

LEGAL SERVICES CORPORATION  
PROVISION FOR THE DELIVERY OF LEGAL SERVICES  
COMMITTEE MEETING  
OPEN SESSION

Friday, May 13, 1994

10:35 a.m.

Occidental Grand Hotel  
75 Fourteenth Street  
Atlanta, Georgia 30309

BOARD MEMBERS PRESENT:

Douglas S. Eakeley, Chairperson  
Hulett "Bucky" Askew  
Nancy Hardin Rogers  
Edna Fairbanks-Williams

STAFF PRESENT:

John Tull, Director, OPEAR/OFS  
Edouard Quatrevaux, Inspector General  
Renee Szybala, Counsel to the Office of Inspector General  
Martha Bergmark, Vice President

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CHAIRMAN ASKEW: Good Morning. I'm going to call this committee meeting to order. I apologize for the delay. We're waiting for the court reporter to arrive, and she still hasn't arrived so we're going to go on without her and when she does arrive she'll come in and set up.

I'm going to note that the entire committee is here including the chairman of the board who is sitting in with us this morning. And the first item on the agenda is the approval of the agenda.

MS. RODGERS: So moved.

CHAIRMAN ASKEW: Well, I'd like to suggest a couple of changes in the agenda if I might. Items 5 and 6 are presentations of advocacy efforts in Georgia and a presentation from the representative of the health law task force of the southeast region. I'm going to ask that those items be moved up to immediately after the approval of the minutes because those representatives are here. We'll hear from them first and then we'll go back to the agenda as noticed in the book.

MS. RODGERS: Approval as amended.

MR. EAKELEY: Second.

MS. FAIRBANKS-WILLIAMS: Second.

1 CHAIRMAN ASKEW: All those in favor?

2 ALL: Aye.

3 CHAIRMAN ASKEW: The agenda is approved as  
4 amended. The minutes of the April 15th, 1994  
5 meeting -- I might mention to you that this book has  
6 all of these materials in it. We're looking at page 29  
7 which is the agenda for this meeting today. Do I have  
8 a motion on the minutes of the April 15th meeting?

9 MS. RODGERS: So moved.

10 MS. FAIRBANKS-WILLIAMS: Second.

11 MR. EAKELEY: Second.

12 CHAIRMAN ASKEW: All those in favor?

13 ALL: Aye.

14 CHAIRMAN ASKEW: Minutes are approved.

15 Okay. We'll go to Item 5 which was Item 5 now which is  
16 a presentation on the advocacy efforts of the legal  
17 services provided in the state of Georgia.

18 I'm going to ask Phyllis Holdman and Steve  
19 Gottlieb to come forward and introduce their staff  
20 members to us.

21 Phyllis is the executive director of the Georgia  
22 legal services program and we heard from Phyllis I  
23 think as you remember on the institutionalized legal  
24 services at our last meeting. Steve you met yesterday  
25 in our bus tour.

1 I might mention that this committee has  
2 had a tradition of hearing from legal services  
3 providers as we have held our meetings and I asked  
4 Phyllis and Steve to think about a presentation to this  
5 committee of some newer creative or interesting things  
6 going on within their programs that this committee and  
7 through us the board should learn about, so they have  
8 given some thought to that and have brought some staff  
9 members with them and I'll ask them to introduce what  
10 they're going to do.

11 MR. GOTTLIEB: Thank you very much, Bucky.

12 CHAIRMAN ASKEW: Mr. Chairman.

13 MR. GOTTLIEB:: Excuse me. Mr. Chairman  
14 Bucky.

15 MR. EAKELEY: He likes that actually, he  
16 really does.

17 MR. GOTTLIEB:: I thought I knew you well  
18 enough after the bus tour. Thank you very much.

19 We are first of all very happy and honored  
20 to make a presentation to the board. We are very proud  
21 of the legal services that we provide in Georgia and I  
22 think one of the things we're particularly proud of is  
23 some of the innovative things that we have been able to  
24 do in the last 12 years despite some hard political  
25 times.

1           We're going to give you some examples of  
2 those kinds of things today. I have two staff members,  
3 one of whom is involved with some AIDS advocacy  
4 representing people with AIDS in an exiting new project  
5 that Atlanta Legal Aid has done and in addition we have  
6 some new advocacy in an old area, which is domestic  
7 relations, that we're going to have a presentation on.

8           Phyllis has two of her staff members that I  
9 will let her introduce and we'll go first and Phyllis's  
10 folks will go second. But without any more ado, let me  
11 just let Phyllis talk to you.

12           Chip Rowan is the head of our AIDS legal  
13 project which was created in '88 in response to an  
14 epidemic we all know about. And Chip and another staff  
15 member of his single-handily forced our program to face  
16 the legal problems of another group of people that we  
17 had not dealt with before, which was people with AIDS,  
18 by simply doing the work and making sure that the  
19 program did the work.

20           Jackie Payne is the head of our domestic  
21 relations unit and has been so for a number of years  
22 and has taken some non-traditional creative approaches  
23 to that area of practice which I think you'd like to  
24 hear about as well. Phyllis.

25           MS. HOLDMAN: I'm not going to add much to

1 what Steve had to say other than to introduce the  
2 people that I have brought here today.

3 One is Kay Young who is our housing law  
4 specialist and has worked for Georgia Legal Services  
5 for 14 years. In addition to her work as a housing law  
6 specialist, she helps out representing clients in the  
7 Georgia General Assembly each year when the session is  
8 underway. In addition to -- and Kay is going to tell  
9 you about that work and what we do on behalf of clients  
10 and in response to legislators' requests.

11 We also have Linda Lowe who is not a lawyer  
12 and I think it's a little unusual for a legal service  
13 program to employ non-lawyer advocates, but her  
14 background is in planning and -- particularly health  
15 planning, and she's going to talk about some of the  
16 advocacy efforts we have been doing in the health care  
17 area which is particularly hot now given health care  
18 reform. And I think it's, as Steve said, it's an  
19 example of how we have been trying to be responsive to  
20 those issues.

21 We actually started health advocacy probably  
22 15 years ago when the health planning efforts got  
23 underway back in 1974-or-75. So I'd rather have them  
24 talk to you than me. So why don't we let them come up.

25 CHAIRMAN ASKEW: Thank you both. Let me

1 mention this. This is the first time this board had  
2 committee meetings going on at the same time. We  
3 normally do them together and so they're usually most  
4 or all of the board members attending our committee  
5 meeting.

6 That's not able to happen today because of  
7 our compressed agenda, but I can assure you that the  
8 other committee members will probably read the  
9 transcripts and minutes from this meeting so you're  
10 really, in effect, speaking to the entire board.

11 Thank you for coming. Do you have an order,  
12 Chip? Are you going to go first?

13 MS. HOLDMAN: I forgot to mention Linda is  
14 also going to do the report to the health task force  
15 she has been acting and it's relevant to our work and  
16 so if we could just --

17 CHAIRMAN ASKEW: Do that right afterwards.  
18 Right. Great. Thank you.

19 MR. ROWAN: Thank you and it is an honor to  
20 be here to speak to you all about our work which I'm  
21 very excited about.

22 As Steve mentioned in the late '80s at  
23 Atlanta Legal Aid, we began to recognize the serious  
24 epidemic of AIDS that was affecting our community. I  
25 don't know if it's widely known, but Georgia ranks 6th

1 among the states in the incidents of acquired immune  
2 deficiency syndrome and the metropolitan Atlanta area  
3 is particularly hard hit by AIDS.

4 The epidemic affects a broad spectrum of  
5 people in our community, and particularly poor  
6 communities and individuals who even perhaps were  
7 middle class were facing impoverishment because, of  
8 course, in our society, often disease equals poverty or  
9 it leads to poverty quite rapidly.

10 So in the face of this kind of situation in  
11 the late '80s, we decided that we need to focus  
12 systematically on the provision of legal services to  
13 this group of people whom we had not traditionally  
14 served in the past and we started out very naively.

15 I think many of us continued to learn a  
16 great deal about AIDS. And in the late '80s, we had to  
17 learn very quickly about the legal needs of this group  
18 of people.

19 I started by thinking that legal work that  
20 was needed for this group of people involved things  
21 like drafting wills because these people would be dying  
22 and they needed to take care of their business. And I  
23 say that that was a very naive kind of idea because  
24 obviously we learned very quickly that people live with  
25 AIDS and thousands of people in our community are



1 living with AIDS and that our legal services needed to  
2 be focused on maximizing the quality of life for those  
3 individuals, not planning for their death.

4 So we took a second look at how we could  
5 approach this issue and we decided that we would do  
6 what legal services have traditionally done with a  
7 non-traditional group of clients. And that is we would  
8 focus our energy on making sure that individuals  
9 maintained access to income, that they maintained or  
10 obtained access to health care, that they obtained  
11 appropriate housing, and that we used our legal  
12 services to empower people to make decisions about  
13 their lives. And so we went about providing legal  
14 services to the people with HIV with those four goals  
15 in mind.

16 And in that regard, we have developed a  
17 model I think of legal services provisions which I  
18 think is a leading model in the nation. And we have  
19 grown I believe to be the largest legal services based  
20 program for people with HIV. Last year, we represented  
21 over 1,000 low-income persons with HIV disease with a  
22 full range of civil legal problems such as the ones I  
23 just described involving access to income, health care,  
24 housing, employment.

25 I just want to briefly mention some of the

1 substantive legal areas that we have taken on and with  
2 respect to access to income, we focus our work on  
3 assisting individuals to maintain employment. Of  
4 course, one of the most overarching facts about the HIV  
5 epidemic is stigma. And people lose employment because  
6 of their status not because they're not good workers or  
7 not because they're too ill to work, but simply because  
8 of prejudice. And we have been successful in getting  
9 people back to work by combating discrimination through  
10 federal statutes like the Americans with Disabilities  
11 Act. In addition, when people have become, too ill to  
12 continue work, we have assisted them in obtaining  
13 benefits to which they're entitled such as Social  
14 Security Disability and SSI.

15           These programs have allowed people to  
16 continue to live independently and with dignity and  
17 we're very proud that every year we represent and  
18 obtain public benefits for about 300 people who have  
19 otherwise been denied benefits.

20           With regard to access to health care, this  
21 has sort of been an exciting and new substantive area  
22 for our program at Legal Aid. I don't recall spending  
23 much time in the past focus on obtaining or maintaining  
24 health insurance for individuals or doing  
25 insurance-type litigation, but we have found ourselves

1 doing that quite a bit in the AIDS area because  
2 obviously if you're chronically ill, you need access to  
3 health care. And the way most people get health care  
4 these days is through the private insurance system.

5 We have very successfully helped clients  
6 maintain their private health insurance coverage so  
7 that they can get the kind of care they need and can  
8 live longer and more productively.

9 In particular, we have focused a lot of our  
10 energies on combating discriminatory health insurance  
11 practices. You may have read about or heard a good  
12 deal of talk about the cases involving caps,  
13 limitations, and exclusions in health insurance plans  
14 as they related to treatment of HIV disease. One of  
15 the leading cases on point was one that we did at the  
16 AIDS legal project known as Owens vs. Storehouse.

17 In that case, a local company that provided  
18 health insurance to its workers adopted a cap in its  
19 insurance policy for treatment of HIV. What the policy  
20 said is we'll cover your treatment up to a million  
21 dollars but if you get sick with AIDS, we will cover  
22 your treatment only up to \$25,000. Quite a level  
23 there.

24 We challenged that practice under ERISA, the  
25 Employment Retirement Income Security Act, and a long

1 with the case in Texas that went to the 5th Circuit, in  
2 our case went to the 11th Circuit. We valiantly lost  
3 and unfortunately the law -- the status of the law for  
4 a while was that these discriminatory caps were, too,  
5 illegal.

6 Subsequently, of course, the Americans with  
7 Disabilities Act went into effect and we have continued  
8 our quest in making sure that everyone has equal access  
9 to health insurance by litigating these kinds of caps  
10 and exclusions under the ADA. Unfortunately, the cases  
11 are still in the federal courts and I can't tell you  
12 yet that we won, but we certainly anticipate that we  
13 will and, like I said, that we can help ensure that  
14 everyone has equal access to health insurance benefits  
15 and that disability-based distinctions will be  
16 eliminated. So that's been a very exciting area for  
17 us.

18 In the area of housing, I thought for a  
19 while that we would have a lot of cases with people  
20 being evicted from their apartments or homes simply  
21 because they had HIV. Certainly that has occurred in  
22 some parts of the country. I was surprised, however,  
23 that we were not seeing that very much.

24 I have now theorized that as long as you  
25 have income, like the public benefits or your

1 employment. And you're able to pay your rent or  
2 mortgage, that, generally, you're able to maintain  
3 housing.

4           However, we did discover a different problem  
5 with regard to housing. And that is that people with  
6 HIV, like people with chronic illness or perhaps senior  
7 citizens, often need a range of housing alternatives.  
8 That while it's true you may be able to maintain your  
9 housing in your apartment and your home as long as  
10 you're able to pay the bills, that that becomes not  
11 adequate if you need assistance in your living, if you  
12 need somebody to help you get out of bed or to get a  
13 glass of water, and that people need a range of housing  
14 alternatives to meet their medical needs.

15           And in one case that we recently did, I  
16 think does point up the problem with this. And that is  
17 as groups try to develop alternative housing programs  
18 for people with HIV or other groups of disabled people,  
19 they run into what I was mentioning before, the stigma  
20 and discrimination associated with the disease.

21           And just to tell you a quick war story, we  
22 represented a group of people with AIDS who live in the  
23 south metro area who were attempting to live in a  
24 hospice. They had only six months to live. They were  
25 in the last stages of their illness and they wanted to

1 live in a hospice that was being set up by a group of  
2 concerned individuals that would house six people who  
3 were essentially dying.

4 When their plans to live there became known,  
5 there was a great deal of community opposition to the  
6 establishment of the hospice. Much of the opposition  
7 was based unfortunately on myths and mythologies about  
8 HIV.

9 Neighbors discussed the fact that because  
10 the hospice was to be located next to a school that the  
11 children would be at risk of contracting HIV AIDS  
12 through mosquitoes, the sewers, through homosexuals  
13 attacking children, and so forth.

14 Of course, this was to be a hospice for  
15 people in their last stages of HIV. And even though we  
16 presented community education that they were certainly  
17 not a threat to anyone and that it would actually  
18 enhance the community, there continued to be opposition  
19 and the local municipality refused to allow the hospice  
20 to open.

21 We were able to bring a lawsuit under the  
22 Fair Housing Amendments Act, which protects people with  
23 disabilities from discrimination in housing, and  
24 obtained a federal court order allowing that hospice to  
25 open and presently I'm very proud of this.

1 I go down there on days when I feel like --  
2 oh, sometimes you feel like -- in legal services, you  
3 feel like you're beating your head against a wall.  
4 Sometimes I go down there and I see that it's full now  
5 and there are people living there and it's a wonderful  
6 home and people from the neighborhood now come back and  
7 bring cookies and pies and volunteer.

8 So that's been a very inspiring thing for  
9 me. And overall I think that it's been a wonderful  
10 thing for our program and for our attorneys to learn so  
11 much not only about the law, we are a little litigious,  
12 but also to learn a lot about people and their lives  
13 and deaths and their families and a little bit about  
14 what love and caring is about in the midst of a very,  
15 very difficult situation.

16 So I'm very, very proud of our project and I  
17 go around and say to folks in other parts of the  
18 country when I speak that you should demand that your  
19 legal services offices take a look at this problem.  
20 And I really encourage you all to encourage folks in  
21 the field to face this issue and to provide the same  
22 services to these individuals because it's a very  
23 rewarding area and something that we can really make a  
24 different in, so thanks.

25 CHAIRMAN ASKEW: Chip, let me ask one

1 question. Do you know much about what other programs  
2 are doing especially the large urban programs? Is  
3 there much going on in other programs?

4 MR. ROWAN: No, and that's my point.

5 CHAIRMAN ASKEW: Do you know why not?

6 MR. ROWAN: I'm not sure why not. I know  
7 that there are somewhere between 15 and 20 specialized  
8 legal programs around the country that address this  
9 issue. Many of those programs are run by AIDS service  
10 organizations not by legal services organizations. So,  
11 to some extent, I think that legal services folks have  
12 thought, well, the AIDS' folks will take care of this  
13 issue and they haven't really faced up to it.

14 I also think that there are, again, myths  
15 about AIDS and who has it that keep us as legal  
16 services folks from looking at it. I think that a lot  
17 of people think it's not a poor person's problem that  
18 it affects only middle class, white people which is  
19 certainly not true.

20 Unfortunately, about 60 percent of our  
21 clients are people of color, about 25 percent of them  
22 are women, and I'm sure in some municipalities those  
23 proportions would be even higher. I think it's a new  
24 group of people. I think it takes extra work to reach  
25 out to that community.



1           We do intake Grady Hospital because that's  
2           where our clients are. That's the public hospital here  
3           in the metro area. That's where poor people with HIV  
4           go. 60 percent of the public hospital on the medical  
5           floors are people with HIV here, so I think we have to  
6           look at creative ways of reaching out to that community  
7           and gaining trust.

8           I think that it's a difficult community to  
9           gain trust in. People who have been traditionally  
10          oppressed and who have not seen the legal system as  
11          their friend, so it takes work. It takes outreach.  
12          But with that kind of outreach and commitment, it can  
13          be an important area to work in.

14          So I think that that's why and I think we  
15          need to encourage folks to take a second look at the  
16          issue. We have seen some activity on sort of the  
17          back-up center level, seen some articles coming out  
18          about HIV AIDS and some discussion about it, but I  
19          don't think that's yet trickled down to the legal  
20          services offices.

21                   CHAIRMAN ASKEW: Thank you. Did you want to  
22                   ask something?

23                   MR. EAKELEY: I just wanted to point out we  
24                   have included in our pending appropriation in the  
25                   Congress a \$2 million request for board initiatives per

1 that is for continuation of the comparative  
2 demonstration project in a more constructive way.

3 One of the areas that we have identified as  
4 a board initiative for exploration is precisely this  
5 area of specially impacted AIDS population. My state,  
6 Jersey, is the second highest state in the United  
7 States for HIV and Newark, which is 10 miles from where  
8 I live, has the highest rate.

9 MR. ROWAN: Right.

10 MR. EAKELEY: And this is clearly something  
11 that we should be doing a lot more of. This is unfair  
12 to make a plug to you to help us get our budget passed,  
13 but we have been going through some tough times in  
14 Washington in the last several weeks and it's just a  
15 reminder that there's a lot more that needs doing. But  
16 it's hard to do it without necessary resources as well  
17 as support from the Corporation.

18 CHAIRMAN ASKEW: Well, if we're successful  
19 with the appropriation request, we'll probably welcome  
20 your input in terms of how that money could be best  
21 used.

22 MR. ROWAN: Great. I'd be glad to do that.

23 CHAIRMAN ASKEW: Thank you.

24 MR. ROWAN: Thank you.

25 CHAIRMAN ASKEW: Jackie.

1 MS. PAYNE: I'd like to start by thanking  
2 you all for inviting me to address you today. And I  
3 can tell you, first of all, a little bit about me  
4 because that sort of defines what I do and why I do  
5 what I do.

6 I'm an attorney with legal services. Have  
7 been since 1980. I came into the Georgia -- Atlanta  
8 Legal Aid project as a Reggie fellow and served in that  
9 capacity for two years and sort of grew from that into  
10 someone who decided that provision of services to  
11 people who would not otherwise be able to get them was  
12 how I wanted to spend my legal career.

13 Somewhere in the midst of that though, I had  
14 a change of heart and decided that I needed to do  
15 something else. And so I left Atlanta Legal Aid for a  
16 couple of years, tried private practice, and came back  
17 because I felt that in private practice I wasn't going  
18 to be able to do what I set out to do which was to be  
19 able to provide services to people who would not  
20 otherwise be able to get them.

21 When I restarted my career in legal  
22 services, I restarted my career in an area that I had  
23 avoided before. And that area was family law and  
24 domestic relations because as a woman attorney, you  
25 sort of don't want to get typecast as someone who just

1 deals with women issues. But I found myself being  
2 drawn to that area.

3 I started out in that area as a staff  
4 attorney doing hundreds of divorces and sort of felt  
5 like there's got to be a different way to approach  
6 this. There's got to be a better way to assist people.  
7 And so I continued to do hundreds of divorces, but in  
8 addition there are other areas that I work in and other  
9 ways that I feel I have been able to provide services.

10 One of the things that my unit has done is  
11 we set up a -- I don't know how to -- we set up sort of  
12 our own court system with the Superior Court of Fulton  
13 County so we have got a designated day for our cases on  
14 the calendar. We know that one day a week we're going  
15 to be there for the day-to-day cases that sort of keep  
16 legal services going.

17 In doing that, that sort of freed up a lot  
18 of time for us to be able to look at other areas and  
19 other ways we can provide services, so we have gotten  
20 involved in task forces on domestic violence which is a  
21 crucial area. We have provided training to battered  
22 women's advocates. We have provided training to police  
23 officers.

24 The other attorney who works with me in my  
25 office is active with legislative advocacy and we have

1       been able to effectuate some changes in the family  
2       abuse laws in the state of Georgia. And those things  
3       have affected a lot more people than I could as an  
4       individual just walking in every day doing temporary  
5       protective orders for someone.

6               I continue to do those day-to-day cases I  
7       must emphasize though because there are people who are  
8       out there that need help. There are people out there  
9       who are otherwise not going to have anyone who's going  
10      to be advocating on their behalf and they need to have  
11      a feeling of confidence that there's someone who's  
12      going to listen to their opinions. Someone who's going  
13      to be able to assist them.

14             In my work in family law, I have sort of  
15      moved from thinking that these are only issues that  
16      concern women to looking at it as family law. These  
17      are issues that concern families. And so you also sort  
18      of get into children's issues and ways in which you can  
19      sort of help the next generation not fall into the trap  
20      that this generation has fallen into. I am on the  
21      executive committee of the Atlanta Fulton County  
22      Commission on children and youth. And that sounds like  
23      a big title, but it actually works out to a lot of  
24      practical day-to-day work.

25             As a part of that commission, we have set up

1 a unique project called Kids For a Change. And it's  
2 unique in the sense that it's the only program I know  
3 about that allows children and teen-agers to come in to  
4 say what they feel the issues are. Not what adults  
5 have sort of branded for them as these are the issues,  
6 but to actually hear from them.

7 We have held a series of forums across the  
8 city to have teen-agers come in to say I'm concerned  
9 about homelessness. I'm concerned about violence in  
10 the schools. I'm concerned about the education system.  
11 And there's nothing like listening to an eight year old  
12 or a ten year old talk about some of the incidents of  
13 violence they have seen and what can they do as a child  
14 to sort of dispel some of that.

15 We have trained children as mediators on  
16 violence issues, so we had a session last weekend where  
17 we had teen-agers training four to ten year olds on how  
18 to deal with violence. And I think those sorts of  
19 alternative ways of dealing with things are the future  
20 for everyone.

21 We had an interesting sort of gathering  
22 because we appeared at an Increase the Peace forum. I  
23 don't know if they're having them across the country,  
24 but I know that other major cities have done them.  
25 While we were there, we had a couple of members of

1 gangs approach us to say we want to be able to do  
2 something to stop this. What can we do?

3 Now, you have to understand, that these were  
4 teen-agers who came to us who later confessed that, you  
5 know, I have been involved with breaking into someone's  
6 house. We had a teen-ager who said I killed someone.  
7 It was just part of my gang initiation, but they were  
8 able to see that there is a way to make a change and  
9 that they wanted to be a part of that.

10 Out of that has grown a weekly session where  
11 we have had several other gang members sort of as they  
12 talked to their friends, say, well, come by and see if  
13 you can talk to these folks and see if you can find a  
14 way to make a change. And so we have got weekly  
15 sessions going where kids who probably would have just,  
16 you know -- they would be dead or they would be in  
17 prison have sort of decided that there must be some way  
18 to change their life and there are adults who care and  
19 adults who will listen to us and sort of won't look  
20 down on us or be negative towards us because we're  
21 presenting ourselves as gang members.

22 And when you look at the diverse membership  
23 of the Atlanta Fulton County Commission, you really  
24 think that that's an achievement because we have a  
25 doctor who's on the board of the American Association

1 of pediatrics. We have social workers. We have  
2 teachers. We have junior leaguers. And for those  
3 people to be able to sit down face to face and talk  
4 with a teen-ager who's a gang member and make that  
5 teen-ager feel that some adult can listen to them and  
6 some adult cares about them, I think that's a powerful  
7 thing. And it makes the children feel that they are  
8 also empowered that someone does care.

9           The other hat I wear is I'm on the Head  
10 Start advisory committee. And as a part of that, I  
11 service their legal advisor when they're establishing  
12 their protocols for child abuse, training for their  
13 social workers, training for their teachers. And with  
14 that area, you know, you get involvement with the  
15 smaller children.

16           The other thing that I have done is I also  
17 have gone through training as a mediator myself and now  
18 am able to sort of step in on cases where otherwise  
19 people would think well, the only other avenue I've got  
20 is to go to court. They have got to be able to see  
21 that there are other alternatives to that. And the  
22 court system's so clogged and there are few legal  
23 services attorneys and there are few people that can  
24 sort of provide those services.

25           So I think people have to start looking at



1 there must be different ways of approaching this and I  
2 think mediation is one of those ways. And, as I said,  
3 with the Fulton County Commission work, you can see  
4 that it can work from small children all the way up  
5 through adults.

6 I think that sort of sums up all of the  
7 roles that I have. I would like to say it's sort of  
8 more than just the day-to-day provision of services  
9 though. And I think all legal services attorneys who  
10 are doing just that day-to-day provision of services  
11 have to start looking at other ways of meeting the  
12 needs of people.

13 CHAIRMAN ASKEW: Thank you very much. Any  
14 questions for Jackie?

15 MS. RODGERS: I know that on the issue of  
16 mediation that legal services lawyers have reacted very  
17 differently and especially so in the family area. Is  
18 your staff all trained in mediation or at least trained  
19 to spot cases in which mediation would be useful?

20 MS. PAYNE: We are -- we have not instituted  
21 a program in our office yet, but the programs that --  
22 the clients referred for mediation. Never in instances  
23 where there is spouse abuse going on. Those sorts of  
24 issues that is not issues you want to do mediation on.

25 But, you know, lots of times you get simple

1 cases where people are arguing about the issue of what  
2 to do with their knickknacks, okay. And for them,  
3 that's an important issue, but it may not be something  
4 that they want to take to court to have to spend time  
5 arguing about. And that's something where it's ideal  
6 that you can send in mediation and resolve it without  
7 having to go through all the layers of the court  
8 system.

9 MS. RODGERS: I guess I'm more interested in  
10 how your staff became trained in those issues so that  
11 you came to those conclusions.

12 MS. PAYNE: Part of it is just years of  
13 doing family law and encountering the different issues  
14 that you see, custody disputes, that sort of thing.  
15 Trying to help people to use the anger on those things  
16 because lots of times, there are more anger issues than  
17 issues about who should really have this child and  
18 mediation helps to dispel some of that. I guess  
19 that's how we actually got to the point where we  
20 thought that would be a helpful way of doing it.

21 (whereupon, the court reporter entered the  
22 room.)

23 CHAIRMAN ASKEW: Thank you. I can see why  
24 Steve selected the two of you to speak to us. It's  
25 most impressive. You follow a long tradition of

1 Jackie's in Legal Aid. Jackie, I assume you know. You  
2 do such good work.

3 Kay, you're going to speak next?

4 MS. YOUNG: Thank you. And I want to talk a  
5 little bit about the legislative effort that Georgia  
6 Legal Services and Atlanta Legal Aid are involved with.  
7 We have a joint endeavor at our general assembly.

8 I'm a housing lawyer and I spend about nine  
9 months of the year answering questions and  
10 co-counselling and talking with our attorneys and  
11 paralegals on a whole variety of housing issues:  
12 public housing, Section 8, other subsidized housing,  
13 private landlord tenant cases, some foreclosure cases.  
14 And in the course of my work, I certainly see some  
15 issues and clients bring to our staff offices issues of  
16 concern about laws that can be changed or laws that are  
17 having a harsh impact on their lives.

18 So I bring that kind of experience, but I  
19 don't just lobby on housing issues at the general  
20 assembly. Linda Lowe is also one of our advocates and  
21 she's an expert on health. You'll hear from her later.

22 As Jackie mentioned, there's an attorney in  
23 her unit who's also down at the general assembly, so  
24 there are three of us that are essentially down there  
25 every day for the three months that the Georgia General

1 Assembly is in session.

2 We represent eligible clients, we get --  
3 retainers come to us through our field offices or  
4 sometimes directly from Atlanta Legal Aid. We get  
5 requests from legislators to help us -- for us to help  
6 them on particular issues. We have represented a few  
7 client counsel -- regional client counsel offices  
8 throughout the state. So in terms of the process, we  
9 get issues from -- directly from our clients and we do  
10 get requests from legislators.

11 And for instance, I can give you an example  
12 of a request that we get. There's a representative  
13 from one of our rural areas, the largest county, Burke  
14 County, who contacted us last fall and said I'm very  
15 concerned about the issue of school discipline. A lot  
16 of students in my district on any given day it seems  
17 that there are 30 percent of the students who are not  
18 in school, that have either been suspended or expelled.  
19 I'd really like you to help us, help me, to try to come  
20 up with some legislation to provide for more statewide  
21 standards on discipline. As I'm sure as is the case in  
22 your states, the whole issue of school violence and  
23 school discipline is a major issue in our state. And  
24 so we worked with her on developing a bill. We helped  
25 her write parts of the bill, we did some research for

1 her.

2 The Georgia General Assembly is an assembly  
3 of part-time legislators. They serve for the duration.  
4 They are there for three months of the year. We don't  
5 have a lot of staff availability. Our legislators  
6 don't have the staff availability. So a lot of  
7 lobbyist provide information to legislators. In  
8 addition to trying to promote the interest of their  
9 clients, they do provide information. So one of the  
10 things that we do is to give information to legislators  
11 upon request. So we did help her in that effort.

12 We do promote positive initiatives in  
13 addition to fighting potentially bad bills. I mean we  
14 have spent it seems an ordinate amount of time trying  
15 to either amend bills that would have a bad impact on  
16 our clients or actually trying to stop them. And this  
17 year we worked on a bill -- actually this year and last  
18 year, a bill that on its face may appear to be fairly  
19 innocuous, a bill designating English the official  
20 language of Georgia. People say we all speak English,  
21 so what's the big deal? But we have several clients,  
22 migrant farm worker clients, and others -- there is a  
23 special project with Atlanta Legal Aid, a Hispanic  
24 project, and we have worked with them and a lot of our  
25 clients were very concerned that this would send a very

1 bad message to, you know -- to the community at large.  
2 And so we worked with the sponsor on that with some  
3 amendments and that bill is an interesting story.

4 That bill was not moving, and so the sponsor  
5 of that bill tried to amend it out to the official --  
6 making peanut the official state crop of Georgia and it  
7 was like a ball and chain on that bill. So we don't  
8 have an official crop and we also don't have an  
9 official language.

10 But things like that -- we work on a whole  
11 variety of issues and something that may -- that may  
12 come up in the course of the general assembly we do  
13 respond to. We have clients that called us and say we  
14 read about this in the paper. Please do something.

15 So we have been down at the general assembly  
16 really for many years, before my time. I have only  
17 been a lobbyist for I think seven or eight years and  
18 Georgia Legal Services and Atlanta Legal Aid have had a  
19 presence in your general assembly probably for 18 or 19  
20 years. We were involved with overhauling the landlord  
21 tenant code back in 1976. That was, again, before my  
22 time, but we got some very positive changes as a result  
23 of those efforts.

24 We have been instrumental in helping to  
25 establish a housing trust fund for the homeless here in

1 Georgia. The state indigent health care trust fund is  
2 another issue that we are working on. With help from  
3 folks like Jackie, we were able to create a statewide  
4 commission on family violence and that commission  
5 looked at the family violence laws and made some  
6 suggestions for about how they can be strengthened.

7 We've worked on a whole variety of consumer  
8 issues. And one issue that we would like to work on in  
9 the next several years, which is going to be a  
10 difficult one for us but it's one that many of our  
11 clients really need, and that would be trying to obtain  
12 workers' compensation coverage for farm workers.

13 There are now about 33 states that have  
14 those kind of protections and Georgia is becoming  
15 increasingly important as a migrant state. We used to  
16 be what is called a stream state where people would  
17 come through Georgia, work several of the crops, and  
18 then move on. Georgia is now becoming a base state  
19 from which migrant farm workers move to other states in  
20 the south and other parts of the country.

21 So that population is a very important  
22 population to our -- for our clients and our work and  
23 we are hoping that we can get some protection for them  
24 in our Georgia General Assembly. So that is an issue  
25 that should consume a fair amount of our time in the

1 next several years.

2 But we have felt that it's been a very  
3 important aspect of our work on behalf of the clients  
4 and we certainly focus a lot of our efforts as legal  
5 services programs on litigation and lawsuits. But we  
6 have found that the legislative advocacy efforts have  
7 been tremendously helpful to sort of keep bad laws, bad  
8 bills, from becoming bad laws and this sort of, to the  
9 extent that we can, help to pass more favorable laws  
10 helping our clients. So it's certainly been an  
11 interesting issue.

12 We have worked there now for several years.  
13 I think that people are beginning to understand that,  
14 you know, we're not going away. We talked to all  
15 different kinds of people from all different kinds of  
16 parties down there. We are not partisan at all. We  
17 have worked with rural legislators and urban  
18 legislators and we do find that they will listen to us  
19 and they are concerned about issues affecting poor  
20 people across the state.

21 We've had some success and we are continuing  
22 to move forward, but it's just been an important effort  
23 in our whole range of services that we provide for our  
24 clients.

25 CHAIRMAN ASKEW: Thank you, Kay. Any



1 questions? Linda.

2 MS. LOWE: Health care is an area that's a  
3 little bit different from some of the others that Legal  
4 Services handles in that usually our health work  
5 doesn't come in the door of the Legal Services' office  
6 in the same way.

7 If you actually look at our case load at  
8 Georgia Legal Services, last time I knew, probably 3 or  
9 4 percent of our cases were actually identified as  
10 health cases.

11 People come in, if they come in at all,  
12 identifying something as a health case usually with a  
13 collection action from some hospital or doctor.  
14 Sometimes they're coming in downstream from that where  
15 they're being evicted from their house because they  
16 couldn't pay the doctor or the hospital and got sued  
17 and got their wages garnished and so forth.

18 Georgia Legal Services though back 15 years  
19 or so ago decided that a lot of their clients' problems  
20 were health problems underneath either because of the  
21 collection actions that we were talking about or  
22 because people couldn't get health care they needed and  
23 ended up disabled. So they decided to try to do some  
24 things to look at those issues in a different way and  
25 actually go out and talk with clients about what was

1 going on.

2 And if you -- when we do our priority  
3 sitting sessions out with the clients, counselling, and  
4 through our offices and through the various ways that  
5 we have of doing that, clients always identify health  
6 care as in the top three, usually in the top two, of  
7 their many priorities. I'm sure,  
8 Ms. Fairbanks-Williams, you see that in your  
9 communities, too. So we've tried to come up with  
10 different ways of dealing with that. We certainly do  
11 service those day-to-day cases, but we try to also  
12 learn how to interview people and figure out what's  
13 really going on and figure out how to move forward on  
14 the issues to prevent problems.

15 It's both a law enforcement issue but to a  
16 large extent in health care, it's a law making issue  
17 because there aren't enough laws to protect people.  
18 Health care is not a legal right in this country.

19 There are pieces of it where people have  
20 legal rights. Most of us cut our teeth I think on  
21 trying to enforce the Hill Burton Law, get people free  
22 care at the hospitals. A lot of that's run out, so  
23 we're having to do different things.

24 One of the earliest examples that I can  
25 remember since I have been with Legal Services for

1 about 15 years, is where we went around talking with  
2 our client groups and one of the things that surfaced  
3 all the time was that pregnant women were being turned  
4 away from hospitals. And so we thought, well, what can  
5 we do about that? We looked at the current law -- and  
6 this was before Congress passed what we're now familiar  
7 with as Cobra, the anti-dumping law.

8 So we decided that there really weren't that  
9 many enforceable rights unless people had lawyers and  
10 filed malpractice actions and so forth. So we started  
11 a two-year process to work with the legislature to try  
12 to pass a law and the first thing that had to be done  
13 was to enact a study commission to look at the problem  
14 so that everybody would understand it was a problem.

15 All the state agencies were kind of denying  
16 it or moving around it in one way or the other and  
17 trying not to have to confront the industry. That's  
18 what the real problem was. And if you talked to the  
19 hospitals about it, they would say it was the doctor's  
20 fault. And if you talked to the doctors about it, they  
21 would say it was hospital policy.

22 So we had a study commission which ended up  
23 generating a lot of press. The commission went around  
24 the state asking about whether it was a problem and  
25 actually interviewing people who knew. And next year

1 we had all these nice little press clippings to take to  
2 the legislators and ended up passing a law which was  
3 one of the early ones in the country prohibiting  
4 hospitals from refusing services to pregnant women in  
5 labor. And it actually was a fun thing to do because  
6 we ended up putting in a little payment mechanism where  
7 one county had to pay the another county, so some of  
8 the hospitals even supported the bill. It was a really  
9 wonderful experience to come back to those clients and  
10 say that their work has succeeded in passing the law  
11 that was actually going to save lives in Georgia.

12 We found that our clients had interests in  
13 lots of different areas of health law. Sometimes we  
14 have been asked, yelled at, at the Capitol for working  
15 on things like quality of care or on health care  
16 decision-making and so forth. Not by legislators I  
17 might add, usually by industry people who say to us,  
18 you know, you need to worry about getting your clients  
19 access to care. You don't need to worry about the  
20 quality of care. Our clients are worried about that  
21 and they'll talk to you about it and they've got a  
22 million stories about how things go wrong because they  
23 don't have power in the system. So we have tried to be  
24 there on those issues where we can make that different.

25 As everybody here has mentioned, our work is

1 multi-forum. We don't just go to court. We don't just  
2 work on the general assembly. We try to have some  
3 influence on the agencies. We work on budget matters.  
4 You have to try to influence what the agencies hear  
5 about your clients' needs before they make their budget  
6 requests. We also work with staff on individual cases.

7 Health care is an issue where legal services  
8 programs can make a difference that is bigger than it  
9 would seem you could make partly because health care  
10 policy is so mystified. Very few people understand it  
11 it seems. When you start digging into it, it's like  
12 pulling back the layers of an onion and you also find  
13 that the people who have the money stakes in the  
14 industry want you to look over here. And what we have  
15 to do with our clients is try to look over there where  
16 the real bodies are buried and try to figure out what  
17 can be done to effectuate our clients' interest.

18 We find that there really are not that many  
19 other groups, consumer groups, that are out there with  
20 the capacity to do that and that's why I said we can  
21 have more influence in that area than in some other  
22 areas because people sometimes listen up to hear how we  
23 analyze an issue and how we put it into English for our  
24 clients.

25 The industry probably drives health care

1 policy in most states. I believe that's consistent  
2 with what we've heard from other legal services  
3 programs from all around. Just to give you an idea of  
4 where we are generally in the world on health care  
5 policy, A person who's prominent in business in Atlanta  
6 who's head of one of the health care alliances working  
7 on health care from a business point of view is one  
8 that was recently quoted as saying that we have to move  
9 patients from being seen as a revenue source for the  
10 health care system into being considered a cost within  
11 the system that has to be managed.

12 Well, none of that has to do with making  
13 sure that people are getting the kind of care that they  
14 want. So one of the things that we have been trying to  
15 do for our clients in terms of getting their needs  
16 before the policy makers is to try to do some advance  
17 thinking or where things should really be.

18 We have been doing a lot of talking with our  
19 clients about options in health care for rural. And  
20 one of the things that we have done both at the request  
21 of legislators and on behalf of our clients is to draft  
22 a single payer bill that has now been in the  
23 legislature for a couple of years and has enabled us to  
24 really talk with policy makers about how things could  
25 be changed and it's made other people have to respond

1 to it. I think it's really helped to change the way  
2 we're going about thinking about health care. And all  
3 of that leads me to the discussion about the southeast  
4 regional health care task force.

5 CHAIRMAN ASKEW: Before you go to that, let  
6 me ask you or mention a couple of things. The board  
7 this afternoon is going to hear from a state senator  
8 about the work of the two programs and the general  
9 assembly and the important nature of that work. And  
10 ironically -- maybe not ironically, but we invited  
11 Senator Coverdell to speak to us today. He couldn't be  
12 here because he had to be in Washington, but I think he  
13 would have spoken to the board about the work of the  
14 programs in the state general assembly when he was  
15 there as a republican representative from Atlanta.  
16 But, you know -- you both know there are restrictions  
17 in the acts and the regulations about what we could do  
18 using the legislative advocacy.

19 I'd like for you to tell me how you make  
20 sure you're in compliance with those restrictions and  
21 what roadblocks they put up for you and then, secondly,  
22 are there other funds involved here in some of your  
23 work, or is it all being done with Legal Services  
24 Corporation funds?

25 MS. YOUNG: Well, I can start. As far as I

1 know, all of our activities are done with LSC funding.  
2 I'm not a budget person and I really don't know, but we  
3 are in compliance and follow the LSC guidelines.

4 One thing that we do is we keep records of  
5 all the time that we spend at the general assembly and,  
6 you know, time that we spend talking or working with  
7 legislators.

8 We pretty much -- the only thing that we  
9 really are very -- not the only thing, but one of the  
10 things that we don't do is engage in trying to get  
11 other people to call legislators and say, you know,  
12 vote in favor of this or vote against that. That's  
13 grass-roots lobbying and we don't engage in that.

14 To be honest, I would say that that has been  
15 a drawback because we're not able to do that and there  
16 are industry people that we are working against who  
17 have those kinds of resources. And so that's just a  
18 fact of life. We don't do it.

19 What we do is provide -- any kind of written  
20 information that we provide to the legislators has to  
21 be approved by Phyllis and Steve. You know, we get the  
22 retainers in, we keep records of all of those, we do  
23 all of our reports to, you know, Steve and Phyllis like  
24 we're supposed to. But pretty much, other than the  
25 restriction on grass-roots lobbying, what we do is we



1 talk to legislators, we testify at committees, we keep  
2 records of all of those.

3 CHAIRMAN ASKEW: So all of your work is  
4 either done on behalf of individual clients for whom  
5 you have retainers or at the request of a member of the  
6 general assembly?

7 MS. YOUNG: Yes, all of it.

8 CHAIRMAN ASKEW: And that is what the  
9 regulation requires?

10 MS. LOWE: Exactly.

11 CHAIRMAN ASKEW: Any other questions?

12 Let me -- are you going to go on and talk  
13 about the regional training center?

14 MR. LOWE: I would like to.

15 CHAIRMAN ASKEW: Let me mention, the  
16 Corporation back in the '70s funded regional training  
17 centers and each training center was expected to make  
18 its own decisions in that region about what was the  
19 most appropriate way to offer training to the legal  
20 services staff within that region.

21 I happened to be the regional director in  
22 Atlanta when the southeast regional training center was  
23 established and Lonnie Powers, whom you met, was the  
24 first director of it.

25 The southeast center I think made some very

1 interesting decisions about how to use the very limited  
2 funds that are available in this region and have gone  
3 about it in a very different way than the other regions  
4 of the country.

5 I think you may learn as the committee -- as  
6 we go through this how the other regions have done it,  
7 some doing very traditional sort of training, some  
8 doing some other things. But the southeast made  
9 decisions and it stuck with those decisions, three,  
10 four, years and it's led to some very interesting  
11 results.

12 And the main thing they did was create task  
13 forces among the states and regions to work on  
14 substantive issues. And my understanding was one of  
15 the better, more effective task forces has been the  
16 health task force in the south and we asked Linda if  
17 she would tells us a little bit about the work of the  
18 southeast regional task force which is funded with  
19 Corporation funds through the regional training center.

20 MS. LOWE: Actually the southeast region has  
21 two task forces that have been operating for more than  
22 ten years with support from the southeast training  
23 center. And there's been -- we had a few other task  
24 groups or whatever looking at other issues, but these  
25 are the ones that have been sustained over those years

1 because there's a need for them. There's regular  
2 participation from all of the states, and we -- I think  
3 we serve several needs.

4 We serve as mentors for each other in  
5 important ways. Each of the states does different  
6 things well. Some of us are more advanced on one  
7 thing. Some states are more advanced on other things  
8 in terms of types of advocacy that we do or issues that  
9 we have tried to deal with on behalf of our clients  
10 because my state may be a little behind on dealing with  
11 something.

12 We talk to each other. We train each other.  
13 We do bring in people from the back-up centers at  
14 almost every meeting. They have been able to provide  
15 us funds to do that. But we also serve an important  
16 role in taking on topics to explore to explain to our  
17 neighbor states and I think we also serve as an  
18 important support system for each other.

19 We all have our war stories that we share  
20 and it's very interesting and we laugh a lot, but it's  
21 very important to realize that we're not alone and  
22 we're trying to represent clients on an issue and there  
23 really are ideas out there about how to approach it.

24 In the case of the health law task force, it  
25 was put together based on the felt needs. It wasn't

1 some national person's idea to do it. In fact, my  
2 recollection of the earliest days was that and I was at  
3 a national meeting where a lawyer from the north was  
4 going on at length and very well about some Medicaid  
5 exotica which was important it turned out.

6 I didn't quite understand it at the time it  
7 was important. We were all sitting there looking at  
8 each other saying our big problem is rats and dead  
9 babies. We really have got to start addressing some of  
10 these issues about this fundamental lack of access. We  
11 had four profit hospital chains that were gobbling up  
12 our public hospitals. It was not an issue in New York.  
13 So we decided as a group of people to request funding  
14 from the southeast training center to establish this  
15 task force and it has been operating ever since. It  
16 has been very helpful.

17 The state of Tennessee has served as a  
18 incubator for one advancement in the Medicaid law that  
19 has provided much money that has served to help states  
20 expand Medicaid and so forth and a lot of that was  
21 cooked up in Tennessee and worked on there on behalf of  
22 their clients. The thinking was shared with the rest  
23 of us. Now Kentucky and Georgia have free care  
24 programs.

25 In Georgia, it's a \$182 million of hospital

1 free health care this year which is based on some of  
2 that thinking that was done just trying to find  
3 creative ways to represent clients to make things  
4 better.

5 So, to us, it has been a godsend and, in  
6 fact, we have a meeting this weekend and I'd like to  
7 share the agenda with y'all. And I think you'll see  
8 that we're covering a lot of topics.

9 MS. RODGERS: One of the issues we have  
10 before us and my comment is whether the Corporation  
11 should do anything differently in the area of training  
12 and I hear you say what we shouldn't do which is to  
13 pick what are the topics that should be of interest in  
14 a particular area. That's better done locally. Is  
15 there anything that is better done nationally?

16 MS. LOWE: Well, --

17 MR. EAKELEY: Careful.

18 CHAIRMAN ASKEW: Don't let Steve answer this  
19 question.

20 MS. LOWE: We work very closely with our  
21 back-up centers and there is an incredibly important  
22 role for them. I worked probably weekly with the  
23 national health law programs and with the senior  
24 citizens center. They are located in Washington.  
25 We're working closely with them representing our

1 clients on health care reform, things that have to be  
2 dealt with from there. And I would never say that  
3 there should never be national involvement in what we  
4 do. I think what I was trying to emphasize is that  
5 there's an important cost fertilization that goes on.

6 MS. RODGERS: Really, specifically with  
7 respect to training, is there -- getting down to a  
8 nitty-gritty level, is there anything now that the  
9 Corporation is not now doing that they ought to do  
10 financially?

11 MS. LOWE: Give us more money.

12 MR. EAKELEY: We'll give you as much as we  
13 have and we're asking for more.

14 MS. YOUNG: I can give you an example. I'd  
15 like to answer part of that question from the housing  
16 standpoint and I'll just give you an example of the  
17 need for additional funds.

18 In 1982, the national housing law project  
19 published a wonderful book on tenant's rights and HUD  
20 programs that describe all the HUD programs. It was  
21 described in narrative form with footnotes and a lot of  
22 legal information and support and they handed that --  
23 that was circulated and distributed to all offices  
24 free.

25 Well, they did an update -- that was in

1 1982, so 12 years later, they're doing an update and  
2 they have been working on this update for the last  
3 three or four years. They didn't get the funds from  
4 the Corporation. They had to take a loan out from I  
5 think it was the Ford Foundation and now they're  
6 charging each office for that. And that's something  
7 that we have to have.

8 I totally understand that we're going to  
9 have to shell out \$95 for each one of those. We have  
10 14 offices. It's a wonderful training tool. It's a  
11 wonderful resource. Our offices have to have it. It's  
12 just unfortunate that we couldn't get it free in 1994  
13 like we did in 1982. Something like that, that's a  
14 fabulous training tool that all of our offices need.

15 CHAIRMAN ASKEW: Chip.

16 MR. ROWAN: I'd like to address that, too,  
17 just from a standpoint of how it impacts on my area of  
18 practice on communities and people with AIDS.

19 I recently attended a forum sponsored by a  
20 pharmaceutical which brought together lawyers from  
21 around the country, all 15 of us, who did this kind of  
22 work. And tying in to what Linda was saying, it was a  
23 good opportunity for us to share information about how  
24 we represent our clients and to brainstorm new legal  
25 approaches to some of the problems I was describing

1 earlier.

2 Again, this was a group of lawyers, most of  
3 whom are not legal services attorneys, that were  
4 brought together for this purpose by the Corporation.  
5 It would seem to me that legal services, in it's  
6 trailing role, could convene and facilitate similar  
7 meetings among legal services attorneys to do what  
8 Linda was talking about, this cross fertilization, and  
9 not a top down imposed training model but one where  
10 colleagues can come together and work together  
11 creatively but it being facilitated by the national  
12 level.

13 So I think that the national role is to  
14 facilitate and provide forums for those of us in the  
15 field to come together and learn from each other.

16 MS. RODGERS: We've heard some people say  
17 that it's not a good idea to earmark any money for  
18 training, that if there are increased resources for the  
19 legal services, therefore, an ability to decrease the  
20 amount of money somewhere, that it ought to simply be  
21 given to the programs and they ought to decide whether  
22 it ought to be used for training or for some other  
23 purpose and I wonder what your view is on that.

24 CHAIRMAN ASKEW: It's good to put this  
25 question to a panel of non-project directors.



1 MS. LOWE: We have a very active training  
2 program here in Georgia. It's a joint project called  
3 Georgia Legal Services and Georgia Legal Aid and I  
4 would be the last person to know how the money is  
5 organized. But I think that, at least in our state,  
6 there's a commitment to letting the staff people and  
7 the clients drive the need for particular trainings.

8 We have certain things that we do every year  
9 like new lawyer training and a few things like that,  
10 but we have little process whereby we decide what ought  
11 to be given what priority I guess. So at least within  
12 the training budget that our programs have established,  
13 somehow there seems to be some flexibility. At least  
14 that's the way it appears to me just as a staff person.  
15 So if one year we particularly need to do some kind of  
16 training in health because of something that's  
17 happening, there seems to be a way to do that. And I  
18 think it should be flexible.

19 CHAIRMAN ASKEW: Not just what training but  
20 whether training.

21 MS. LOWE: I don't think there's any  
22 question about whether training because we have to have  
23 it. There's so much that happens all the time, every  
24 day that we have to have training for.

25 CHAIRMAN ASKEW: But there is a question of

1 if we don't earmark money for training at all, then the  
2 question of whether and to what extent there would be  
3 training would be done locally. How do you feel about  
4 that? Is that the best way to have it done?

5 MS. YOUNG: Well, I don't know if this  
6 answers the question directly, but I do think that all  
7 programs need training. We have bar requirements for  
8 attorneys that we have to have training -- continuing  
9 legal education training every single year and it's  
10 been -- we're now -- Legal Services and Legal Aid,  
11 we're not a bar approved sponsor, so I would think  
12 that -- I think that we should have some local  
13 flexibility for sure because the problems change from  
14 year to year, from month to month, and we have to be  
15 able to respond.

16 Now, whether or not the Corporation could  
17 tell people you must do training, I mean I would assume  
18 that all legal services program do train. If they  
19 don't, they don't have any money in their budget to  
20 train, there's probably a real serious problem.

21 So at least, from our perspective, training  
22 has always been a priority. I think it should continue  
23 to be a priority and to the extent that, you know, you  
24 can support us to do that.

25 MS. LOWE: If I could add to that, that's

1 another way that the training centers could be helpful.  
2 One of the things that we make people who are supported  
3 to attend the task force agree to do is to go back and  
4 take whatever they've learned from the task force to  
5 their programs in one way or another. We don't specify  
6 how it's got to be done and I think that that's a way  
7 for us to share sophistication from one state to  
8 another.

9 As I said before, different states have put  
10 emphasis on different things, so we have all have  
11 something to teach each other whether we be large  
12 states or small states. So if you could give more  
13 support to train.

14 MS. YOUNG: I use outlines prepared by the  
15 national health and law project, for instance, in our  
16 new-lawyer training and that way I don't have to go out  
17 and recreate something that's already been done by a  
18 national expert. So I have found that the national  
19 health and law project has been extremely helpful to me  
20 and our staff and we can incorporate local changes and  
21 local cases into information that we receive from the  
22 back-up centers. But I call them two or three times a  
23 week like you do.

24 MS. LOWE: Also the back-up centers have  
25 done some really wonderful advocacy guides. I don't

1 know how many people understand how difficult it would  
2 be to practice legal services law, or whatever it is  
3 we're doing every day, without some predigested  
4 information about the law.

5 You know, if every time we needed to think  
6 about something you had to start from scratch routing  
7 through the federal law, you would be very slowed down.  
8 And so I think that to the extent we get help from  
9 back-up centers, we could do more than we're able to do  
10 now that would be useful.

11 CHAIRMAN ASKEW: Well, thank you all very  
12 much. I think your presentation probably produced more  
13 than we really expected because I think it points out  
14 the importance of the work at the local statewide  
15 regional and national level and the important  
16 intersection of all of those. And the collaboration  
17 that goes on within this region is really wonderful to  
18 see and I know some of it goes on to Nancy's region  
19 through the training centers and probably other places,  
20 but what happens here is really quite remarkable and  
21 helpful.

22 Thank you all for taking the time. As a  
23 member of the board from Georgia, I'm quite proud of  
24 what you're doing and keep up the good work.

25 Larry, were you that Yankee lawyer talking

1 on Medicaid that they were referring to?

2 MR. LAVIN: I was going to call myself a  
3 northern lawyer.

4 CHAIRMAN ASKEW: Next we're going to hear  
5 from Larry Lavin about the status of the national  
6 support planning process.

7 Larry, why don't you introduce yourself for  
8 the record, although you have spoken to the Board  
9 before, for purposes of the record and then we'll hear  
10 from you.

11 MR. LAVIN: My name is Larry Lavin. I'm the  
12 director of the national health law program and also  
13 the chair of the organization of legal services back-up  
14 centers and we have been going through a planning  
15 process for the last few years which I appreciate the  
16 opportunity to share with you.

17 May I approach the bench?

18 CHAIRMAN ASKEW: You may approach the bench.

19 MR. LAVIN: Thank you. This is a document  
20 that we put out three years -- last year, which was  
21 more or less a report to the field of process and -- I  
22 don't want you to get absorbed in reading that.

23 First I'd like to say to the lawyer who is  
24 dealing with the AIDS issue that the national health  
25 law program is planning to have a meeting of AIDS

1 service providers at the ADA conference in December.

2 CHAIRMAN ASKEW: Does he know that?

3 MR. LAVIN: No, he doesn't. I think someone  
4 in Georgia services does know I'm planning that.

5 CHAIRMAN ASKEW: He is spectacular. You may  
6 should involve him in the planning of that.

7 MR. LAVIN: That's what I wanted to do.  
8 Well, it's really a great joy to be here in the south.  
9 I did come as a northern lawyer in 1981 to work in  
10 Arkansas and then I was tricked into going to South  
11 Carolina where I had a very enjoyable five years in the  
12 '80s and worked in trying to improve programs. And one  
13 of the joys I think working in this region was the fact  
14 that so much was achieved through the social climate  
15 which really valued working together and collaborating  
16 and thinking together and sharing and improving.

17 It was a standard and there was a  
18 consciousness about these values which I think really  
19 set a model for the country. And now I'm a westerner,  
20 so I think I have a perspective and some distance. And  
21 I think it serves as a model for our community. It's  
22 not perfect. There's much to be done to improve legal  
23 services here as everywhere. But the good programs set  
24 a standard and there are pier values that are respected  
25 and work in favor as a whole. It's no less tough here

1 than anywhere for our clients because economic survival  
2 fights the isms: health care, education, and income.

3 But when we move into the world of national  
4 support, it seems like the smaller world in some ways,  
5 but it's also a bigger world in others. So all the  
6 issues get raised. Priorities, whether they should be  
7 national or local priorities. What's the role? Do we  
8 serve or do we lead? Who decides? Local programs,  
9 you, us?

10 So the history of national support briefly I  
11 think will help you understand why we felt planning for  
12 our community was important. In the beginning of legal  
13 services, our program this year, the national health  
14 law program, is celebrating its 25 years.

15 Most of the substantive programs -- housing,  
16 education, consumer income, health, and employment -- I  
17 believe began at the universities. And, Bucky, you may  
18 know more about the history there. But we contracted  
19 with universities to provide the backup services that  
20 the lawyers in the street would need to deal with  
21 complex issues of law that we were going to be faced  
22 with in 1968.

23 I was one of those lawyers in the street  
24 dealing with housing, dealing with mental health  
25 problems, dealing with community development issues,

1 dealing with domestic problems, everything under the  
2 sun. I have 3,000 clients a year, 30 community groups  
3 and the pace at which we were operating was tremendous.  
4 How we were able to develop any expertise was  
5 unimaginable.

6 As we go through the years, listening --  
7 just last year, this year rather, to lawyers talking  
8 about being a two-lawyer office in Oregon expressing  
9 the same kind of need for having that backup that is  
10 there to help us.

11 So, basically, the Corporation I think in  
12 its wisdom decided that we did have to provide in depth  
13 expertise for people throughout the country. And then  
14 in the '80s, we weren't -- we really didn't have enough  
15 services and there was a re-looking at national support  
16 for a number of reasons.

17 I think national support may have been under  
18 attack and there may have been the feeling that we  
19 didn't have enough resources to address the needs of  
20 the field, so we developed a population-based national  
21 support centers it was a study of unmet needs and it  
22 was decided, I think this was the history to some  
23 degree, was that we would develop centers around women  
24 and families, seniors, youth, veterans, migrants,  
25 immigrants, native Americans.



1           So, basically though the history of national  
2 support has been one of attack. We have been viewed as  
3 the ability of our institution to coordinate advocacy,  
4 to make sure that the quality of the advocacy was high  
5 so that we weren't the first line of attack. And the  
6 funding for national support was cut dramatically in  
7 the '80s. It was cut below the field. It was cut from  
8 I think about 4 percent to 2 percent. I'm not  
9 absolutely sure on that. But basically the theory was  
10 hold your head down. De-emphasize coordination. Keep  
11 a low profile.

12           So through the '80s, we found a period where  
13 national support was suffering from lack of funding,  
14 almost a lack of visibility and self-confidence because  
15 of the number of attacks on us institutionally.

16           So I guess the question is, who defines us?  
17 Do we define ourselves, or do we allow others to define  
18 us? And OLSBUC, during the organization of legal  
19 services back-up centers has pretty much held strong  
20 and they met once a year and basically they met at the  
21 end of '88 meetings and had a day-long meeting and  
22 discussed issues of survival mostly.

23           When I arrived in '88, which is when I came  
24 in to national support from state support, the issue  
25 was how we could improve the image of the field. The

1 lack of resources relative to the growth of the field  
2 was dramatic. There were new lawyers out there. We  
3 had less and less lawyers. And we decided basically  
4 that we should take stock and we should communicate  
5 with each other and the rest of the community about our  
6 ability to meet the expectations.

7 I called these great expectations. Great  
8 expectations because, as you learn about the needs of  
9 the field, I think you learn about what probably is  
10 expected to be met somewhere in the community and many  
11 times it is national support.

12 They expect us to be totally knowledgeable.  
13 They expect us to answer every phone call and question.  
14 They expect us to be able to help litigate major cases,  
15 be able to come and train a program staff, a statewide  
16 meeting a regional meeting. They expect us to produce  
17 manuals, news letters, updates for lawyers. They  
18 expect us to identify new issues clients will face and  
19 be able to respond with resources to meet those issues.  
20 They expect us to be present in Washington and prevent  
21 more harm to our clients. They expect us to post daily  
22 information on our computer bulletin boards. They  
23 expect us to organize the staff national and regional  
24 task forces to allow advocates throughout the country  
25 to share the problems, thinking, and develop strategies

1 and set priorities for us. They expect us to have --  
2 they expect us to be major players in all of our areas  
3 and facilitate local involvement in all of the major  
4 issues. All part of this shared vision of national  
5 support.

6 Not that we don't think this is a great role  
7 for us. We absolutely think it's a proper and  
8 appropriate role, but it's very hard to accomplish that  
9 realistically with what we had. So we decided we  
10 better do something and we applied to the Ford  
11 Foundation for a grant to explore the abilities to  
12 collaborate and to understand our role better so that  
13 we could maybe more efficiently come together with the  
14 resources we had and start working together to respond.

15 Many of the programs cross over. For  
16 example, health is an area that seniors, immigrants,  
17 migrants, youth, almost every population-based program  
18 deals with and provides some minimal services.

19 Seniors picked up for us the whole area of  
20 Medicare. We were so consumed with Medicaid and the  
21 issues that that program represents for our clients  
22 that we didn't have the ability to expand and continue  
23 the coverage of health care.

24 So what we started to do was to start  
25 examining what we did functionally first and then

1       examine what we did substantively. And this has taken  
2       place over a series of meetings over the course of two  
3       years where we went a way for two days about every six  
4       months and just as we did in the south, we started to  
5       be social first. Learning to work together. Spending  
6       time, understanding each other, where we're coming from  
7       and looking at, first, functions. What is it we  
8       actually do? And all of the expectations I just  
9       described to you: publications, field service request,  
10      litigation, co-counseling, national leadership. These  
11      were the issues we went through with every single  
12      center and said how do you do it? What do you do? Not  
13      all of us did all of the same things, so what started  
14      to emerge was the picture of what we actually do do.

15                 We did then the same thing with substance  
16      and that was one of the most thrilling I think meetings  
17      for me ever in legal services where we listened to each  
18      program describe the substantive issues that they dealt  
19      with and then we had a round robin where every person  
20      in the room met with another person to discuss the  
21      potential for collaboration among the centers.

22                 Out of that came the things that we are now  
23      collaborating on. Out of that came things we would  
24      like to collaborate on. At that meeting, we invited  
25      field people and academic people who are specialists in

1 the poverty law to come and listen and participate and  
2 provide its feedback. So that was how that process  
3 moved along. And I guess I could only ask you to think  
4 about what collectively we represent in our community.

5 I think of -- if we were really organized  
6 and if we had all of our people in one room in New York  
7 with all of the foundations, the influence that we  
8 might be able to feel and how money is spent in the  
9 foundations. If we were really organized, if we had  
10 everyone together in a room in Washington, the possible  
11 impact we might have on the intellectual analysis of  
12 clients' issues that we face and the solutions that are  
13 possible through that kind of collaborative whole that  
14 legal services represents.

15 So, anyway, basically, we started defining  
16 ourselves. We took stock, developed the offices. We  
17 started identifying the things that we should be doing,  
18 started identifying the gaps and agreeing on what we  
19 would recommend to you for developing our potential and  
20 for making sure our role is clear and acknowledged as a  
21 necessary component as an infrastructure of this  
22 institution and trying to develop a way that we could  
23 hold ourselves accountable to the field and to  
24 ourselves.

25 We spent a great deal of time on looking at

1        what it takes to do what we do. What it takes to deal  
2        with the gaps that exist. We spent time identifying  
3        new and existing areas of collaboration; identifying  
4        why flexibility and adaptation to client issues were  
5        important; identifying standards to which we could be  
6        held accountable; identifying ways we could help each  
7        other in national support by having peer values and a  
8        system of our own support; identifying how we as a  
9        community should decide what the priorities for  
10       national support should be. Not we but we as a total  
11       community.

12                    It's actually one of our community's  
13       greatest challenges. What does it want it's national  
14       support to be: coordinating, information sharing,  
15       training, community, education? And on what issues and  
16       for whom.

17                    So we have prepared, at the moment, a draft  
18       which we hope to complete at our next meeting which  
19       will be here in Atlanta next month of what we think  
20       will be a working paper on national support.

21                    In it, we look at the issues of the vision  
22       of national support and we propose a vision which  
23       addresses what we think the role should be. We then  
24       look at the state of the national support at the moment  
25       and provide you with some understanding of the

1 limitations that we're working under.

2 We then look at the what we consider to be  
3 the funding issues for national support. We look at  
4 what a minimally adequate national support center  
5 should be. At the moment, we have a great deal of  
6 diversity in national support. We have one lawyer in  
7 one program. We have 4-1/2 lawyers at the max in  
8 bigger programs, housing and health.

9 With that diversity, you have to decide how  
10 you can meet all the functions we talked about. So  
11 what we did was we started to analyze the functions and  
12 decide what the minimal number of staffing would be for  
13 those functions. And I think we have come up with  
14 something around a figure of ten professional staff, a  
15 minimum, to handle all the functions that are expected  
16 of national support.

17 Now, whether that applies to each of the  
18 existing national support centers is another question  
19 that has to be looked at. But then we look at the  
20 unmet needs. We look at the needs for collaboration.

21 The last two years, we have really  
22 accomplished a great deal of work for the united  
23 support project which has brought us very closely  
24 together in our planning with the state support  
25 community, the regional training centers, and the

1 identification of training needs in the community.

2 The united support project has been just  
3 that linkage for all of us which has enabled us to  
4 think together and to move together. That function has  
5 to be built-in somehow to our community to assure that  
6 continues.

7 We have to have from national support some  
8 ability of collaborations, a chunk of money we think  
9 has to be allocated somewhere for that role. We  
10 think -- we're defining the unmet needs. We're not  
11 going to every specific issue. There are unmet needs,  
12 for example, mental health, environmental law,  
13 homelessness.

14 Our program used to be the national health  
15 and environmental program. It dropped the  
16 environmental issues when it had not enough resources  
17 to deal with them.

18 We looked at ways in which we can create an  
19 ability in national support and in our community to be  
20 flexible about new issues, to be able to adopt to the  
21 changes, and we have defined that.

22 And then probably one of the most important  
23 things is that we are drafting standards. We have, at  
24 this stage, a preliminary draft of what we think are  
25 the standards that we would hold ourselves, us,



1       accountable to and what we expect of ourselves, what we  
2       would hope the field would say this is appropriate for  
3       us and what we think would be useful to you in  
4       measuring the quality of our work.

5               Now, what do we intend to do with this? We  
6       intend to finish it up in June, get it out to the  
7       people, share it with other segments of the community,  
8       take it into the planning process of working delivery  
9       group and finalize it, and then present it to you as  
10      hopefully a set of recommendations that will assist you  
11      in your thinking and your planning.

12             One of the big issues we have is who decides  
13      what about our priorities, who decides what about how  
14      many centers there should be. We think there has to be  
15      some mechanism for involving all of the community in  
16      that analysis. We don't know exactly what that is.

17             For want of a better term, we have come up  
18      with something for an institute for excellent which  
19      would maybe be a representative group that is like ADA  
20      and PAG and other organizations. Maybe it's one of  
21      them, maybe it's not. I don't know. We just think  
22      that there has to be some outside decision-making about  
23      some of the priorities with respect to us and maybe  
24      it's totally the Corporation.

25             But these are the issues that we have been

1 struggling with. These are the issues that we spend a  
2 great deal of time talking about and I hope that what  
3 we produce in writing will be helpful to you.

4 CHAIRMAN ASKEW: Thank you. As you know,  
5 when I attended the meeting that your group was holding  
6 in Washington, I had heard really wonderful things  
7 about the planning process that you were engaged in and  
8 the productive nature of that and where it was leading  
9 and encouraged you on behalf of the board to go forward  
10 with it and continue and it would be helpful to us.  
11 But it's really nice to hear even before the change in  
12 the board that this was underway and that y'all were  
13 taking these issue on yourselves.

14 You mentioned that -- you talked about  
15 accountability to each other. Do you envision when  
16 this is over that the back-up centers see some role  
17 where they're accountable to each other in terms of  
18 back-up centers, or do you mean accountability  
19 internally within that individual back-up centers?

20 MR. LAVIN: No. We're talking to each  
21 other. I think that --

22 CHAIRMAN ASKEW: So many of your issues  
23 cross over what other centers do. It seems like unless  
24 you're quite aware of what the other centers are doing  
25 and what their priorities are and have some -- at least

1 communication if not accountability mechanisms that  
2 you'll either be crossing all over each other or there  
3 would be major gaps because you may think another  
4 center is doing something in your area that they're not  
5 doing.

6 MR. LAVIN: I think one of the opportunities  
7 of the size that our community represents is a closer  
8 working relationship than exists in other components  
9 and we have developed that I think to a great degree.

10 It's something that is required to make sure  
11 that we don't trip over each other in terms of  
12 direction and substantive work. But I think it's also  
13 important and what I think has always been the only way  
14 in legal services to help us truly elevate our quality  
15 and that's our peer values. As independent non-profit,  
16 we all have an ability to do an awful lot on our own  
17 throughout this institution and whether it's local  
18 programs in the state, one being the model, I think we  
19 tried to develop in the national support community the  
20 ability to communicate with each other when we see  
21 problems and talk to each other about improving each of  
22 the entities and I think we have made a lot of progress  
23 there.

24 But on your training question, which I think  
25 is very important, we get asked to do training just so

1 frequently, and this week it was -- we were sitting  
2 there Wednesday with four requests, one is a statewide  
3 meeting. I'm here for Sunday and Monday for the health  
4 tag. And we have one lawyer covering L.A., one lawyer  
5 on a major piece of litigation at the moment, one  
6 lawyer in Washington, and you know what Washington is  
7 like at the moment. And it's just a very hard thing  
8 trying to meet all of those demands.

9 The field is wonderful. They work to  
10 accommodate our schedules and to bring, you know, a lot  
11 of people from one state together without us having to  
12 go to the programs, but we also try to work to develop  
13 the ability of state support to assist in the training  
14 and I think you see that working very well where you've  
15 got a state support entity to coordinate with us. So  
16 it's an issue where there's an awful lot of work to be  
17 done.

18 CHAIRMAN ASKEW: Does substantive law  
19 training still happen in August in Berkeley?

20 MR. LAVIN: Yes, Berkeley. That's the one  
21 time.

22 CHAIRMAN ASKEW: It's quite an event. It  
23 would be interesting to Nancy or Edna to come and  
24 observe that. About 400 -- it still attracts 400 legal  
25 servicing lawyers at a training site in Berkeley and

1 the back-up centers do a track of training.

2 MR. LAVIN: And the task force.

3 CHAIRMAN ASKEW: And it has a wonderful feel  
4 to it and a very enthusiastic sort of event.

5 MR. LAVIN: It was suggested that I invite  
6 the board members to attend.

7 CHAIRMAN ASKEW: Oh, really? You may want  
8 to write a letter because we don't have a board meeting  
9 scheduled in August, but that event is very inspiring  
10 to participate in.

11 MR. LAVIN: And it underscores the potential  
12 within the community, the ability of the community, but  
13 the request is more Berkeley, more Berkeleys.

14 We talked about doing many Berkeleys  
15 regionally, but the resources needed to orchestrate  
16 that were more than we had. And people say, well, you  
17 know, it's the west coast. You should come to the east  
18 coast. We'd like to do all of that.

19 MS. RODGERS: We have -- if we make money  
20 available to the national training, obviously we're  
21 taking it from somewhere else and so that really is an  
22 issue on how much we should say this money has to be  
23 used for training. And then the next question is to  
24 what extent we give it out, national as opposed to  
25 state level and locally. What's your view?

1           MR. LAVIN: Well, you know, I have been in  
2 every kind of program -- small, large, urban, rural,  
3 state, national -- and the infrastructure needs are so  
4 great. I think we cannot underfund the things that are  
5 for the infrastructure. And I just think training is  
6 an infrastructure issue.

7           I don't know of any major corporation that  
8 would take the collective expectation for national  
9 support and have it funded at 2 percent, which -- I  
10 mean most major corporations would say research and  
11 analysis 15 to 20 percent. So to with training.

12           Look at what IBM's training budget is. They  
13 consider investing in their people is the way to  
14 develop them. All of the things that have been the  
15 issues left to us to fight over, as our survival days  
16 issues, find a way to be debated. I just don't think  
17 this is a debate. I think there has to be a certain  
18 amount of money for infrastructure issues.

19           Now, whether that's national or local, I  
20 think that there are different needs. We need the  
21 ability to have resources that we can devote to  
22 planning, developing materials, and travel to  
23 trainings. Local programs need the ability to send  
24 their staff to trainings when we have them in  
25 Philadelphia or Atlanta or Chicago or Denver. I mean

1 they have those needs, too. They also have their needs  
2 for their own training in-house which I think some  
3 programs are greatly able to do. I just think that  
4 some of these aren't really either/or issues. They're  
5 both.

6 MS. RODGERS: Let me take the local one.  
7 I'm sure that that's true, the local money at local  
8 programs needs to be sent to national training. Do you  
9 think the LSC board should require that; in other  
10 words, when the money comes, should some of it be  
11 earmarked for that purpose, or should the money just be  
12 sent with the understanding that it's better to have  
13 that decision made locally?

14 MR. LAVIN: Well, to be consistent with what  
15 I have just said, I guess that I would say that a  
16 requirement that a certain percentage of funds goes --  
17 a certain amount of money that is used to develop a  
18 staff ought to be required for those programs. Having  
19 lived through the percentage requirement of PAI,  
20 property attorney involvement, I would not be in a rush  
21 to urge too much of an inflexible standard, but I do  
22 think we have to assure the training.

23 CHAIRMAN ASKEW: I made the joke really  
24 earlier about the project directors and it's better we  
25 ask staff people rather than program directors. The

1 pressures on program directors are intense and the  
2 choices they have to make between closing offices or  
3 doing training or laying off staff or this thing and  
4 that thing. And the boards of local programs also.

5 They're in a very difficult position and I  
6 know in the '80s when the 25 percent reduction  
7 occurred, the easiest thing the first thing, you could  
8 do was stop training. That didn't lay off people. It  
9 didn't cut salaries. It didn't close offices. And a  
10 lot of programs made that choice, and we paid a heavy  
11 price for it I think.

12 But most programs I think they struggle and  
13 do the best they can, but if we simply -- if we didn't  
14 have some earmarking, I'm afraid a lot of programs --  
15 and it may be the programs that need it the most --  
16 would make the choice not to invest in staff  
17 development.

18 So we may have to seriously consider not so  
19 much earmarking a grant but making special funds  
20 available or providing funds specifically for training,  
21 not taking out of the grants.

22 MS. RODGERS: But it amounts to the same  
23 thing.

24 MR. LAVIN: I also think that you know -- I  
25 have not been intimately involved in this training



1 delivery working group that's coming up with  
2 recommendation on trainings, but I would so hope and I  
3 think they probably are focusing to a great degree on  
4 statewide training.

5           And when you look at how we work and what we  
6 work on, the issues are either -- I mean there are some  
7 local issues, some state issues, and some national  
8 issues. And the role we play in the national arena is  
9 to educate people about the issues coming down the pike  
10 as a result of changes in the federal law and also  
11 what's going on in Georgia, what's going on in Florida,  
12 what's going on -- sharing experiences to bring to the  
13 attention of advocates locally the issues.

14           But for a large part of the work of a legal  
15 services lawyer, it's a state focus. And to me, to  
16 accomplish running a state support, finding training  
17 was the most effective thing that we did with a grant  
18 of \$150,000.

19           That's all we really did -- could do was  
20 training and that was most appreciated and people paid  
21 their own way. They didn't have great expense coming,  
22 but if I had the resources to develop training events,  
23 to constantly keep on top of issues that was -- people  
24 were totally happy, but -- not totally happy, but they  
25 were pleased, and that's where I think a lot of our

1 thinking should go at the state level.

2 I think local programs shouldn't be asked to  
3 devise training. I think training should always be  
4 integrated into our work and not be a total piece over  
5 there. But I think that there are people who can have  
6 the responsibility for the development in that.

7 CHAIRMAN ASKEW: Thank you, Larry. We'll  
8 look forward to hearing about the results of your  
9 process and further from you probably in the fall. The  
10 Chair's going to ask the forbearance of the committee  
11 to take a two-minute break and then we'll hear from  
12 John Tull.

13 (Whereupon, a recess was taken.)

14 CHAIRMAN ASKEW: Now, we're going back to  
15 what was originally Item 3 on the agenda status report  
16 by the director of program services and program  
17 evaluation analysis and review, John Tull.

18 John, welcome back. Would you bring the  
19 committee up to date on what's happened in your field  
20 of responsibilities since April 15th, the last time we  
21 heard from you.

22 MR. EAKELEY: Indeed I will. As you know,  
23 we've had a what I have described as an opportunity to  
24 take, once again, to take a close look at all that we  
25 have done not only since April 15th but since the board

1 assumed this responsibility in November. And in  
2 response to inquiries from Congress and that inquiry  
3 has had certainly a positive effect of allowing us what  
4 I will describe as an opportunity to step back and to  
5 check our moorings here in terms of direction and where  
6 we're at in terms of the Corporation's capacity to  
7 carry out its responsibility to oversee programs and to  
8 assure the quality of the work that they do.

9           And having taken that hard look, my personal  
10 observation and assurance to the board is that we are  
11 on a track which is of very much grounded in two things  
12 which relate to the Corporation's statutory  
13 responsibility for oversight programs. One is the  
14 learning of our own community about how to make certain  
15 that we carry out oversight functions well in the  
16 context of the principles that the board articulated in  
17 December which is to meet the dual responsibilities of  
18 assuring compliance while also doing so in a way which  
19 assist programs to address their need to provide  
20 quality in legal services and to help them improve and  
21 to deal with the difficulties that arise from carrying  
22 out that particular function.

23           The second which conformation of the course  
24 that we're on is in the course of reviewing the process  
25 that we have been in, the decisions that have been

1 made. We were pushed to look outside our own frame  
2 work to see the degree to which what we were doing is  
3 reflected in other aspects of the government and  
4 discovered -- I describe this as the discovery because  
5 my judgment that the staff has brought to this process  
6 has been one which really comes out of the experiences  
7 that we have had within the legal service community and  
8 to note the difficulties of making this work  
9 effectively and well and drawing the best lessons from  
10 those.

11 But the process of examining the judgments  
12 that we have made and looking outside to other agencies  
13 led us to discover that the degree to which the very  
14 questions that we have been asking -- this board has  
15 been asking and has been asking the staff to address  
16 are the same questions that are being asked throughout  
17 the government in virtually every aspect of it. And  
18 that is, how does the government make certain that the  
19 funds that it provides are used in a way which produces  
20 high quality, and the -- for whatever purpose for which  
21 they have been appropriated.

22 In 1993, the Congress passed the Government  
23 Performance and Results Act which is -- has begun a  
24 process of what's now 53 agencies and departments in  
25 the federal government going through a process very

1 similar to what we're doing which is to address the  
2 issue of program accountability, performance  
3 accountability, to focus on the question of results and  
4 quality in the responsibility of each of those  
5 agencies.

6 I, in reading from the Government  
7 Performance and Results Act, I was -- I wouldn't say  
8 surprised, but it was eye opening to see the language  
9 which was used which was very much the language that I  
10 think we see in our own writings over and over again  
11 which is a reading from the findings and the purposes of  
12 the acts. "Federal managers are seriously  
13 disadvantaged in their efforts to improve program  
14 efficiency and effectiveness because of the  
15 insufficient articulation of program goals and  
16 inadequate information on program performance.  
17 Congressional policy making, spending decisions, and  
18 program oversight are seriously handicapped by  
19 insufficient attendance, program performance, and  
20 results."

21 The result of that concern on Congress's  
22 part has been the funding of the large project within  
23 the federal government which reflects very much what  
24 we're doing to attempt to carry out the -- a response  
25 to what I just described as the concern which Congress

1 expressed and performance accountability is -- and  
2 approaching issues of performance in ways which were  
3 very similar to what we're doing are taking place in  
4 agencies such as the Federal Housing Administration,  
5 the Defense Logistics Agency, the entire Social  
6 Security Administration, the Federal Bureau of Prisons,  
7 the FBI Organized Crime and Drug Program, the U.S.  
8 Mint, the IRS.

9           So it was I would say comforting and  
10 gratifying to me to discover that the work that the  
11 staff has been doing with the Corporation and the  
12 discussions that we have been having and this entire  
13 process of rethinking and redesigning the  
14 accountability process of the Corporation was  
15 gratifying to find that we are indeed in the main  
16 stream of the kinds of concerns that others are  
17 wrestling with as well.

18           More specifically, what -- we've come quite  
19 a long way since the last time that I reported to you  
20 in person and well beyond where we were in the report  
21 which I submitted to you in writing for the April 12th  
22 board. As I reported to you then, there are really two  
23 aspects, distinct aspect, of accountability functions  
24 that we're addressing. The first is compliance and  
25 making certain that we respond to the statutory

1 responsibility of the Corporation to assure that its  
2 grantees operate in compliance with the act and  
3 regulations and two principles that underlie the  
4 approach that we have taken.

5           The first is to use the resources that the  
6 Corporation has as efficiently as possible. The  
7 criticism we encountered, in which the board  
8 encountered, the criticism of the monitoring policy,  
9 expressed in the cotton report which you have now  
10 received a copy of, which was grounded in part --  
11 certainly not totally, but it was grounded in part in  
12 the concern about the lack of efficient use of  
13 resources in order to carry out compliance functions  
14 and the enormous cost that was involved in the previous  
15 process. And the focus of the efforts of the staff and  
16 the discussions that are taking place around the  
17 compliance oversight function have been aimed very much  
18 at streamlining that process and I'll talk about some  
19 specifics in a minute.

20           The second principle is to have a more  
21 ongoing presence with programs around compliance  
22 questions. One of the difficulties of the compliance  
23 process as it was carried out up until the end of 1993  
24 was that because it was so cost ineffective, because it  
25 was so costly, it was only able to be carried out

1 infrequently because it was basically done there  
2 on sight, evaluations of programs which, at that time in  
3 1993, programs were visited only every 32 months. And  
4 one of the things that -- one of the principles that  
5 underlies the approach that we have taken is to have a  
6 much more of an ongoing interaction with programs  
7 around compliance issues so that they're aware of what  
8 their responsibilities are and think about their own  
9 responsibilities for having policies in place and  
10 implication of those policies and compliance and what  
11 is expected in the regulations.

12 Specifically on the compliance function, the  
13 model which is evolving in which I'll speak to in a  
14 minute both what the final steps of the design are and  
15 what the final steps of testing it, but it has several  
16 components. The first is a self-certification which is  
17 a certification by the executive director and the  
18 chairman of the board of compliance with specific  
19 aspects of the regulations.

20 What I mean when I say specific is we're not  
21 talking about contemplating on a general one-page  
22 boiler plate certification which would really be of  
23 limited purpose I think. It is a compliance checklist  
24 which is quite specific about each of the requirements.  
25 And the expectation of the use of the



1 self-certification approach is first -- is a way on a  
2 regular basis annually to make certain that there is a  
3 revisiting at a program and a management and a policy  
4 level of the responsibilities that a program has under  
5 the Act of Regulations but specifically what a program  
6 has to have in place so that a -- what I'm certain will  
7 transpire in the process of the self-certification is  
8 that a board chair when certifying and looking at a  
9 list of very specific requirements under let's say the  
10 outside practice of law regulation, not just arguing  
11 compliance with Part 1604 of the regulations, but do  
12 you have a policy which reflects the following.

13 That will be a reminder to the board chair  
14 and to the director to take a close look at the policy  
15 and to be aware of what's required in all aspects of  
16 the regulations.

17 The second aspect of the compliance process  
18 will be what we have done in the past but are now  
19 streamlining. And that is to review the audited  
20 financial statements that come to the Corporation each  
21 year inconsistent with the audit guide and we have  
22 completed a process of redesigning the questions that  
23 are asked in order to make them much more cost  
24 efficient. That used to be a two to three day process  
25 is now a shorter process but one which gets to the

1 basic questions that needs to be asked.

2 We consulted with the inspector general  
3 about questions that we should ask and received some  
4 helpful advice from his staff and are now in the  
5 process of using that checklist. This happens to be  
6 the time we get a very large number of audits because  
7 it's four weeks after the close of many program's  
8 fiscal year, so we have 270 audits which have come our  
9 way. We have completed last time I spoke with the  
10 staff 95. That was last week and I'm certain during  
11 the course of the last week, we're probably somewhere  
12 well above the 95. But that is --

13 CHAIRMAN ASKEW: Are you using a new  
14 checklist now?

15 MR. TULL: Using a new checklist now.

16 The third aspect of it will be a desk review  
17 which we have spoken to the board -- to the committee  
18 about before, but that is taking specific shape now in  
19 terms of both the documents that we will look at and  
20 the questions that will be asked and we have an  
21 instrument which has been designed which we will  
22 discuss next week and make final in the meeting I'll  
23 talk about in a moment.

24 That desk review will review basic  
25 information that the Corporation has, and the goal of

1 that in terms of the process is to make certain that we  
2 regularly get information that we need.

3 It will not be a document request. It comes  
4 once a year. You're not going to get a desk review  
5 please send us the following six boxes of information.  
6 The goal of it is to decide now before we begin what  
7 information we need on a regular basis, to have it sent  
8 in regularly, to review it as it comes in but then also  
9 to have a specific time when staff sit down and examine  
10 the information that we have and both for purposes of  
11 assuring compliance and also to look for any issues  
12 that may exist in the program in terms of operational  
13 problems that they may have.

14 MS. FAIRBANKS-WILLIAMS: Well, by specific  
15 time, do you mean every six months, once a year, or  
16 have you thought that through yet?

17 MR. TULL: Well, the goal is to do it once a  
18 year and it depends in part on the staffing that we can  
19 ultimately afford.

20 In the report which I submitted to the  
21 committee in April, we spoke of a model which still has  
22 to be presented for more formal consideration, but a  
23 model which would use program officers with the  
24 individuals that would be assigned a program in order  
25 to have a deep understanding of how the program

1 operates.

2 If we -- and the number of program officers  
3 defines how frequently we do the desk reviews. They  
4 will be intensive reviews in terms of an in-house  
5 operation and if we have 20 to 25 program officers,  
6 then we would be able to do the desk review annually.

7 If we were to have fewer than that, then the  
8 mathematics just works out differently in terms of the  
9 amount of time it actually takes. But the goal would  
10 be to do it annually because the purpose is to make  
11 certain we do have someone sit down, checking in on the  
12 degree to which program policies do comply with the act  
13 to the degree that we get information in-house which  
14 shows how a policy is being carried out, that ought to  
15 be carried out in compliance with what's required.

16 The next aspect of the compliance oversight  
17 process is the use of local program auditors. The  
18 issue which runs throughout any compliance oversight is  
19 the -- one question always is, is there a policy? The  
20 second is, does the policy comply with the act and the  
21 regulations? And the third is, is it implemented? and  
22 implementation of policy or an oversight of that often  
23 takes onsite presence. It takes a random check of,  
24 for instance, the requirement that there be a retainer  
25 agreement which is in the 45-CFR-1611 that in order to

1 determine the fact that the policy is being followed,  
2 some random check of the files is what has been done in  
3 the past. But what we'll look to now is we'll have  
4 monitors do that rather than send out a team of  
5 individuals.

6 And the final component of it is to have a  
7 capacity for some onsite, regular visits. I think  
8 what we need -- there's two things we need to do.  
9 First is in the event that we do get -- we do have  
10 indications of serious compliance problems, we need to  
11 have a capacity to have a staff that can do onsite and  
12 can investigate the circumstances.

13 The second is that we need to make certain  
14 that this process works. We need to make certain that  
15 the procedures that are in place do, in fact, carry out  
16 what we intend them to do which is to make certain  
17 everyone is aware of their responsibilities and the act  
18 of meeting them and a much -- as quality assurance  
19 reviews where they pick ten auditors per year to  
20 examine in some depth how the audit is carried out as a  
21 way of checking compliance with the audit guide. So,  
22 too, we will need a capacity to do occasional more,  
23 on-sight, in-depth visits to check on our own systems  
24 as well as to have a presence in the program.

25 The second aspect of accountability and the

1 part of accountability which has been, in recent years,  
2 not attended to at all is the performance  
3 accountability. It is what, you know, I spoke to in  
4 the beginning which is most of that effort in  
5 government agencies is taking place and that process  
6 will be connected with the compliance process but not  
7 specifically a part of it; that is to say, that the  
8 process of interacting with programs around the  
9 performance of their responsibility to provide high  
10 quality legal assistance to clients and produce  
11 efficiently and effectively.

12 That process will be done as the board has  
13 instructed us to do through peer review, through use of  
14 individuals that have experience in legal services, and  
15 have a broad range of experience to the types of issues  
16 the programs face. That is not just project directors,  
17 not just lawyers, but looking at ways to use clients in  
18 the process, looking at ways to use private lawyers  
19 since they also participate as a part of our system in  
20 delivering services.

21 That process will have -- will take place  
22 less frequently because it will be much more time  
23 intensive and cost intensive because it will involve an  
24 on-site visit. And the model that we're contemplating  
25 is one which is used in a number of other areas and

1 that is to have the peer assessment be a -- a  
2 significant experience in a program's life. And by  
3 significant experience, I mean a process which really  
4 will extend over a year in terms of its impact on the  
5 program's capacity to think about what it does in  
6 delivering services to its clients and to make  
7 adjustments and to make plans and to strategize about  
8 how to improve and to get help from the Congress and  
9 other sources in carrying out that.

10 The process as contemplated -- and this is  
11 also to continue discussion and ultimately coming to  
12 you all for approval of what we contemplate, but the  
13 process contemplated now is one which will begin with  
14 the self-assessment. A self-assessment which will be  
15 based on the performance majors that are -- the board  
16 has spoken to in its principles on December 15th of  
17 last year, and self-assessment which will push the  
18 program to reflect on its own operations in all the  
19 aspects of legal services.

20 The self-assessment as it's now being  
21 contemplated has two pieces. One is some information  
22 which will be reported to the Corporation in  
23 preparation for a peer review, to advise a peer review  
24 team, but a second aspect which is really just to make  
25 a program think about how it operates and to be aware

1 of its responsibilities and to go through its own  
2 internal evaluation which is itself an exercise which  
3 will result in a change in program operations. Just as  
4 whoever it was that said an unexamined life is not  
5 worth living. An unexamined program tends not to get  
6 better either.

7 CHAIRMAN ASKEW: Aristotle said that.

8 MR. TULL: Thank you. I knew we had a  
9 philosopher in the crowd. I'm not surprised it was the  
10 Chair.

11 Next steps. Two aspects of the next steps.  
12 The first is as been reported to the committee before,  
13 this is not a process which is taking place in the  
14 vacuum. The judgment of the board has been -- and we  
15 have reflected that this will be a better process if it  
16 is done in the context of discussions with programs  
17 around their operation and what has worked and all from  
18 the learning of the community.

19 The Monday and Tuesday of next week, there's  
20 a two-day marathon -- it's going to be a marathon  
21 meeting to talk about the specifics of what I just  
22 described to you with PICA, with is the program  
23 improving compliance and accountability group of the  
24 field.

25 We'll have 11 or 12 members of the staff of



1 the Corporation and 11 or 12 folks from the field and  
2 we're going to roll up our sleeves and talk about each  
3 step along the way with very specific questions about  
4 what should be on the compliance checklist, what can a  
5 program auditor examine. And the goal -- certainly my  
6 goal and I think the goal of all of us that are going  
7 to be sitting in that meeting, is to come out of that  
8 two-day process with a fairly clear sense of what ought  
9 to be field tested and the field testing will begin as  
10 quickly as we can get the various instruments put  
11 together.

12 We will begin the desk review. 30 programs  
13 have been selected to go through the desk review  
14 process for us to both carry -- as I think I reported  
15 to the board before, the field testing of these itself  
16 will be a significant intervention in terms of us  
17 carrying out our oversight responsibility. It will be  
18 an examination of those programs around the issues that  
19 are deemed to be significant in terms of both  
20 compliance and performance.

21 CHAIRMAN ASKEW: You said there's going to  
22 be a desk audit?

23 MR. TULL: This will be the desk review.  
24 The desk review portion will be tested on 30 programs.

25 The peer review process will test on five

1 programs, perhaps more. And then perhaps more is a  
2 function of making certain we have an adequate cross  
3 section of programs. Cross section in terms of urban,  
4 rural, and different sizes. And that will be a -- it  
5 won't be a yearlong process in the sense that I said  
6 earlier that the peer review when a program in a normal  
7 cycle becomes established, once a program goes through  
8 a period of process, it will be something which will  
9 take a longer period of time than we will have to field  
10 test.

11 What we'll do in the field test is begin  
12 with a self-assessment a portion of time for that which  
13 will take place in -- at the end of May, first part of  
14 June, and shortly after that, five weeks after that, we  
15 will then go on-site with teams of peers. Peers are  
16 already being identified that we will use for that  
17 process.

18 The second -- or third next step in the peer  
19 review area is the -- one of the learnings that came  
20 out of the peer demonstration project was that for the  
21 peer review process to work effectively, we need to  
22 have a broad cross section of peers. We need to have  
23 peers with different experience. We need to have peers  
24 that reflect a number of aspects of legal services  
25 work. And since we're talking about peers visiting 300

1 and plus programs over a course of three to five years,  
2 we're talking about a large number of people. So the  
3 recruitment and the selection is a major undertaking.  
4 It's a much more complicated issue than it was, for  
5 instance, in the peer demonstration project.

6 So we have begun a process of recruitment  
7 which is, first of all, notifying folks that -- we're  
8 looking for folks to participate in this process and to  
9 notify people in the community and other places through  
10 the various networks that we have in terms of  
11 publications and the like.

12 We happen to have information already  
13 gathered in terms of people who are interested in peers  
14 because of the peer demonstration project and previous  
15 solicitations and establishment of other technical  
16 assistance networks that give us a head start on that.  
17 But ultimately, it will be challenge.

18 And the last is the local peer monitor  
19 that -- what we're working with local peer monitors is  
20 three programs who have been participating in thinking  
21 through this set of issues have auditors who have  
22 agreed to work with us and helping think through a  
23 variety of issues.

24 What is reasonable for an auditor to look  
25 at? What are the cost issues involved? And the design

1 of the instrument and the process for using the local  
2 peer monitors for oversight will come out of that set  
3 of discussions and then will be field tested in  
4 programs.

5 I have -- there's another set of issues  
6 which we're also wrestling which were ones that will  
7 come to this committee and to the board which are  
8 issues that are involved with broader questions of the  
9 system, what the committee just heard of with regard to  
10 support, issues around client engagement, use of  
11 private lawyers. I don't know if before we get to that  
12 if the committee wants to ask some questions.

13 MS. RODGERS: What do you anticipate to be  
14 the time intervals once this is up and going for the  
15 on-site visits related to performance?

16 MR. TULL: Three to five years. Again, it's  
17 a function of resources available to the Corporation  
18 because a peer review process will be a costly process.  
19 It will be a payment of expenses of persons. A  
20 final -- a decision that the committee will need to  
21 make is whether or not we will seek to have peers do it  
22 on a volunteer basis or be paid. Although my sense of  
23 it is that we're going to be pushed to make it a paid  
24 exercise because we're talking about a lot of time and  
25 a lot of people. And I think that some -- it's

1 possible the first time around perhaps to get people to  
2 volunteer, but the second or third time it becomes  
3 something whether the net outgo for the peer is  
4 different and they don't get to learn from a second or  
5 third visit. And my guess is that we're -- in order to  
6 make it work, we're going to need to pay people a  
7 consulting fee or some fee.

8 MS. RODGERS: Will it still be less than the  
9 old system?

10 MR. TULL: Yes, because the number of peers  
11 necessary for a visit is really less based on  
12 experience compared to the demonstration project and  
13 other efforts. For instance, I know foundations that  
14 have used the peer model in their own work. You don't  
15 need as many people on-sight, people sitting and  
16 reading files to do very detailed technical compliance  
17 checks.

18 MS. RODGERS: Will the December reviews  
19 provide enough of a basis for you to know if there's  
20 any trouble in the delivery of legal assistance in  
21 between the outside?

22 MR. TULL: They alone I don't think will.  
23 But there will be a point in time when a snapshot will  
24 be taken and some types of issues that may appear in a  
25 program, some management difficulties, difficulties in

1 providing effective service, will show up in the kind  
2 of review that will take place in a desk audit or in a  
3 desk review.

4           What will be a necessary ingredient of it as  
5 well is the reason that the capacity to have staff  
6 members who are -- whatever their title is is up for  
7 grabs, but for persons scheduling officers, that a  
8 framework on which all of this hangs is one in which  
9 the Corporation needs to have persons working for it  
10 who have the capability of interacting on a regular  
11 basis with programs, telephone calls, paying attention  
12 when a request for approval comes in on consulting  
13 contract, paying attention to what's the context for  
14 the request, and much of the indicia of possible  
15 program problems or of really good creative things that  
16 are happening that would be useful to extract from a  
17 program to spread on will come from that process as  
18 well through this sort of ongoing interaction and  
19 discussion with this personnel.

20           MS. RODGERS: I don't know -- I suspect  
21 you're suggesting that the point of which the committee  
22 would talk about whether we pay the peers would be much  
23 later, but one of the factors I think that would go  
24 into that decision may be made much earlier and that is  
25 how many people get trained. Because if we go with a

1 volunteer system, it's likely to be a system which you  
2 make only one visit a year which would mean a lot more  
3 people have to be trained. So we may want to discuss  
4 that earlier rather than later.

5 MR. TULL: And I think the first go around  
6 regardless of whether it's a paid or a volunteer  
7 enterprise will involve a significant training effort  
8 as it will be the kickoff and knowing what's expected  
9 of them and understanding the performance majors and  
10 how they should be applied.

11 MS. RODGERS: Yeah. I think that's true. I  
12 guess one of the things I just say for a later  
13 discussion I want to mention is that one of the parts I  
14 remember best about the benefits of a peer review  
15 system from when I was a legal services lawyer was what  
16 we learned when people came back. And that could be  
17 better served by having a lot of people and if you have  
18 a lot of people trained perhaps visiting once or twice  
19 a year, then you probably won't have to train. So  
20 you're spending a little bit more on training and a  
21 little bit less on the fees.

22 CHAIRMAN ASKEW: We're in a transition  
23 period obviously. Do you have any concerns as the  
24 director of the division that during this transition  
25 period that we may be missing things in programs or

1 that programs are going unattended to as we make this  
2 changeover? Is there still an adequate level of  
3 program oversight happening while we're rethinking,  
4 redoing, and moving to new approaches to all of this,  
5 or is there going to be a gap of months or whatever  
6 where we really lose touch with programs and we'll have  
7 to pick that up later?

8 MR. TULL: No. I'm not concerned that we  
9 have lost touch with that. First because we do have --  
10 we're continuing a number of activities which involve  
11 international programs which are oversight which meet  
12 our oversight responsibilities. We are doing what I  
13 already stated which is reviewing the audits of 270  
14 audits which have come in, some which are from  
15 sub-grantees as well as grantees.

16 We are still in the process of responding to  
17 complaints that come in which is a rather intensive  
18 process of looking into issues that are raised.  
19 They're often around persons who are denied  
20 representation because of eligibility and because of  
21 priorities, but it is a opportunity for us to interact  
22 with the program around the issues that is raised with  
23 us.

24 We're still approving -- as required by the  
25 regulations -- consulting contracts, property



1 purchases, personal as well as real, and approving --  
2 getting PAI plans and reviewing request waivers of PAI  
3 regulations, fundamental regulations. So those  
4 processes are still going on.

5 And I say one of the things that has been  
6 interesting in -- to observe in I think a different  
7 relationship between a Corporation and the programs is  
8 we have an experience now at the Corporation which has  
9 been missing which is when there's a relationship of  
10 trust and interaction between the Corporation and the  
11 field, people call us and say I got a program down the  
12 block from me that's really struggling. I think it  
13 would be helpful if you call them. We're now working  
14 with two programs where the issue came to us precisely  
15 that way.

16 Someone else called us and said I think it  
17 would be very helpful if you contacted the board chair  
18 of X Y Z program because they're going through some  
19 issues there which may become a problem in terms of  
20 their capacity in terms of servicing their clients  
21 effectively and well. And that's an avenue of  
22 oversight which only exists in the context of an  
23 expectation that the response of that which is helpful.

24 CHAIRMAN ASKEW: How is your staff  
25 responding to these changes and new approaches,

1 especially those folks who have been around for a long  
2 time and were used to the old system and maybe had some  
3 sense of ownership of the old system. Are they  
4 responding affirmatively to all this?

5 MR. TULL: They're responding wonderfully.  
6 It's been a very gratifying thing to watch. The  
7 challenge to them has been to step back from a process  
8 which is very narrowly focused and to think about the  
9 issues that I just reported to you on which is how you  
10 deal with the enormous challenge of not just looking at  
11 a fairly narrow set of questions around compliance but  
12 really paying attention to the type of services which  
13 is provided and how it's provided.

14 And my report to you in April describes a  
15 set of clusters of groups of people which worked  
16 together and part of the purpose of that was to get  
17 people to communicate with each other and to begin a  
18 process of open interchange because that was something  
19 they had been missing from the Corporation's internal  
20 operations.

21 And people have responded enormously  
22 positively both to the opportunity to really be  
23 creative and to think about what the challenges is here  
24 and to do some extraordinarily good work. They really  
25 have engaged in it which has been quite impressive and

1 the meeting on Monday and Tuesday between the staff and  
2 the group will be -- an inlaws meeting. It will be a  
3 wonderful opportunity.

4 CHAIRMAN ASKEW: When you came in, you  
5 inherited a stack of monitoring reports that were  
6 within the system, 30, is that right?

7 MR. TULL: No, 71.

8 CHAIRMAN ASKEW: 71. What's the status of  
9 those? Have most of those now gotten out to programs?

10 MR. TULL: Yes. It was 71. 30 was final  
11 reports and 41 draft reports. And those are all  
12 completed in either as a draft report going out or as a  
13 final.

14 March 27th I think they all went out and  
15 we're now in the process of getting the comments back  
16 on the draft reports and those are getting out at a  
17 regular pace and will be -- the decks will be well  
18 cleared on that which was one of the things we wanted  
19 to be able to do so moving, we wouldn't have staff's  
20 time and resources diverted to cleaning up a lot of old  
21 paper.

22 CHAIRMAN ASKEW: Is the staff able to keep  
23 up with the regular business like approvals, contracts,  
24 consulting contracts approvals, just the normal  
25 business the program interaction with the Corporation

1 around things they have to get back to the Corporation  
2 in order to do something? Do you sense they're able to  
3 keep up with that, or is some of that piling up?

4 MR. TULL: Yes, they are. One of the  
5 changes by having the individuals who are dealing with  
6 approvals work together to develop a consistent way of  
7 working is that it's giving us an opportunity to first  
8 of all, have a consistent approach to that and, second,  
9 to step back and look at the procedures and make  
10 certain they're really the right ones and we're doing  
11 it the right way.

12 And so there's two things. One is  
13 responding and we're responding in a timely, effective  
14 way to the requests that come in and the second is to  
15 also think about changes we might make in order to make  
16 it more efficient and use the resources better. And by  
17 having the person who's responsible for that whole  
18 cluster gives us chance to monitor that question.

19 The one area where we did make a shift and  
20 added a shift person was complaint investigation. This  
21 is the advantage of having someone who pays attention  
22 and whose assignment is to think about how all this  
23 works together and her observation was that we're  
24 starting to fall behind on the complaint investigation  
25 process so I added a staff person to carry that out.

1 MS. RODGERS: One other question. I keep  
2 hearing about two different kinds of audits that might  
3 be requested at the programs. One of which is a little  
4 bit more expensive. I guess there's one piece of it.  
5 And then there's a question that I do hear  
6 occasionally from people in the field whether the  
7 audit requires some sort of quality certification as  
8 opposed to a numerical one with the former being more  
9 expensive to get because accountants aren't used to  
10 certifying quality or they may charge more if that's  
11 what they're doing.

12 I wonder if you've given some thought to  
13 what kind of an audit should be required and how much  
14 more expensive it is to require what people think might  
15 be a higher quality?

16 MR. TULL: The use of a local program  
17 auditor to be -- to participate in the onsite review  
18 of compliance is a reflection of what many government  
19 agencies now have to do with an A-133 audit and that,  
20 as I say, the direction that the design seems to be  
21 taking is to expect more of that kind of involvement.  
22 An auditor looking at quality, meaning quality of work  
23 that is produced or the quality of program operations,  
24 is one that --

25 MS. RODGERS: The examples they were using

1 is certifying whether a certain number of meetings take  
2 place and if so, who was present. That was a very  
3 expensive thing as far as an auditor's concerned.

4 MR. TULL: I think the learning that has  
5 come out of the government agencies relying on auditors  
6 for performance accountability has been to try to use  
7 the same set of principles which exists in any audit  
8 which is an auditor just looking at dollars and cents,  
9 does not look at every transaction. There's a  
10 selection of sampling in order to determine if there's  
11 a pattern there which indicates if there's proper  
12 compliance with auditing -- with accounting standards.

13 Similarly, an auditor looking at compliance  
14 with the regulation and meetings, for instance, the  
15 expectation would not be that the auditor would look at  
16 virtually every meeting and count the number of persons  
17 but that there would be a sampling as a way to, again,  
18 look for patterns and how the program operates.

19 And this is what we're in the midst of  
20 discussing with the auditors of programs, so I'm not  
21 certain what the answer to your question would be. But  
22 let me guess that it will not be that it makes sense to  
23 have an auditor engaged in a very costly sort of review  
24 of virtually every transaction, every meeting, every  
25 effort to, you know, exercise some procedure under a

1 regulation. But that is a question that we're  
2 discussing.

3 CHAIRMAN ASKEW: Okay. That completes the  
4 oversight accountability portion. Did you have some  
5 other things you wanted to --

6 MR. TULL: Only that -- this will be much  
7 shorter happily since we're in the lunch hour now,  
8 which is to say that a separate set of issues that  
9 relate to the operation of OPAR and the OPS is the  
10 number of issues that relate to support that's provided  
11 to programs and how programs actually deliver their  
12 services and how the system functions as well with the  
13 delivery issues. And there are certain issues which  
14 will be coming your way with increasing intensity over  
15 the next months and they're issues which we're also  
16 working in -- on in concert with a group of persons  
17 from the field who are helping themselves, thinking  
18 about the questions that arise in each of the areas.

19 The delivery working group of the field,  
20 they have come up with a quite an interesting acronym.  
21 DWG sounds like a new airport somewhere because it's  
22 not open because its baggage system isn't open.

23 They are -- Harrison McIver can speak to you  
24 specifically about what will be done, but they're just  
25 getting underway. There have be discussions here as

1 well with members of the board and Mr. Lavin reported  
2 to you the support process that got its own component.

3 CHAIRMAN ASKEW: Let me -- Harrison, you  
4 going to make a report to us?

5 MR. MCIVER: Just a brief report.

6 CHAIRMAN ASKEW: Let me mention this before  
7 we do that. There are some -- in terms of the work of  
8 this committee over the course of the next two, three,  
9 four meetings, I think we need to probably give some  
10 thought and settle upon a schedule for when we're going  
11 to hear about these issues. And clearly in June,  
12 John's going to be back to make some recommendations to  
13 us on the final aspects of oversight accountability,  
14 staff implications for that which we will then probably  
15 have between June and July to mull over and think about  
16 and with final recommendations to the board in July, if  
17 I have that scheduled right.

18 So clearly, we've got to have time in the  
19 June meeting for that discussion. But there are a lot  
20 more issues out there appropriately brought before this  
21 committee that we need to start chewing over.

22 Nancy has been raising training with  
23 everybody this morning and that's a big issue that we  
24 have got to start thinking about even before we find  
25 out if we're going to get additional funds for training



1 in 1995. What is the Corporation's responsibility  
2 vis-a-vis training? How should it be done? If we get  
3 new money, where should it go? All of those issues  
4 which are very complex but I think are very important  
5 and I know there's a working group and the regional  
6 training centers have their process underway and we  
7 need to get some sense from them of when they're going  
8 to be ready to give us their best ideas, because we're  
9 going to be needing to address that clearly by the fall  
10 if not sooner.

11 Technical assistance is another issue that  
12 we need to start bringing before this committee in  
13 terms of -- we went into this I think with the  
14 principle that we adopted being aimed at ultimately  
15 being better at providing technical assistance programs  
16 and working with programs to improve the quality of  
17 delivery of services. And a lot of what you have  
18 reported on today is moving in that direction, but then  
19 there's the additional idea of funds, peers, staff,  
20 others available to work with programs on issues that  
21 will improve the delivery of services outside the  
22 compliance, outside the peer review process.

23 ADR and the use of ADR programs, attorney  
24 recruitment, retention, a lot of issues that have come  
25 up in various context as the committee has been meeting

1 some of which have budget implications for the next  
2 year, some of which are just things we need to start  
3 grappling with in terms of what's the Corporation's  
4 policy going to be; what's level of activity going to  
5 be.

6 So what I'm suggesting is I think we need to  
7 probably interact with you, John, about scheduling for  
8 the June, July, September, October meetings and where  
9 naturally these issues fall, when is the field going to  
10 be ready? If they're not going to be ready, we may  
11 have to go ahead without them because on some of these  
12 we may not be able to wait because of the budget  
13 implications. And probably start cutting back a little  
14 bit in our committee meetings on hearing from local  
15 programs or hearing about delivery issues and spending  
16 more time on the committee's work and decisions it's  
17 got to make and reference to the board about all of  
18 those various topics that fall under our  
19 responsibility.

20 Another issue that Nancy has raised with me  
21 and may want to address is a PAI survey. It might be  
22 useful to do that over the summer so that we have some  
23 data going into the fall as we start addressing all the  
24 issues around PAI which is going to overlap with the  
25 regulatory form issue there.

1                   Do you want to mention the discussions you  
2                   have had with that?

3                   MS. RODGERS: Yes. I think some discussions  
4                   with both people from the field and from the ABA that  
5                   for much progress to be made on that issue, it's going  
6                   to be necessary to get much more information in. And,  
7                   of course, the questions on that survey are important  
8                   to everyone from all different perspectives, but it  
9                   might be possible to have those questions admitted to  
10                  the staff by taking as early as June 1st so that a  
11                  staff might prepare a survey of programs.

12                  There was a survey done I guess by the staff  
13                  in cooperation with the ABA in the early 1980s, but at  
14                  the time, PAI had not been in effect for very long and  
15                  this survey was sent only to programs and not to any of  
16                  the bar associations. I guess that part of it was  
17                  planned and just never implemented.

18                  And so I guess I think in talking to people  
19                  from all different perspectives, the feeling is that  
20                  for their discussions in the summer to be productive,  
21                  it's going to be pretty important to know a little bit  
22                  more than anyone seems to know about how PAI's working.

23                  And I think Bucky and I may have some  
24                  questions that we would want to get to you, but Jud  
25                  Nashure has said that he is meeting with some folks on

1 May 26th and would be glad to ask that question.  
2 Having people start thinking about, come up with a  
3 series of questions that might be put on the survey so  
4 that by something like August we might have some data  
5 for people to work on.

6 MR. TULL: We have been informally contacted  
7 as well with regard to information that we have already  
8 with regard the to current activities and use of  
9 private lawyers because we do get a PAI plan from  
10 programs and we do get requests for waivers, and so  
11 we're already in a process of attempting to assist the  
12 PAI working group which is, as you described, very  
13 broadly-based group, reflects a lot of interests and  
14 thoughtful parties.

15 MS. RODGERS: One of the results of the last  
16 survey was that the local programs were predominantly  
17 in responses opposed to the PAI requirement. And one  
18 of the questions that was raised is whether the  
19 response would be the same in 1994 as it was in the  
20 1980s.

21 CHAIRMAN ASKEW: The survey might also have  
22 been done in the context of budget cuts. It might have  
23 been right about the time programs were getting their  
24 grants reduced, so the stresses in terms of PAI were  
25 probably -- it may not have been a good time to do a

1 survey like that.

2 MR. RODGERS: I think that's true.

3 CHAIRMAN ASKEW: Yeah.

4 MR. TULL: And I think that when we come to  
5 asking questions that the question of how programs feel  
6 about the use of private lawyers, there's an array of  
7 ways of issues that are involved in that question.

8 One question is what do the regulations say  
9 and what should restriction or requirement be. There  
10 is a different question from what is your view about  
11 the use of private lawyers and the event they could  
12 bring to serving your clients.

13 CHAIRMAN ASKEW: How the questions are asked  
14 may be very, very important to the quality of the  
15 information we get back obviously.

16 I have read out a list of issues that the  
17 committee may need to be addressing in the next series  
18 of meetings. Did you -- did I miss anything from your  
19 perspective? I didn't meet national state support,  
20 that's pretty obvious. And we were told earlier we're  
21 going to be hearing back from them. Are there other  
22 things that we need to have on our radar screen for the  
23 next four or five months?

24 MR. TULL: I think issues around client  
25 engagements are ones which will come the committee's

1 way.

2 CHAIRMAN ASKEW: And work is going on?

3 MR. TULL: Work is going on with regard to  
4 that, but it certainly is something which is core to  
5 the delivery of services and what kind of -- what the  
6 Corporation does in support of programs and has helped  
7 perhaps to address the issue which is so important.

8 Diversity, which another committee is now  
9 hearing a presentation on, but that's an issue which is  
10 at the core of how the programs operate and function.  
11 And the support area which you have -- I think your  
12 list I think did encompass all the issues that are  
13 involved in there, but that is clearly a very complex  
14 set of interrelated issues both because institutionally  
15 we have a complex system with national support, with  
16 state support. With these that haven't been addressed  
17 is training and technical assistance and how those  
18 relate. And areas that were spoken to in the previous  
19 presentation today which is areas in that -- of need in  
20 terms of the needs for support of programs around  
21 substantive issues that the center may not now address  
22 or cross center lines and, therefore, some thought  
23 needs to be given to how to respond to those and to  
24 have the flexibility to meet new problems as they arise  
25 is one of the things we certainly learned the last 12

1 years is the problems facing our clients are not  
2 steady. They change as the society changes. And we  
3 need the capacity to adjust our systems.

4 CHAIRMAN ASKEW: Great. Okay. Thank you.

5 Harrison. This is Harrison McIver from the  
6 project advisory group.

7 MR. MCIVER: I should ask if the board  
8 received a copy of the board delivery group documents?

9 CHAIRMAN ASKEW: I don't think we have.

10 MR. MCIVER: Okay.

11 CHAIRMAN ASKEW: Not the final one.

12 MR. MCIVER: I checked at the office to find  
13 out whether it had gone to you and we weren't sure so  
14 that's why I asked. So you have not received this?

15 CHAIRMAN ASKEW: I don't think so.

16 MR. MCIVER: You might recall that Dick  
17 Taylor appearing in San Francisco talked about the  
18 document and the delivery working group. I should note  
19 that there is an error in stapling here on page -- is  
20 in your reading you find a sentence tapers off and it  
21 doesn't pick up, seven and eight should be flipped.

22 I'll be very brief. I think you -- Dick  
23 shared with you that this concept sort of evolved from  
24 the Funding Criteria Committee in trying to develop  
25 funding rational to line items and we found that over

1 the last 12 years because of obvious reasons that a  
2 number of issues were not addressed, had not been  
3 flushed out, and that we felt important that this  
4 process be undertaken.

5 We have talked -- had ongoing conversations  
6 with your staff about this issue. And I understand the  
7 chairman has been somewhat engaged in discussions about  
8 the issues and we have tried to assemble subcommittees  
9 composed of people across the country that we felt  
10 would do a good job in terms of flushing these issues  
11 out and producing a product, open product, that can be  
12 presented to this board, this committee, and ultimately  
13 the board and hope that you will be influenced in some  
14 way by it.

15 As noted, there are seven delivery working  
16 groups, subgroups or subcommittees, and rather than go  
17 through them, I'll let the document speak for itself.  
18 We are on a timetable somewhat since Dick appeared, a  
19 number of -- most of these chairs and staff reps have  
20 gotten together and talked about setting up meetings to  
21 come together in hopes that we can get the work done.

22 Most of those meetings will hopefully occur  
23 before July 15th. We have used July 15th as an interim  
24 date and hope that we can assess where we are, do a lot  
25 of work, and hopefully we'll be on a timetable by fall



1 or by -- depending on how things go, at the latest the  
2 beginning of next year to have a final product.

3 I heard the Chair and the committee speak  
4 about a need to move more rapidly. We will heed that,  
5 but we can't assure that because of the -- it has been  
6 12 years, so some of the work -- and we want to make  
7 sure we have a project that will stand the test of  
8 time.

9 That's basically all that we have. We are  
10 working under the notion of collaboration with your  
11 staff. I understand that in those discussions that you  
12 may have liaisons to work with different subcommittees  
13 and if you will note that one of the Chair -- one of  
14 your committee members, Ms. Rodgers, is a liaison for  
15 the ADR group -- PAI group. I'm sorry.

16 CHAIRMAN ASKEW: Mm-hmm.

17 MR. MCIVER: If you have no questions, that  
18 pretty much sums it up. I know you haven't had a  
19 chance to digest the documents.

20 CHAIRMAN ASKEW: I hope you will, and I'm  
21 sure you will, keep us informed of how these are  
22 progressing because I do have a feeling that in the  
23 fall we're going to get to a point where pressure on  
24 the board and also the events are going to require that  
25 we make some decisions in some areas, especially budget

1 cut decisions, and it may be out of sink with the  
2 working groups and there may not be anything we can do  
3 about that.

4 MR. MCIVER: We appreciate that and I think  
5 the word we will take back is that we need to expedite  
6 this. Thank you.

7 CHAIRMAN ASKEW: Thank you. Is there any  
8 other business before the committee? I motion to be  
9 adjourned. All those in favor.

10 All: Aye.

11 CHAIRMAN ASKEW: Committee is adjourned. I  
12 can't tell you when the next committee meeting will  
13 occur because there will be a committee meeting in June  
14 probably a three-hour meeting. But which day and all  
15 of those things are yet to be determined. Thank you.

16 (Meeting adjourned at 12:00.)

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