint

■ investigation; and the final visit was accountability  
■ training.

■ Also, four audit findings under our A-50 process  
■ were referred to LSC management by the Inspector General for  
■ follow-up assessment, and each was investigated and closed by  
■ OCE.

■ OCE also conducted 20 complaint reviews; reviewed  
■ 53 subgrant agreements, 3 fund balance waiver requests, and 7  
■ requests for prior approval to purchase, lease, or renovate  
■ personal and non-expendable property and real property.

■ OCE then reviewed 17 recipient audit reports and  
■ granted one PAI -- that's private attorney involvement --  
■ waiver request.

■ CHAIR EAKELEY: No wonder John Eidleman looks tired  
■ this morning.

■ MR. ERLNBORN: This concludes my report. I would  
■ be happy to answer any questions you may have.

■ CHAIR EAKELEY: Thank you, John. Any questions?  
■ Maria?

■ MS. MERCADO: No, I don't. Thank you.

■ CHAIR EAKELEY: Next, we have the report of the

■ Board's Committee on the Provision for Delivery of Legal  
■ Services. And I just want to commend the chair of that  
■ committee for a really, as usual, but very informative and  
■ interesting session yesterday. Ernestine.

■ MS. WATLINGTON: It was a full committee meeting,  
■ and I was surprised myself. They were able to get finished  
■ before 12:00.

■ We were informed -- Randi reported on the strategic  
■ direction and the mapping evaluation. Like I said, it was a  
■ real good, informative meeting. But I still -- I don't think  
■ it outdid the one in Los Angeles because that was really an  
■ interesting committee meeting.

■ And when the people there went with the diversity,  
■ as Maria stated yesterday, when they all spoke and gave the  
■ report in their different languages that they, you know,  
■ they're the ones so.

■ It's been a pleasure and a learning process for me  
■ chairing this committee and attending, you know, the  
■ different things we are learning about, the different  
■ programs, what the corporation itself is doing, and what the  
■ programs in the field is doing.

So the state planning and it all -- you know, it was real informative. We don't have anything that we need to vote on today. But I just wanted to report that I thought it was a very good provision.

And I have to commend the staff on how they, you know, really put it together. All you had to do is just be there to carry it through, but it was really good.

CHAIR EAKELEY: Any questions or comments?

All right. Well, thank you.

MS. FAIRBANKS-WILLIAMS: I had a little something that I wanted to ask about. They're talking about they're not going to pay for child care for clients and people to attend meetings.

Years ago, I came to the National Clients Council. I was awarded "Client of the Year" for the whole United States. I came to National Housing. I testified in front of Castameyer's committee.

My child had to go to school 20 miles from where I lived. If he stayed for extra things -- he played on the football team -- he was 13-years-old -- he would have had to have hitchhiked 20 miles in the dark.

I had a lady who picked him up at school, took him home, fed him, took him back to the games for \$7. I could not have come had I not had babysitting. So I think it's a very important thing that we need to discuss.

CHAIR EAKELEY: Who is it that's not paying for child care expenses, in connection with client activities?

MS. FAIRBANKS-WILLIAMS: Well, I don't think we're paying any.

CHAIR EAKELEY: John.

MR. EIDLEMAN: Yes, our current policy is that we don't pay for childcare if we have a client member who comes to a Board meeting. Now we have had an incident recently where John Erlenborn has waived that policy under exigent circumstances for a client member.

It's my understanding that -- I don't know if someone could help me out. But there is a IG opinion that initiated that policy. And I don't have personal knowledge of it. But it is our current policy not to pay for child care expenses.

MS. FAIRBANKS-WILLIAMS: If we asked them to come and testify, we should pay child support.



CHAIR EAKELEY: I don't remember the policy coming up here. And maybe -- I think it might be worthwhile if we could review that, and maybe have some people discussing it between now and the next meeting.

MR. EIDLEMAN: Surely.

CHAIR EAKELEY: Could we do that, just so that the Board is informed, and we can see whether or not there is a way of changing that policy if we can?

MR. EIDLEMAN: We certainly will do that.

MR. FORTUNO: Sure.

MS. FAIRBANKS-WILLIAMS: I certainly wouldn't be here now if I hadn't had babysitting back then.

CHAIR EAKELEY: No, it's a very good point. Okay, thanks.

Victor, maybe you could report back to me in a couple of weeks so we could see where we go with this or John?

MR. FORTUNO: Sure.

MS. MERCADO: And, Mr. Chairman, if we could, I know that we're -- I'm not real clear. Are we talking about for clients testifying in the national level?

Are you talking about client board members and representatives nationwide in whatever grantee situation they happen to find themselves in?

MS. FAIRBANKS-WILLIAMS: I don't know. I just know that we should do something about it. If we expect clients to engage in helping us, and in doing things, and so on, so forth, they have to have a little support.

MS. MERCADO: And I agree with you. I just want to make sure --

MS. WATLINGTON: Each program can make their own. Each program makes their own, you know, and each board, and the field programs. But this is -- but if we, the National Board, have a policy and don't pay for it, then that gives --

CHAIR EAKELEY: Let's find out what our policy is --

MS. WATLINGTON: Yeah.

CHAIR EAKELEY: -- and take a good look at it.

MS. MERCADO: I just didn't know whether they wanted to look at it, not only through our own shop but also nationally, or was it just for the LSC Corporation?

MR. ERLÉN BORN: Let's start with the corporation.

■ MS. MERCADO: Okay.

■ MR. ERLNBORN: And, again, I think you are going  
■ to find a different procedure is followed with several  
■ programs.

■ MS. FAIRBANKS-WILLIAMS: Oh, all programs are  
■ different.

■ CHAIR EAKELEY: Well, thank you. Thank you for  
■ bringing it to our attention.

■ MS. BATTLE: Well, actually, before we have our  
■ next report from Operations and Regulations, to me I think,  
■ Edna, that's significant. And I can't recall when this Board  
■ reviewed our policies generally. I mean it's been a number  
■ of years since we have been looked at, what our policies are  
■ across the board. So I'm glad that you have brought that up.

■ And maybe at some point -- I don't know what our  
■ schedule is going to be -- we need to just make sure the  
■ policies that will be implemented are consistent with what we  
■ think we need to be doing.

■ CHAIR EAKELEY: Where is this --

■ MS. WATLINGTON: Because not only just that one,  
■ Doug, but like I said there are others too.

CHAIR EAKELEY: But where is this policy encoded?

MR. EIDLEMAN: It's in our administrative manual --

CHAIR EAKELEY: Okay, it's in the administrative manual.

MR. EIDLEMAN: -- which needs to be looked at. We have been trying to look at it for awhile, and we haven't had an opportunity to really revise it. I know that David has been looking at it and --

MS. BATTLE: So has Alice, yeah, Alice Dickerson.

MR. EIDLEMAN: -- we'll pay attention to it.

MR. ERLNBORN: John and I will work on that.

CHAIR EAKELEY: It would be great to have a report by -- to the next -- at the next board meeting on --

MR. EIDLEMAN: It might be difficult. We'll do our best to report, at least report. I don't know if we can revise it by then.

CHAIR EAKELEY: Well, no. Well, I think that what should be of concern to the Board are the policy decisions being made implicitly in the guise or form of the administrative manual that really ought to bubble up to this level also, and has identified one such policy.

■ And LaVeeda is saying, "What other policies are  
■ lurking furtively in the margins of that document?"

■ MR. ERLNBORN: We would appreciate hearing from any of  
■ the board members, or anyone else who believes that there are  
■ things in the personnel manual that we should take a look at.

■ MS. BATTLE: Well, we really haven't looked at it.  
■ I guess that's -- the issue is that generally in most  
■ administrative manuals, there are personnel policies that are  
■ -- set the standard for how you're going to implement a  
■ variety of different things. And we simply have not, as a  
■ Board, looked at that, I think, in at least five or six  
■ years.

■ MS. MERCADO: Yeah, it has been about five or six  
■ years because under the Finance Committee, and  
■ Mr. Richardson's tutelage, we reworked and did the  
■ administrative personnel manual. That's when Joan was --

■ MS. BATTLE: That's right.

■ CHAIR EAKELEY: Yeah, that's the last time we  
■ looked at it.

■ MS. MERCADO: As a board, we did look at it, but it  
■ was back then, five or six years ago.

MR. ERLÉN BORN: This may be a good project for the new board member.

MR. EIDLEMAN: Victor has reminded me that what you looked at was the personnel manual not the administrative manual.

MS. BATTLE: All right. Well, the personnel manual is what I'm talking about.

Wouldn't this policy though be in the personnel manual?

CHAIR EAKELEY: No, it's in the administrative manual apparently, whatever that is.

I think there ought to be a subcommittee of the Ops and Regs Committee, Operations and Regulations Committee, devoted to administrative manual.

We are now up to the report on the Board's Operations and Regulations Committee.

A PARTICIPANT: See, that's the operations part.

CHAIR EAKELEY: Justice Broderick, actually, I think it would be a good idea for your committee to take a look at --

A PARTICIPANT: Personnel policies.

CHAIR EAKELEY: Well, I was going to say both personnel and administrative manual, but that's a huge task.

But maybe we can find a way to make it a little bit more user-friendly.

MR. BRODERICK: During my next nine year term, I will undertake that initiative.

On behalf of the Ops and Regs Committee, let me make a very brief report. And most of this is history to all of you at this point.

We had received a letter request Thursday afternoon, as I understand it, around 4 o'clock, by fax, from Judiciary Chairman Sensenbrenner, who was inquiring about a couple of our draft final regulations, 1611 and 1604. And he inquired directly to Mr. Erlenborn, and I saw the letter on Friday morning.

And, as we said in our meeting, because of the nature of the inquiry, and because of the nature of the inquirer, obviously, it deserves to be treated with respect.

And I think we have done that. And we intend to respond to the Congressman promptly.

And, as I indicated yesterday at the Ops and Regs

■ Committee, the Congressman should be assured that there is no  
■ one on this Board, myself included, who is disinterested in  
■ ensuring, as best we can, that every regulation we have  
■ passed is in compliance with the law.

■ It's my instinct and now my job. But, in any  
■ event, we will respond to him as soon as we can. And we  
■ decided, as a committee, to recommend to the Board that we  
■ really defer acting on those draft rules, which have been in  
■ process for a considerable period of time.

■ There have been several hearings and input from a  
■ number of members of the public and others. But I want to  
■ ensure that the Congressman, the chairman, is satisfied, to  
■ the extent we can satisfy him, that what we're doing is  
■ appropriate and lawful.

■ So, with respect to 1604 and 1611, we deferred  
■ action for a short period of time so that we can respond  
■ appropriately to him. With respect to 1602, which was a  
■ session that I wish many of you had had the opportunity to  
■ attend, but we talked at great length.

■ Actually, I kid LaVeeda and Bucky, but they ask  
■ very good questions relative to the proposed amendments of



FOIA. And Mattie Condray had a final draft rule before us. And after some considerable discussion, we adopted it for submission to the Board.

Although I will say that LaVeeda, who asked a number of questions, good questions, despite my ribbing, at the time the vote came up, wisely left the room. So I appreciated that vote of confidence.

So on a vote of two to nothing, we unanimously adopted that rule which, by all accounts, makes explicit some things that were implicit, and it makes some changes which I consider more technical and substantive.

And one of them, for example, being an adjustment of the feed is that we charged to better reflect the actual cost to the corporation to respond to these requests; and also to give the corporation some real flexibility, which is happening in agencies and entities around this capital, relative to people who make requests on a repeated basis and never seem to task the request that they earlier made, so that we don't go bankrupt in the process of trying to comply.

But, in any event, the changes I think are largely technical, and largely affirming what is going on as a matter

■ implicit practice. And it has been going on for awhile. So  
■ 1602 passed, and we recommend its adoption here.

■ There was an issue that came up awhile back about  
■ limited English proficiency. And the Department of Justice  
■ has issued guidance to federal agencies relative to that. We  
■ are technically not required because of our unique status to  
■ comply.

■ But that doesn't mean that we don't have an  
■ obligation to ensure that those with limited English  
■ proficiency have appropriate access to legal services. And  
■ so, since we had a number of options from passing regulations  
■ to doing nothing, we asked Mattie Condray at our meeting in  
■ November to post notice in the Federal Register soliciting  
■ comment.

■ And the comments, the closing period for the  
■ comments, I think is March 9th or 10th.

■ MS. CONDRAV: I believe it's March 10th.

■ CHAIR EAKELEY: So we should have, assuming we're  
■ still here, or our successors obviously, should have some  
■ pretty good input and can make an informed judgement as to  
■ what, if anything, we need to do on that.

■ The last item I would report is 1626, which is a  
■ regulation dealing on -- it's on open rulemaking really, with  
■ respect to legal services for aliens. And there is a working  
■ group that's actively engaged in looking at that regulation,  
■ 1626.

■ And, principally, because of LaVeeda and Bucky, the  
■ last time we met, we proposed, and the Board adopted the  
■ notion that we should change our rulemaking protocol so that  
■ when working groups are engaged in their dealing regulations,  
■ to the extent that we want to have some policy direction and  
■ policy input, we can have that before the process is  
■ concluded.

■ And then, of course, once they complied with what  
■ we asked them to do, we had no interest in talking to them.  
■ It's just the way it works. I had asked Mattie to get a memo  
■ to the Ops and Reg Board which, among her many other duties,  
■ she was able to do.

■ But we did not have an opportunity -- it was a very  
■ thoughtful memo actually. We did not have an opportunity,  
■ the three of us, to review it in the kind of depth that it  
■ deserved. And so, what we had decided to do is to

individually examine it, and forward our individual comments to Mattie for direction to the working group.

It is possible, although I can't promise it, that if we are still around as a group, that perhaps at the end of February, maybe telephonically, as a Board, we may be able to accomplish and review and vote on that amendment.

I think, Mr. Chairman, it's important, as I think members of this Board do, as long as we have the legal responsibility and the fiduciary obligation to perform as directors of this corporation, we are required to do it.

And, speaking for myself, I intend to do it. I don't think that any of these regulations we are talking about are earth shattering by any means. But if we don't act, and don't continue to act, one might wonder why we are here at all.

And so, we are going to continue to proceed, and in the short term we will do everything we can. And I think, frankly, we will be able to do it because I do think the Congressman unintentionally -- I am not faulting him -- had some information that perhaps was not up to the minute.

And so, I think we'll be able to satisfy his

concerns. And, hopefully, we can by telephone, as a Board, act on these regulations that have been under discussion for a considerable period of time before our tenures terminate.

Anyway, that's my report. The only thing that's before you is 1602.

CHAIR EAKELEY: Right. Now, John, help me out here. Were there changes made to the draft that was circulated with the Board materials that starts on page 129?

MR. BRODERICK: Is that 1602?

CHAIR EAKELEY: 1602.

MR. BRODERICK: No, there were discussions. But, Bucky, correct me if I'm wrong, I think our concerns were weighed and we made no changes.

MS. BATTLE: There was one change.

MR. BRODERICK: That's what I said. We made one change.

(Laughter.)

MS. BATTLE: On page 129.

CHAIR EAKELEY: 129.

MS. BATTLE: And the one change really pertained to the second paragraph, 1602.14. The first paragraph made it

clear that we were addressing in the submitters rights process specifically grant applications.

CHAIR EAKELEY: Okay.

MS. BATTLE: And we made the change on page 149, in paragraph P -- B, so that it now also reflects that, "The record that's related there of a submitter who has received notice of a request for the submitter's grant application, or a portion thereof, desires to object."

Our concern was that we didn't want to expand by that language and be submitters rights to anything but grant applications.

CHAIR EAKELEY: Yeah.

MS. BATTLE: And I think that was -- was that the only --

A PARTICIPANT: Making it consistent.

MS. BATTLE: We wanted to make a and b consistent.

MS. CONDRAY: That's correct. And I will -- this is -- for the record, this is Mattie Condray.

I will review all of the reg tax, particularly, in this section to make sure that it is consistent throughout the entire section. If there are any other technical changes

■ that I need to make to make it consistent, I'll go ahead and  
■ do that with the permission of the Board.

■ CHAIR EAKELEY: I just wanted to fix what it was we  
■ were moving to approve.

■ MR. BRODERICK: Yes, that is correct. And I just  
■ -- Mr. Chairman, before I close, I just want to thank Mattie  
■ Condray. It is hard to imagine, speaking only for myself,  
■ that it could be as enjoyable as it has been dealing with  
■ anybody about rules and regulations.

■ MS. CONDRAY: Thank you.

■ MR. BRODERICK: But Mattie Condray has made that  
■ happen. And she has been very diligent and very competent.  
■ And so, I want to thank her for her help.

■ MS. CONDRAY: You're welcome. Thank you.

■ M O T I O N

■ CHAIR EAKELEY: All right. It's been moved that  
■ the Board adopt the -- what do we call this?

■ MS. CONDRAY: 1602.

■ CHAIR EAKELEY: Just the revisions to 160 --

■ MS. CONDRAY: Yeah.

■ CHAIR EAKELEY: 1602.

■ MS. CONDRAY: The revisions to 1602.

■ CHAIR EAKELEY: As presented, and as further  
■ modified on the record. Is there a second?

■ MS. MERCADO: Second.

■ CHAIR EAKELEY: Is there any further discussion?

■ (No response.)

■ CHAIR EAKELEY: All those in favor?

■ (Chorus of ayes.)

■ CHAIR EAKELEY: All those opposed?

■ (No response.)

■ CHAIR EAKELEY: The ayes have it. Thank you very  
■ much.

■ MR. BRODERICK: Good, thank you.

■ MR. ASKEW: Mr. Chairman, I noticed last night that  
■ our new Board members were lobbying furiously to get  
■ appointed to the Ops and Regs Committee meeting.

■ I'm sure watching our 1602 discussion yesterday,  
■ and I think the new Board chair is going to have a difficult  
■ time limiting membership on the Ops and Regs Committee.  
■ About 20 minutes into the discussion, they found it a very  
■ convenient time to go make cell phone calls.



MR. SMEGAL: Mr. Chair, did you -- does that vote approve the amendments or approve the resolution of 1602?

MS. MERCADO: Both.

CHAIR EAKELEY: It approved --

MR. BRODERICK: I thought it approved the resolution, as amended.

CHAIR EAKELEY: Yes, yes, that's what I was trying to do.

MR. BRODERICK: Yes, but good point.

CHAIR EAKELEY: So I think it's -- I think we are in order on that. Anything more for Ops and Regs, John?

MR. BRODERICK: Nothing further.

CHAIR EAKELEY: Then we come next to the report of the Board's Finance Committee. Nancy?

MS. ROGERS: Thank you. The committee, as many of you know because you were there, discussed the report of the corporation's temporary operating budget, expenses, and other funds available through December 31st. And we acted on two matters, and have them to recommend to the Board.

We are going to recommend to the Board the adoption of two resolutions. I'll speak to them in order. These are

■ unanimous recommendations from the committee, and they are  
■ primarily technical in nature.

■ The first is Resolution 2003-001. It is to make  
■ technical corrections in the thrift plan for the employees of  
■ LSC; to take into account some of the changes that have been  
■ made in a variety of acts that are known apparently as the  
■ GUST legislation.

■ M O T I O N

■ MS. ROGERS: And so, I, on behalf of the committee,  
■ recommend that resolution to the Board.

■ CHAIR EAKELEY: I have a slight procedural question  
■ that we probably should throw back to the Operations and  
■ Regulations Committee. But since we have already passed our  
■ first resolution for the year 2003, does that make the 403(b)  
■ Thrift Plan resolution 2003-002?

■ A PARTICIPANT: I think it does.

■ MS. ROGERS: Yes.

■ A PARTICIPANT: Yes.

■ CHAIR EAKELEY: Okay.

■ MR. BRODERICK: Mr. Chairman, could we have a study  
■ committee appointed?

CHAIR EAKELEY: So, Nancy, with that slight modification, the resolution that appears on page 189 of the Board materials has been renumbered, 002.

Is there a second to the motion?

MR. SMEGAL: Second.

CHAIR EAKELEY: Is there any discussion, or are there any questions?

(No response.)

CHAIR EAKELEY: All those in favor of adopting Resolution 2003-002, regarding the amendment of the corporation's 403(b) Thrift Plan say aye.

(Chorus of ayes.)

CHAIR EAKELEY: All those opposed?

(No response.)

CHAIR EAKELEY: The ayes have it. The resolution carries.

#### M O T I O N

MS. ROGERS: I'll ask you to turn now to page 192 of the Board book. That's a resolution that I'm sure Doug is going to want to renumber 2003-003.

And it is simply an action to increase to \$3,000 a

■ year, the maximum amount that employees who participate in a  
■ flexible spending account can elect to have their salary  
■ reduced in order to cover eligible medical and dental  
■ expenses.

■ It's being raised to reflect the higher annual  
■ deductibles and co-payments to various health care providers.

■ So it's a unanimous recommendation from the committee. And  
■ I move its approval.

■ CHAIR EAKELEY: Is there a second?

■ MR. ASKEW: Second.

■ CHAIR EAKELEY: Any comments or questions?

■ (No response.)

■ CHAIR EAKELEY: All those in favor?

■ (Chorus of ayes.)

■ CHAIR EAKELEY: All those opposed?

■ (No response.)

■ CHAIR EAKELEY: The ayes have it. Resolution 2003-  
■ 003, regarding amendment of the corporation's flexible  
■ benefits plan is passed.

■ Anything else, Nancy?

■ MS. ROGERS: No, that concludes our report.

CHAIR EAKELEY: Well, thank you very much.

Next, we have the report on the Board's 2002 Annual Performance Review Committee. LaVeeda.

MS. BATTLE: Yes, we met as a committee, the Annual Performance Review Committee, met on yesterday. And we considered the final report coming from that committee of our annual evaluation of the corporation's president and acting inspector general.

If I continue to talk, my report will be longer than the actual meeting. It was very expeditious on yesterday. And I think Mattie has copies of those reports, if you don't have them

MS. CONDRAY: We distributed them.

MS. BATTLE: Okay. You should have them, okay.

MS. CONDRAY: And excuse me. Nancy, it's the same report that had been distributed to you previously.

MS. ROGERS: Thank you.

#### M O T I O N

MS. BATTLE: And, once again, Mattie provided excellent staff for that committee. We were delighted with the work that she did, and was delighted that we were able to

■ get and engage all Board members to participate in the  
■ process of the evaluations.

■ And so, with that, I'd like to move the adoption of  
■ those reports in Resolution 2003-004, which is contained in  
■ your Board booklet, page 234, on behalf of the Annual  
■ Performance Review Committee for 2002.

■ And that also includes the dissolution of this  
■ committee. Now that it has concluded its work, there will no  
■ longer be a need for the Annual Performance Review Committee.

■ And so, I have moved both the adoption of that report, and  
■ the dissolution of this committee.

■ MS. MERCADO: Second.

■ CHAIR EAKELEY: Any further discussion?

■ (No response.)

■ CHAIR EAKELEY: I have one question.

■ Do we have annual performance plans from the  
■ inspector general and the president for next year, for the  
■ coming year? I think we overlooked that.

■ MS. BATTLE: That's right. What we did was to get  
■ a review of their work for the previous year. I don't think  
■ that we have annual performance planned in the future.

CHAIR EAKELEY: We sort of got off track from doing this. But when we first adopted -- when we first decided what to do after the Results Act was passed about adopting a five year plan and requiring inspector general and president to report, and to have a annual performance review was to tie in the five year plan to the performance reviews of the two people to report directly to the Board, and tie those into the budget for the year.

And we didn't -- we sort of lapsed, but I think it's a very important part of what the Board should be doing to require IG and president to report annually in advance on their plans for the year, so that the Board can see how those fit with the strategic plan, and with the allocations, and policy decisions being made in the budget.

And I don't mean to put you on the spot here, John.

MR. ERLNBORN: I would ask you to recall that last year you did request that we prepare those documents.

CHAIR EAKELEY: Yeah, and I remember him giving us -- and Len gave us one too. I just don't know where we are, and I have been remiss. But I think it's a good idea to ask for it, even if it's somewhat belatedly.

MR. KOCZUR: Yeah, I am currently drafting our plan, the audit plan for this year, which is tied into our strategic plan, which is tied into the overall strategic directives that the Board established some time ago.

I expect to have that out, certainly, by the end of this month. I am a little bit behind on it because of some other priorities that came up. And that's what we have done in the past.

I sent a plan to the Board members, and then my performance report that I provide to the Board, to the Committee that does my performance evaluation addresses those --

CHAIR EAKELEY: That's how I backed into it.

MR. KOCZUR: Yeah.

CHAIR EAKELEY: Because we like to compare what the forward-looking document with the backward-looking document.

MR. KOCZUR: I am just a little bit behind in preparing my document this year.

CHAIR EAKELEY: Okay, Maria.

MS. MERCADO: Yeah, I just sort of wanted to remind us that I think that part of what the performance review



■ committee did, in the sense that, yes, we normally do get the  
■ forward-thinking plan from the president and from the IG is  
■ that part of the problem that we were sort of in this  
■ transitional mood.

■ And we didn't necessarily want to tie the hands of  
■ the acting inspector general and the acting president as to  
■ what their forward plan was because a new Board was coming  
■ in, and so that was part of what was at work at that point in  
■ time. And I realize it is now a year later, but in any  
■ event.

■ CHAIR EAKELEY: Well, the plans can change when the  
■ boards change. But I think the organization still needs to  
■ have -- and, obviously, it's going to have, in any event, a  
■ budget and a plan of operations for the year. And I think  
■ the Board ought to be informed of that early on in the year  
■ so that it can weigh in on the process.

■ I should also just add, for the sake of  
■ complicating things further, that we had committed ourselves  
■ to reviewing the five year plan every year so that the fifth  
■ year out gets another look so that we're three years into the  
■ strategic directions document, but we really haven't looked

■ beyond that.

■ I am not proposing we do that today. But it's just  
■ strategic planning doesn't stop, or it doesn't take place in  
■ just one moment, and then gets shelved.

■ So, anyway, could we perhaps ask both of you for  
■ performance plans within the month?

■ MR. KOCZUR: Yes.

■ CHAIR EAKELEY: And then that will be ready for the  
■ Board review at the next board meeting.

■ MR. KOCZUR: Right.

■ CHAIR EAKELEY: And we can, hopefully, by then have  
■ a budget as well.

■ MR. KOCZUR: I'll have mine sometime prior to the  
■ meeting so you can review it.

■ CHAIR EAKELEY: All right. It's been moved and  
■ seconded that we adopt the Resolution 2003-004 now. Right?

■ MS. BATTLE: That's right.

■ CHAIR EAKELEY: Any further questions or comments?

■ (No response.)

■ CHAIR EAKELEY: Hearing none, all those in favor  
■ say aye.

■ (Chorus of ayes.)

■ CHAIR EAKELEY: All those opposed?

■ (No response.)

■ CHAIR EAKELEY: The ayes have it. The performance  
■ reviews are adopted. Our congratulations and thanks to the  
■ president and inspector general, and to the now dissolved  
■ performance reviews committee.

■ MR. ERLENBORN: Mr. Chairman, I'd like for the  
■ record to say that I didn't vote on that adoption.

■ CHAIR EAKELEY: The record will reflect Mr.  
■ Erlenborn's abstention, although you're not unhappy to see  
■ the committee dissolved, I take it.

■ MR. ERLENBORN: Oh, no, I'm glad to see that.

■ CHAIR EAKELEY: Next is item 15, "Consider and act  
■ on contract renewals." It's actually contract extensions.

■ You'll recall six months ago, and six months prior  
■ to that, and six months prior to that -- literally, 18 months  
■ ago, John McKay had come to us and suggested that in order to  
■ maintain our management team for the transition so that the  
■ new Board could have the -- have stability in management  
■ while it was deciding on its direction and selecting a

■ president that we enter into written contracts of employment  
■ with the three vice presidents.

■ And we have extended those for six month increments  
■ every so often now for a -- longer than we anticipated. But  
■ it is time again to extend for a further six months. The  
■ current contracts expire on June 30.

■ The proposal is to extend through December 31,  
■ 2003. And, thus, we have -- or, actually, it's not  
■ circulated, but I have a resolution that I would ask the  
■ Board to consider authorizing the president to renew the  
■ employment agreements with the LSC vice presidents holding  
■ regular appointments, namely, Randi Youells, Mauricio Vivero,  
■ and Victor Fortuno.

■ And the resolution essentially recites that, "The  
■ Board hereby authorizes the president to negotiate and  
■ entered into renewals of the employment agreements that LSC  
■ has with Randi Youells, Mauricio Vivero, and Victor M.  
■ Fortuno for terms extending through December 31, 2003."

■ It further recites, however, that, "Such renewal  
■ shall not impair the Board's authority under the LSC Act or  
■ LSC bylaws to appoint and remove officers, all of whom serve

■ as officers at the pleasure of the Board."

■ So is there a motion to adopt the resolution?

■ M O T I O N

■ MS. BATTLE: I will so move.

■ CHAIR EAKELEY: Is there a second?

■ MS. WATLINGTON: I will second.

■ CHAIR EAKELEY: Any discussion, questions, or  
■ comments? Maria Luisa.

■ MS. MERCADO: Where does the acting vice president  
■ fall in that?

■ CHAIR EAKELEY: John Eidleman is an officer and  
■ acting vice president. We do not have a written contract of  
■ employment with John, and have not had John in the mix of  
■ contract extensions.

■ I took the liberty of sounding John out a little  
■ bit about his comfort level with not being in this mix, but  
■ still very much being a part of the management team, and  
■ being somebody who we hold in high regard, and he didn't  
■ squawk.

■ So we don't have a written agreement, so we don't  
■ have anything to extend with John. And that was the

■ distinction that I sort of mentally made.

■ MS. MERCADO: Basically, you were just making a  
■ distinction on the prior contracts that had been entered into  
■ a little over a year ago?

■ CHAIR EAKELEY: Yes, we had three written contracts  
■ of employment. And so -- and I think -- I think management  
■ is comfortable with that. I don't want to speak for John.  
■ But I do want to say that we apprise him highly, and he is  
■ doing a great job, as we have heard.

■ MR. ERLENBORN: I think you just spoke for me.

■ CHAIR EAKELEY: Okay.

■ MR. ERLENBORN: I agree.

■ MS. WATLINGTON: Well, how is that for the --  
■ Richardson?

■ CHAIR EAKELEY: John is the fourth vice president.  
■ David Richardson is the treasurer -- treasurer --

■ MS. WATLINGTON: Something like that.

■ CHAIR EAKELEY: But, no, these are for the three  
■ vice presidents.

■ MS. WATLINGTON: Oh, because the whole team is  
■ keeping the corporation, you know, in a pretty good state.

CHAIR EAKELEY: Yes, and we appreciate David's work also.

MS. WATLINGTON: Absolutely.

MS. MERCADO: The clean distinction, I suppose, is that we are really dealing with extension of contracts that already exist. And since contracts did not exist for these other officers, then it doesn't apply.

Is that really the distinction?

CHAIR EAKELEY: Yes, and we only have three -- we have three vice presidents, and one acting vice president. And so, it's the three vice presidents whom we are seeking to extend for six months.

MS. MERCADO: Okay. Just so that it's clear on the record why --

CHAIR EAKELEY: Yeah.

MS. MERCADO: -- some officers versus others.

CHAIR EAKELEY: Any further questions or comments?

(No response.)

CHAIR EAKELEY: All those in favor of Resolution 2003-005, say aye.

(Chorus of ayes.)

CHAIR EAKELEY: All those opposed?

(No response.)

CHAIR EAKELEY: The ayes have it. The resolution carries.

Next, we have "Consider and act on the Board's 2003 meeting schedule." And with that, basically, we also have the issue of locations.

In terms of for the -- how far out logistically does it make sense to -- I mean how much do we go out, in terms of securing sites and the like, so that it's cost-effective?

And how much can we defer to the next Board for planning future meetings? Victor.

MR. FORTUNO: I think that if staff is authorized to go ahead and enter into arrangements for lodging, travel, and other things, two meetings out we're in pretty good shape. It's difficult to secure suitable accommodations if we don't have at least a month-and-a-half to two months leave time.

CHAIR EAKELEY: Well, the slight awkwardness is that we're scheduling board meetings for what will hopefully



■ be the next board. But I think that we have got to do that  
■ because of the costs.

■ And, hopefully, again, without putting them on the  
■ spot, the nominees will be favorably disposed to the dates  
■ and the places of the next two meetings, so that this will  
■ not be either inconvenient or inappropriate.

■ Our very tentative thinking was to have the next --  
■ to go back to the earlier format of having alternate meetings  
■ outside of Washington, D.C. And I remind everyone that we  
■ had had a meeting planned for September of 2001, in New  
■ Mexico. And we were going to Window Rock and visit a Native  
■ American project there as well.

■ There is a certain propitiousness to New Mexico  
■ just because of Senator --

■ A PARTICIPANT: At the --

■ CHAIR EAKELEY: Well, yeah. Well, that, and also  
■ the proximity to Senator Domenici and his support.

■ But I think we're -- how do people feel about  
■ trying to reschedule something for Sante Fe, or -- and then a  
■ trip up?

■ Is that the sense -- that was the sense of --

■ MS. BATTLE: Have we worked out all of the details  
■ as to how we could do it in an economical way?

■ MS. MERCADO: But the staff would do that.

■ MR. McCALPIN: The problem was going to Window  
■ Rock.

■ CHAIR EAKELEY: Yeah, well, maybe we don't have to  
■ go to Window Rock, but we can still visit a Native American  
■ program.

■ MR. McCALPIN: Yeah.

■ MS. MERCADO: In New Mexico. New Mexico has  
■ several Native American programs.

■ CHAIR EAKELEY: Yeah, I think so. Why don't we  
■ look to working up something like that for the meeting?

■ I guess we're in February now. So it would be an  
■ April meeting.

■ MR. FORTUNO: If the Board can identify a date and  
■ general location, as in Santa Fe, then staff can develop a  
■ number of alternatives for consideration; that is, visits  
■ while in Santa Fe.

■ CHAIR EAKELEY: Well, I think last time, we were  
■ able to get a very decent rate in Santa Fe, or a discounted

■ rate.

■ MR. FORTUNO: Yes.

■ CHAIR EAKELEY: I think logistically that makes  
■ sense if we're going to go there. When?

■ Easter weekend is the 18th, 19th, and 20th of  
■ April.

■ MR. ASKEW: The weekend before that is the Access  
■ to Justice Conference in Portland, Oregon. So we really  
■ shouldn't do it then.

■ MS. MERCADO: What about April 24th weekend?

■ A PARTICIPANT: That's the weekend after Easter.

■ CHAIR EAKELEY: April 25?

■ MS. FAIRBANKS-WILLIAMS: 25-26 is the weekend after  
■ Easter.

■ MR. ERLNBORN: It can be a Friday and Saturday.

■ A PARTICIPANT: Yeah.

■ CHAIR EAKELEY: Alternatives would be April 4 and  
■ 5, or 25 and 26, what I'm hearing.

■ Nominees, those dates work?

■ A PARTICIPANT: 25-26.

■ A PARTICIPANT: Either one, I think.

MR. STRICKLAND: I would not be able to make the 4 and 5, but I would be able the 25th and 26th.

CHAIR EAKELEY: How does the 25th and 26th look for everyone now?

Then let's do 25th and 26th.

Now, assuming confirmation happens before then, as I hope it does, I would propose that we convene the Board for a reorganization meeting, at which the new or partially new Board would elect officers and select committee chairs, and take over the direction and content of that next meeting.

But, as long as we have a meeting date and place, then we can work towards that. Now that means probably next meeting would be late June, something like that. And that should be here in Washington, and should hopefully be in our new digs, or the new Board's new digs.

MS. MERCADO: Is that toward the last weekend of June?

CHAIR EAKELEY: Something like that? Is that what we're -- does that make sense, staff?

MR. FORTUNO: Yes, we're scheduled to start operations in the new building on Monday, June the 2nd, so

any time that month should work just fine.

MS. BATTLE: Has everybody -- has the staff seen the new building and been able to figure out where they're going to be?

MR. FORTUNO: The office assignments have been made. Staff are able to see where they're going to be located in the building. A fair number of staff members have already been there and toured it. We're waiting to have something more organized, as in a bus that will take all staff over for a structured tour of the facility.

But we were looking to schedule that for once the construction is largely done. Right now, what they're going to be looking at is some semi-gutted space. And we thought they might get a better sense and feel for the facility if they go on a structured tour once the construction is further along.

CHAIR EAKELEY: End of June, is that too late, or at June 27 and 28, does anyone have a problem with that at this point?

MS. MERCADO: No, that's fine.

MS. BATTLE: No, that's okay.

CHAIR EAKELEY: I think it gets hot and sticky.  
But, on the other hand, I think you want a little bit of time between moving in and the Board descending, and all the preparation that goes into a Board meeting, so.

A PARTICIPANT: Trying to settle in.

CHAIR EAKELEY: All right. Does that work for you guys?

MR. FORTUNO: What date is that?

CHAIR EAKELEY: The 27th and 28th that is.

A PARTICIPANT: Yes.

CHAIR EAKELEY: Okay. And I think that's as far out as we should go.

Next, I will entertain a motion to go into closed session for a briefing by the acting inspector general, and a report and action on the report by the Office of Legal Affairs.

But we'll take a two-minute break before we go into closed session. But I need a motion, and a second, and a vote first.

M O T I O N

MS. BATTLE: So moved.

■ MS. MERCADO: Second.

■ CHAIR EAKELEY: All those in favor?

■ (Chorus of ayes.)

■ CHAIR EAKELEY: Opposed?

■ (No response.)

■ CHAIR EAKELEY: Thank you.

■ (Whereupon, at 10:28 a.m., the meeting was  
■ adjourned to open session.)

■ CHAIR EAKELEY: I don't know whether there is  
■ anybody left out there; hopefully, John Broderick --

■ A PARTICIPANT: Broderick is somewhere.

■ CHAIR EAKELEY: Well, this is, I think -- I don't  
■ want to put odds on it, but it is definitely possible that  
■ this will be the last time that the 11 of us will be together  
■ as a board.

■ A PARTICIPANT: We've heard that before.

■ CHAIR EAKELEY: Yes, we have heard it, but --

■ MS. WATLINGTON: We're not believing you.

■ A PARTICIPANT: Are you giving your speech again?

■ CHAIR EAKELEY: I'm giving my speech again.

■ But it really has been a pleasure, and a privilege,  
■ and a joy to work with everyone around the table, and with  
■ the staff on this extraordinary cause. And I just want to  
■ say thank you for the opportunity.

■ MR. McCALPIN: Thank you.

■ A PARTICIPANT: Thank you.

■ MR. ASKEW: Thank you for your leadership.

■ CHAIR EAKELEY: Thank you. Other business?

■ (No response.)

■ CHAIR EAKELEY: Public comment?

■ M O T I O N

■ MR. McCALPIN: Move we adjourn.

■ CHAIR EAKELEY: Motion to adjourn by Mr. McCalpin.

■ Is there a second?

■ MS. WATLINGTON: Second.

■ CHAIR EAKELEY: All those in favor?

■ (Chorus of ayes.)

■ CHAIR EAKELEY: All those opposed?

■ A PARTICIPANT: Me, I want to keep meeting.



■ MR. McCALPIN: That may be my last motion ever. I  
■ also want to let you know that I promise hereafter if we ever  
■ meet again to take regular showers so Bucky will sit --

■ CHAIR EAKELEY: Nancy, thanks for joining us again.

■ MS. ROGERS: Thank you.

■ CHAIR EAKELEY: Bye-bye.

■ MS. ROGERS: 'Bye.

■ CHAIR EAKELEY: Safe trip, everyone.

■ (Whereupon, at 11:19 a.m., the meeting was  
■ concluded.)