

LEGAL SERVICES CORPORATION  
BOARD OF DIRECTORS

OPEN SESSION

Saturday, November 9, 2002

9:00 a.m.

The W Hotel  
930 Hilgard Avenue  
Los Angeles, California

BOARD MEMBERS PRESENT:

Douglas S. Eakeley, Chair  
LaVeeda Morgan Battle, Vice-Chair  
Hulett H. Askew  
John T. Broderick, Jr. (via telephone)  
John N. Erlenborn (Attending as Director and President)  
Edna Fairbanks-Williams  
F. Wm. McCalpin  
Maria Luisa Mercado  
Nancy H. Rogers (via telephone)  
Ernestine P. Watlington

STAFF AND PUBLIC PRESENT:

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

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

Mauricio Vivero, Vice President for Governmental Relations and Public Affairs  
John Eidleman, Acting Vice President for Compliance and Administration  
Leonard Koczur, Acting Inspector General, Office of the Inspector General  
Laurie Tarantowicz, Assistant Inspector General and Legal Counsel  
David Maddox, Assistant Inspector General for Resource Management  
David Richardson, Treasurer and Comptroller  
Mattie C. Condray, Senior Assistant General Counsel  
Eric Kleiman, Press Secretary  
Michael Genz, Director, Office of Program Performance  
Ahn Tu, Senior Counsel, Office of Program Performance  
Robert Gross, Senior Counsel, Office of Program Performance  
Alice Dickerson, Director, Office of Human Resources  
Julie Clark, Vice President for Government Relations, National Legal Aid and Defenders Association  
Don Saunders, Director for Civil Legal Services, National Legal Aid and Defenders Association  
Linda Perle, Senior Attorney-Legal Services, Center for Law and Social Policy  
Robert Dieter, University of Colorado (Nominee)  
Thomas Fuentes, Tait and Associates (Nominee)  
Michael McKay, McKay Chadwell (Nominee)  
Jose Padilla, Executive Director, California Rural Legal Assistance  
Hon. Earl Johnson, Associate Justice, California Court of Appeals

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MOTIONS: 4, 8, 9, 58, 72, 80, 86, 103, 113, 119

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

CHAIR EAKELEY: Let me call the meeting to order. I expect that Justice Broderick will be joining us shortly. Let me also welcome Nancy Hardin-Rogers to the board meeting by phone. Hello, Dean Rogers.

MS. ROGERS: Hello, Doug. Thank you.

CHAIR EAKELEY: And also say hello to Tom Fuentes and Rob Dieter, Nancy, who are with us in the audience.

MS. ROGERS: Glad to have you. Welcome. Welcome back as a part of the board-to-be.

CHAIR EAKELEY: Mike McKay is also here, and is on the premises, and should be here shortly.

With that, let me call the meeting to order and ask for approval of the agenda, with one suggested change, that we move up public comment to an appropriate moment when and if Justice Johnson comes and gives us a presentation.

M O T I O N

A PARTICIPANT: So moved.

MS. FAIRBANKS-WILLIAMS: Second.

CHAIR EAKELEY: All those in favor of adjusting the agenda to adopt for public comment, say "Aye."

■ (Chorus of ayes.)

■ CHAIR EAKELEY: All those in favor of approving the  
■ agenda as modified, say "Aye."

■ (Chorus of ayes.)

■ CHAIR EAKELEY: Opposed?

■ (No response.)

■ CHAIR EAKELEY: The ayes have it. We have August  
■ 24, 2002, board minutes that were circulated with your board  
■ materials. Are there any suggested changes or corrections to  
■ be made?

■ MR. MCCALPIN: Yes.

■ CHAIR EAKELEY: Mr. McCalpin.

■ MR. MCCALPIN: Directing your attention to page  
■ 181, I suggest that the vote at the top of the page was not  
■ to approve the resolution as amended, but the vote was on an  
■ amendment. And the amendment failed. So it wasn't a motion  
■ to approve the resolution as amended. It was a motion to  
■ approve an amendment to the resolution. And that amendment  
■ failed.

■ Similarly, at the bottom of the page, there's a  
■ motion to approve an amendment, and Smegal seconded. Then it

■ says, "Ms. Battle moved to approve it as amended." I don't  
■ think that's true. Again, you vote on the amendment. The  
■ amendment either carries or doesn't. And then you vote on  
■ the main motion.

■ MS. MERCADO: That's a procedural correction.

■ MR. MCCALPIN: Right.

■ CHAIR EAKELEY: So how would you propose changing  
■ the minutes, Bill?

■ MR. MCCALPIN: Well, I think that at the top, you  
■ say a voice vote was taken on the motion to approve an  
■ amendment to Resolution 20017. And the motion failed.

■ CHAIR EAKELEY: Right. It's the motion to amend  
■ that.

■ MR. MCCALPIN: Then there's a voice vote to approve  
■ it as submitted, and that takes and passes. And that's  
■ right.

■ CHAIR EAKELEY: Yeah.

■ MR. MCCALPIN: Then down at the bottom, I moved to  
■ approve an amendment to 2002-017, and Smegal seconded it.  
■ And then I'm not quite sure what happened to the amendment.

■ CHAIR EAKELEY: I think the amendment was approved,

and then the resolution as amended passed. And I think that the vote is a little short-handed on the top of 182. That was a good catch.

MR. BRODERICK: Mr. Chairman?

CHAIR EAKELEY: Hello, Justice Broderick.

MR. BRODERICK: I wanted to say that up until this moment, I regretted not being in Los Angeles.

(Laughter.)

MR. MCCALPIN: Your absence is duly noted.

CHAIR EAKELEY: Nice to hear your voice, John.

MR. BRODERICK: Nice to be with you.

CHAIR EAKELEY: Nancy is also on the phone.

MR. BRODERICK: Nancy, how are you?

MS. ROGERS: Good morning, John.

MR. BRODERICK: Good morning.

CHAIR EAKELEY: And gathered around the table are Ernestine and Edna and Don Erlenborn and LaVeeda and Bucky, Maria Luisa, and Bill. And say hi to Tom Fuentes and Rob Dieter, also.

MR. BRODERICK: Good morning.

M O T I O N

CHAIR EAKELEY: All right. Well, let's first put to a vote the amendment suggested by Mr. McCalpin to the two entries on the minutes on pages 181 and 182.

MS. MERCADO: I second that motion.

CHAIR EAKELEY: Any further discussion?

(No response.)

CHAIR EAKELEY: All those in favor of amending the minutes as proposed?

(Chorus of ayes.)

CHAIR EAKELEY: All those opposed.

(No response.)

CHAIR EAKELEY: Are there any other amendments to be made to the minutes as circulated?

(No response.)

CHAIR EAKELEY: Hearing none, all those in favor of approving the minutes as amended, say "Aye."

(Chorus of ayes.)

CHAIR EAKELEY: All those opposed.

(No response.)

CHAIR EAKELEY: The minutes are amended. Thank you. Sir -- now I've lost my place. Executive Session



minutes of August 24, 2002, as circulated. Are there any suggested changes or additions to be made to those?

(No response.)

CHAIR EAKELEY: Hearing none, is there a motion to approve the minutes as circulated?

M O T I O N

MS. MORGAN BATTLE: So moved.

MR. MCCALPIN: Second.

CHAIR EAKELEY: All those in favor.

(Chorus of ayes.)

CHAIR EAKELEY: All those opposed?

(No response.)

CHAIR EAKELEY: The ayes have it.

We're on to reports. I don't really have a report, but I do have a number of -- a few words I'd like to say.

First -- and they're not here, but we had a wonderful series of presentations by the three legal services providers in the area, and they were really exciting and informative. And I don't want to steal Ernestine's thunder at her committee report, but it really made for a very special visit.

Also making for a very special visit was the

■ reception sponsored by the three providers and the law  
■ schools and others last night, where we celebrated our ninth  
■ anniversary as a board. And Bill McCalpin's ex-birthday.  
■ Again, I just wanted to say thanks, and say how much those  
■ events made for a very successful board meeting.

■ As we were sort of listening to some reports and  
■ chatting over breakfast, it also occurred to me that we  
■ rarely acknowledge the people who do all of the work and do  
■ it so well. But Victor Fortuno has been doing a remarkable  
■ job in negotiating and then helping develop the plans and  
■ designs for the new home-to-be for the Legal Services  
■ Corporation.

■ Mauricio and his staff just handed out our most  
■ recent annual report, which is really fantastic, and is in  
■ line with the Equal Justice Magazine that is continuing to  
■ grow and impress.

■ Ernestine, of course, and your Provisions  
■ Committee, but the staff who contributed to organizing and  
■ coordinating the presentations, and Ahn Tu, and Randi, just  
■ kudos there as well.

■ I thought that -- Len Koczur has done some quiet

■ things, quietly but effectively, since we last met, and one  
■ of them, you'll hear from him about directly. But it's not  
■ easy being Mr. Popularity around the Legal Services  
■ Corporation, but Len carries that off without any apparent  
■ effort at all.

■ We also mentioned Mattie Condray yesterday -- I'll  
■ mention her again -- having gone through the second year of  
■ negotiated rulemaking. Mattie seems to be the only person  
■ who emerged with compliments paid from all sides, and that  
■ really is quite a remarkable feat.

■ I also wanted to just mention, because it's not on  
■ the agenda, lessons or insights or a few words about the  
■ session we had on the afternoon concerning our strategic  
■ directions. I do think it's important that we stop and ask  
■ ourselves more frequently than we have -- and I hope the next  
■ board will do the same, with greater frequency than we did --  
■ why are we here? What are we doing? Where are we going?  
■ How are we proposing to get there? Are those plans and  
■ designs and objectives consistent with the resource  
■ allocation that's going on?

■ Are we making most efficient use of our resources?

■ Why shouldn't we look at timekeeping for the professional  
■ staff? Why shouldn't we try to squeeze out some additional  
■ money if there is some in carryover funds to help provide  
■ some modest technical assistance for those programs losing  
■ money because of the census adjustments?

■ Why shouldn't we be taking another look at the  
■ budget, especially if there's a long-term continuing  
■ resolution, to see what additional marginal funds we can  
■ squeeze out for enhancing access, improving delivery and  
■ quality, assuring accountability and integrity of what we do  
■ and what our grantees do, and garner greater support from the  
■ Congress in the process?

■ I don't think those are questions we should be  
■ asking every five years with a strategic plan, but virtually  
■ every meeting not only of ourselves, but of management, and  
■ by management of our grantees.

■ And although I don't think we really accomplished  
■ much yesterday afternoon, I thought it was an important  
■ moment to pause and reflect and project. And that's  
■ the end of my report. I'll leave it right there. And why  
■ don't we start with the young man to my far right, Mr.

■ McCalpin.

■ MR. MCCALPIN: The old man of the crowd. Yesterday  
■ morning at the Provisions Committee meeting, toward the end  
■ of the presentation, we heard about the activities of local  
■ programs in the health care area. I have a notion that maybe  
■ those who are sitting around here don't have a full  
■ understanding of the amount of work that is going into  
■ providing assistance one way or another in the health care  
■ area.

■ Two weeks ago, I attended a meeting, a conference,  
■ at the Boston Medical Center, having learned that the  
■ pediatrics department at the Boston Medical Center has hired  
■ three lawyers in-house to handle the problems not only of the  
■ pediatric patients, but of the families of the pediatric  
■ patients.

■ A similar program is under way in Providence, Rhode  
■ Island. It is at the very beginning in Cleveland, Ohio, and  
■ then there is this out here. There is a very substantial  
■ amount of effort going on to bring the legal services or  
■ effort in support of the enhancement of health care, given  
■ the serious problems in health facilities and health care

because of the budget problems both at the federal and the state level. And that's a movement that is moving across the country, and I think that what we saw yesterday was just a small piece of that.

And let me close by saying that when I was in Boston two weeks ago, I saw Lonnie Powers, and he gave me a report on John Brooks. He said that John is -- he had seen John recently. He was well. He is somewhat discomfited by the fact that his more than hundred-year-old law firm is breaking up, and that he is losing that home as well. I tried to reach John, but I didn't have a phone number for him up there, and called the only John G. Brooks that I could find. And it turned out to be somebody who, as I said yesterday, was about the age of LaVeeda's daughters. So it wasn't our John Brooks.

But vicariously and secondhand, I can say to you that John seems to be moving along, though, without, of course, his wife and now a law firm.

CHAIR EAKELEY: That reminds me. Mauricio, could you be sure that we send John a copy of your annual report and Equal Justice Magazine with a happy ninth anniversary of

■ being sworn in together, or something like that?

■           Before I turn the mike over to Maria Luisa, I just  
■ want to mention that, as I think most people know, but I want  
■ to acknowledge particularly, Maria Luisa was the recipient  
■ this year of California Borough Legal Assistance's Cruz [in  
■ Spanish] Award. And a most deserving recipient she is.  
■ Congratulations. We're very proud of you, and to be serving  
■ with you.

■           MS. MERCADO: Thank you. It was a great honor.  
■ And aside from that reporting, one of the things that I  
■ wanted to also do is to report to you, Mr. Chairman, and the  
■ rest of the board members, that I did attend the Rural  
■ Symposium in Nebraska City, Nebraska, on behalf of the board,  
■ and had some excellent discussions with a lot of our legal  
■ services providers in the rural communities, but also with  
■ some of our partners that were NLADA -- Don Saunders was  
■ there, and, of course, some other folks from the APA, and  
■ also the social service community -- in trying to look at  
■ seriously how do we represent a group who more and more, of  
■ course, as funding continues to be a problem for us, they see  
■ themselves as sort of being the first cut in the

reconfiguration and consolidation of programs. And how do we find creative ways of delivering that kind of legal services for them, and also in making sure that they have a national network for rural issues.

And as a result of that symposium, they did have a follow-up where they will continue the national discussion with our legal services providers and our partners out there, a network that will be followed up by NLADA and LSC. And just as we had discussed, that several years ago we had over 300 staff members there in LSC, and, you know, now we're at 106 or what-have-you.

And the rural community, as well as the migrant community and Native American community, would like to see, as one of the goals to work toward for legal services, to actually have a desk on rural issues or a desk on migrant programs. But again, the realities of our funding and the fact that our staff members are carrying a thousand hats with work that they have to do between programs and compliance and technology.

But nevertheless, that is a discussion that we will be involved in. And, of course, this was all made possible



■ by our staff. In particular, Randi Youells. Coordinating as  
■ well -- and my brain just left me -- Melissa --

■ MS. PERSHING: Melissa Pershing.

■ MS. MERCADO: -- Pershing and Regina Derzon, who  
■ was the coordinator. And then we had two local Nebraska  
■ attorneys that were the moderators or facilitators for the  
■ conference. And you will be getting or receiving  
■ recommendations from that meeting that all our programs ought  
■ to work on, of course, in dealing with the future board for  
■ the concerns on how to deal with rural delivery. Because all  
■ our states have suffered as a result of that.

■ But on the front end, the great thing about it is  
■ that these are all people that have been very committed to  
■ providing legal services. Many have been doing it for many  
■ years, and very active in getting assistance of the courts or  
■ the local bars to try and deliver legal services. And, of  
■ course, we hope that that conversation continues, and that  
■ Legal Services will be able to not only be supportive morally  
■ and with similar stuff, but also financially in the long run  
■ in providing the delivery.

■ And I have been asked as sort of the LSC board

member, just so that you don't think that we forgot you, to give you these T-shirts from the national discussion on rural delivery. And here's, of course, the regular rural post office, postal boxes that you see in rural --

CHAIR EAKELEY: John and Nancy, it reads, "Justice in Rural America" -- turn it back over -- with some boxes, some post office boxes.

MS. MERCADO: "Justice in Rural America," and then it has "Legal Services" as one of the boxes, "will deliver."

CHAIR EAKELEY: Very nice.

MR. BRODERICK: Wonderful.

MS. MERCADO: So I will get these in order.

MS. MORGAN BATTLE: One size fits all, right?

CHAIR EAKELEY: While you're doing that, it's a little sticky in here. Anyone who wants to remove his or her jacket, please feel free to do so, as I will.

Is that it, Maria Luisa?

MS. MERCADO: That is it for my report.

CHAIR EAKELEY: Thank you. Bucky?

MR. ASKEW: Thank you, Mr. Chairman. The technology grants that were made in the State of Georgia were

■ quite significant. And what was the date, Mauricio? That we  
■ held a press conference.

■ MR. VIVERO: October 3rd?

■ MR. ASKEW: October 3rd, a press conference was  
■ held in Atlanta, sponsored by our chief justice, to announce  
■ the two technology grants to the two programs in Georgia. We  
■ had a nice turnout of people there from the bar, from the  
■ court, from the local programs, and got some press coverage  
■ out of it. And it was a very nice event, and our chief was  
■ quite engaged and impressed with that. So that was a very  
■ nice event.

■ I have also personally heard from a number of  
■ people who participated in the conferences that have been  
■ held since our last board meeting. I think there was also a  
■ technology conference that the reviews have been really quite  
■ wonderful. And the woman who went from Georgia that attended  
■ our Access to Justice Committee meeting Tuesday said that she  
■ not only learned a huge amount; she developed a whole new  
■ network of people to communicate with. And I think we're  
■ going to see benefits from that that will carry over without  
■ us having to be directly engaged, with programs communicating

█ directly with each other as a result of that. So that's a  
█ very positive development as well, I think. That's all I  
█ have.

█ CHAIR EAKELEY: LaVeeda.

█ MS. MORGAN BATTLE: I don't have anything  
█ significant to report. Alabama is in the throes of its own  
█ state planning, and so a new coalition, members of our  
█ community of justice, are in dialogue right now about what  
█ our vision for state planning will be. And I think it's a  
█ very productive process.

█ CHAIR EAKELEY: Edna.

█ MS. FAIRBANKS-WILLIAMS: Well, I can report that I  
█ haven't eaten any beavers lately, but --

█ (Laughter.)

█ MS. FAIRBANKS-WILLIAMS: We are about ready to  
█ issue a couple of reports of our study of the juvenile and  
█ family court things. And in one of the upper counties, they  
█ have a lawyer that donates his time. He goes once a day and  
█ stays there all day, and they say that things are moving much  
█ faster with his help. So that's a thing to think about.

█ CHAIR EAKELEY: Ernestine.

MS. WATLINGTON: Other than that state -- council in Pennsylvania, I need to go through a reorganization. Because where we went to them last, programs. Instead of in programs, they're now in regions. And to get the council more active. So I met with them, and I did promise I'd help them on their ad hoc bylaws committee, and going back, redoing it, stating what the organization is supposed to be about, and how we can do it. So that's what we're doing with the state -- council in Pennsylvania. The committee report, I'll report later.

CHAIR EAKELEY: Okay, great. Nancy.

MS. ROGERS: Legal services agencies in Ohio have been cut deeply. You will know better than I, but I think it may be the second deepest cut nationally in terms of percentages. And though there is much sadness, many layoffs going on, and much worry about the provision of legal services here, the Supreme Court of Ohio, in an unusual step, made \$500,000 available, despite the Supreme Court having budget cuts for legal services. So it's the wrong endorsement of the need from the court system in Ohio.

Some good news is that a group of students about 50

■ strong who provide volunteer research backup for legal  
■ services across Ohio at the Ohio State University College of  
■ Law are being honored next week by the Columbus Bar  
■ Association, the outstanding program contributing to  
■ improvement of the administration of justice.

■ CHAIR EAKELEY: Great. Justice Broderick.

■ MR. BRODERICK: Mr. Chairman, I don't have anything  
■ specific to report, other than to say that I have missed  
■ being with all of you and with the staff all these months.  
■ And I hope you don't take this in a threatening way, but I  
■ intend to be with you in January if, indeed, we meet. So I'm  
■ looking forward to getting back with all of you.

■ CHAIR EAKELEY: That would be great, John. In  
■ fact, my one regret about scheduling this meeting for  
■ California, in an otherwise spectacular visit, was your  
■ inability to travel here with us.

■ MR. BRODERICK: Well, Mauricio told me that had  
■ originally scheduled the next meeting for Honolulu.

■ (Laughter.)

■ MR. BRODERICK: But I look forward to seeing  
■ everybody in Washington in January.

CHAIR EAKELEY: Okay. Well, that concludes our members' reports. And now that Justice Johnson is here, why don't we invite him up to the table, I guess you'd call it. It's neither a dais nor a podium, Your Honor. But welcome back.

JUSTICE JOHNSON: I remember speaking to you a few years ago.

CHAIR EAKELEY: I don't think I can properly set the scene, but let me just try a few words. I'm sorry that I got ahead of the promotional bit last night and got you up to the Supreme Court in advance of others.

But as you all know, Justice Johnson is an associate justice of the California Court of Appeals. He served as a federal prosecutor, as a legal services lawyer, as the director of the OEO Legal Services Program, as a judge, as a professor, as the, I guess, chairman of the Equal Justice Library, and also really founding chair of California's Equal Justice Commission.

I think I've commended to everybody here on several different occasions his books, Justice and Reform and Toward Equal Justice. One of my prized possessions is an

■ autographed copy of Justice and Reform. And he's been just a  
■ constant beacon and signal light and guide for all of us in  
■ our tenure here. And it's just great to see you again, and  
■ have you back, and have an opportunity to listen to you  
■ again.

■ JUSTICE JOHNSON: Well, Mr. Eakeley, you are far  
■ too kind. My appreciation goes to the members of this board  
■ and to the legal services lawyers, who are fighting this very  
■ good and very hard fight for so many years. It was much  
■ easier in the days when I was involved in OEO Legal Services,  
■ where the winds were blowing in our direction all the time,  
■ or more or less. And it's much more difficult to guide the  
■ vessel when the winds are sometimes cross currents, or coming  
■ from the opposite direction. And you have done a marvelous  
■ job of keeping the vessel afloat.

■ I'm here to talk to you about the California Access  
■ to Justice Commission. First, welcome to California. We  
■ have 6-1/2 million poor people in California, which is more  
■ people than most states have. In Los Angeles County, we have  
■ about 2 million poor people, which is more people than most  
■ cities and counties have.



Imagine you're in a state with a population of 6-1/2 million. How many lawyers do you think there would be in that state to serve that 6-1/2 million people? Well, if you go by the national average, about 25,000. There are, for our mini state of poor people within our state, for our 6-1/2 million, there are about 650 lawyers. So you get some idea of the enormous task that that limited cadre of lawyers faces in trying to provide equal justice, or some form of justice, at least, to that many people.

The concerns that a number of us in the legal services community, and I still identify to a certain extent with the legal services community in California, about the dearth of legal services available in our state led us to approach the then-President of the California State Bar, who, fortunately, was Harvey Saperstein, who two years before had been President of the board of the Legal Aid Foundation of Los Angeles, so was fully acquainted and fully sympathetic with the kinds of things we were talking about.

We said we have really gone as far as we can go depending entirely upon the political support of the organized bar. We have got to begin to involve the bench.

■ We have got to begin involving other parts of the -- other  
■ interest groups and other parts of the population in their  
■ support for legal services.

■ And so this led to the creation of what was called  
■ the working group. We felt we had to come up with a plan, a  
■ program, and a justification for this kind of enterprise. It  
■ took us about three years to produce a report called And  
■ Justice For All. Some of you may have seen it. There's  
■ obviously many findings. It's a well-documented proof of the  
■ great need for legal services.

■ But one of the most salient things that's in it is  
■ that while the bottom 20 percent of the population had five  
■ percent of the state's income, and through MediCal, had about  
■ 12 percent of the health care resources, they had less than  
■ half of a percent of the legal resources in the State of  
■ California. As a result, the vast majority of poor  
■ Californians couldn't get legal representation, and couldn't  
■ get justice.

■ We also found that not only was California behind  
■ all the common-law countries -- and I guess this is true of  
■ the United States as a whole, not just of California -- and

■ many other industrial democracies, many of which have either  
■ a statutory or constitutional right to counsel in civil  
■ cases, and which invest anywhere from five to ten times as  
■ much per capita in civil legal services for poor people, but  
■ we found that California was behind a lot of the other states  
■ of the union. In particular, in terms of the state  
■ government commitment. There was not one dollar of state  
■ government money in civil legal services in California.  
■ Well, a number of states had substantial investments.

■ The report has -- I don't know -- a score of  
■ recommendations, but one of those recommendations was we  
■ should create a broad-based commission on Access to Justice.

■ And that commission was established and had its first  
■ meeting in July of 1997, so we're about five years out from  
■ the creation of the commission.

■ It has representatives from the Judicial Council  
■ and the California Judges Association. It has  
■ representatives designated by the other branches of  
■ government, the governor, the attorney general. Both houses  
■ of the legislature have representatives on this commission.

■ And it also has the California Chamber of Commerce

■ has a representative. The California Labor Federation has a  
■ representative. The League of Women Voters has a  
■ representative. The Council of Churches has a  
■ representative. So it is a broad-based commission.

■ We are now five years out. We are about to  
■ release, on November 20th, our five-year progress report.  
■ Now, this progress report will cover not just things that  
■ have been initiatives of the commission itself, but it's  
■ really a report on the status of Access to Justice five years  
■ out after the creation of the commission.

■ But I'm going to just talk about some of the  
■ initiatives that the commission itself can claim some credit  
■ for. I guess the most important is the Equal Access Fund,  
■ which was created in 1999. For the first time, state  
■ government funding -- in this case, about \$10 million -- for  
■ civil legal services for the poor.

■ This resulted directly from the work of the  
■ commission's funding committee, which, incidentally, was  
■ chaired by Harvey Saperstein, who had been the President that  
■ had gotten this whole ball rolling.

■ But probably equally important symbolically is that

■ this Equal Access Fund is part of the judiciary's budget. It  
■ is, therefore, much more protected than it would be if it  
■ just sat out there by itself. And it also represents  
■ symbolically that it's an integral part -- now perceived as  
■ an integral part of the judicial system, instead of a third-  
■ class afterthought, which we think is very important. It has  
■ great support from the chief justice, Ron George, who,  
■ incidentally, is now the chair of the conference chief  
■ justices, so maybe helpful at the national level as well.  
■ But he is very much committed to this.

■ We did a lot of things, also, to make the courts  
■ more user-friendly for people. The commission proposed, and  
■ the Judicial Council adopted, what are called access  
■ protocols. That means that whenever one of the courts is  
■ considering some proposal, they have to take an account of  
■ the impact of that change in policy or that change in court  
■ rule on access for poor people.

■ Also, education on access issues is billed into the  
■ curriculum of the judicial training. Another thing we've  
■ been working on is a limited scope legal service, what's  
■ called unbundling. It started with an Access Commission

report, which was the catalyst for the state bar and the Judicial Council to move forward on it.

We are now concerned -- we have set up a language access project. You heard a lot about the variety of languages used here. It's a problem, obviously, for legal services lawyers, but it's even more a problem when you're talking about self-represented litigants. How are they going to be able to represent themselves when they don't speak the language the judge does, and the judge doesn't speak their language? So we have set up a committee. It already has had a summit bringing together a lot of people on this issue. It's in the process of doing a survey and preparing a report, and will be setting up a clearinghouse of best practices in this area. So we think there will be a lot of movement on that in the next year or so.

And maybe most significantly, we have embarked on a public information project. We found that there is a great deal of either lack of information or misinformation in the general public about this. The California State Bar, about a decade ago, did a survey asking the general public's knowledge of various legal issues and rights and so forth.

■ The question that elicited the most erroneous responses was  
■ the question that revealed that almost 70 percent of the  
■ population thought there was already a legal right to free  
■ counsel for indigents in civil cases.

■ And pair that with the fact that there was also 70  
■ to 85 percent in different polls support for civil legal  
■ services among the general public, civil legal services for  
■ poor people and for public funding of same.

■ But we thought we needed to start a public  
■ information campaign to build knowledge and support for  
■ greater access for poor people. And this is one of those  
■ kinds of projects. The commission instigated it, and then is  
■ now handing it off to the public interest clearinghouse to  
■ actually operate. But we have -- one of the top-notch PR  
■ firms in the state is working with us on this.

■ So where are we five years out, particularly on the  
■ funding issue? Well, there's good news and there's bad news.

■ The good news is that public funding, combined federal,  
■ state IOLTA and so forth, is up 40 percent in the last five  
■ years, 27 percent corrected for inflation. Private funding  
■ foundations and private donations is up 70 percent in

California, 55 percent corrected for inflation. We have a total of about 85 million in public funding, and about a 150 million total funding. Now, that's the good news.

Remember the size of our poverty population.

Despite what sounds like fairly substantial numbers, we are far behind many other states, comparable states, in public funding, although we are ahead of most in private funding. We only have about a third as much per capita in public funding as states like New Jersey and Minnesota, and about half as much as, say, Maryland or Massachusetts or New York or the State of Washington. And our dependence on private funding has some adverse consequences, particularly, its very unevenly distributed.

San Francisco, for instance, has over three times as much total legal services funding per capita as Los Angeles, because there's foundations there, very liberal and well-to-do people community, or six times as much per capita as in some of the rural areas of the state.

So it's good news and bad news. Looking to the future, we have set an interim goal again for five years out from now of reaching a point where we are able to deliver



■ legal services to 50 percent of the people that need it,  
■ instead of less than 30 percent, as we are now. And that's  
■ going to take substantial additional state funding, it's  
■ going to take substantial additional private funding, and we  
■ hope substantial increased federal funding. If so, we can  
■ reach that goal.

■ We have some things in our favor. And probably the  
■ biggest thing we have in our favor is the strong support of  
■ the chief justice of the State of California.

■ I'm going to end this presentation with how our  
■ about-to-be-released report begins, which is with a quote  
■ from Chief Justice Ron George's State of the Judiciary speech  
■ in 2001. And what he said then was, "If the motto 'And  
■ justice for all' becomes 'And justice for those who can  
■ afford it,' we threaten the very underpinnings of our social  
■ contract."

■ My only concern is that we already -- that motto,  
■ the reality is that it's still justice for those who can  
■ afford it, and not justice for all. But maybe in a few  
■ years, we'll all be sitting here in a much more favorable  
■ posture, and a lot closer to having that justice for all.

■ Thank you.

■ CHAIR EAKELEY: Thank you very much. Any questions  
■ or comments for Justice Johnson?

■ (No response.)

■ CHAIR EAKELEY: Thank you for sharing your Saturday  
■ morning with us, and for the perspective and the challenge  
■ for the future. Yeah, Maria Luisa?

■ MS. MERCADO: Would it be possible for us to get  
■ copies of your report that you're --

■ CHAIR EAKELEY: When it's released, hopefully.

■ JUSTICE JOHNSON: I think we're going to try and  
■ make arrangements so we can give them to you as --

■ CHAIR EAKELEY: We'll be very interested in reading  
■ it.

■ MR. VIVERO: Before you leave, you'll have a copy.

■ CHAIR EAKELEY: Okay. Great.

■ JUSTICE JOHNSON: Well, I enjoyed it, again, and  
■ good to see old friends.

■ CHAIR EAKELEY: Thank you so much. Now I'd like to  
■ ask Len Koczur to come up and present his report.

■ MR. KOCZUR: Thank you, Mr. Chairman. I'll start

with our audit program. We continued our program integrity audits since the last meeting. We completed the audit at middle Tennessee and the Cumberland, and issued a draft report in late September. We're continuing to work on the CRLA audit. Basically, we're summarizing pulling the information together and preparing a draft report on that.

We started an audit at South Central Michigan the 28th of October, and we started at Legal Services of Northwest Ohio November 4th.

Since our last meeting, we issued a summary report on the IPA reports on our grantees. As I reported last time, basically, these reports show that our grantees were generally complying with the regulations. There were no reports that the grantees failed to comply with prohibitions and restrictions. We referred 36 findings to management for follow-up, and generally, these were in the area of internal control type issues as the single biggest problem that was reported.

We continue to work on the IPA reports. A number of grantees have fiscal years that end June 30th, and those reports are due October 31st, and we're continuing to review

■ those. Basically, we have 31 reports. One report was late.

■ We issued a semi-annual report, as required by the  
■ end of September. The board is required by the IG Act to  
■ provide the report to Congress, along with any comments it  
■ may have by the end of November.

■ CHAIR EAKELEY: And we have to schedule a  
■ conference call for that, just as a reminder to everyone.

■ MR. KOCZUR: I believe everyone on the board  
■ received a copy of the report.

■ And finally, towards the end of October, I issued a  
■ document called Audit Procedures, which outlined our audit  
■ process from the point where we select a grantee for an audit  
■ through the completion of the final audit report, emphasizing  
■ what we do prior to going on site at the grantee. The  
■ general work we do on site, obviously, each audit differs.  
■ Even though the program integrity audits are similar,  
■ depending on the record-keeping and issues at each grantee,  
■ the process, the records we need, may differ slightly. And  
■ then went on to what we do preparing the draft report and  
■ final report and so forth.

■ It was kind of interesting. I got calls from two

program directors that wanted to know if issuing these procedures meant that they were next to be audited. I assured them that there was at least a two-month lag before we'd be visiting anyone.

CHAIR EAKELEY: That's all the comment you got after that?

MR. KOCZUR: Yes, that was it. Of course, they just went out in late October, so this was immediate reaction from just, as I said, two individuals.

The second major area I'd like to talk about is our mapping project. This project was conducted with the two grantees in Georgia, Georgia Legal Services and Atlanta Legal Services. We have pretty much completed the technical work. We've created a number of maps, and we have a report from our consultant that did the mapping work. We're analyzing that report and the information, and are going to prepare a report, an IG report.

Basically, the conclusion is -- the preliminary conclusion at this point is -- and I think the grantees support this also -- that maps are a useful tool for managers. They can show where performance is high and where

■ performance improvements are needed. It identifies served  
■ areas, underserved areas. It enables managers to ask  
■ questions. The mapping will not answer questions. It leads  
■ managers to ask questions. Why is this office apparently  
■ performing better than another office? And there's a lot of  
■ reasons for this, and the maps in themselves do not indicate  
■ that someone is doing it very well, or somebody's doing very  
■ poorly. It's a tool to get the managers, the program  
■ directors, to ask questions of their staff.

■           And so we think that it should prove a very, very  
■ useful tool for managers that they can use to improve the  
■ program. It improves their delivery of service.

■           It was very interesting in Georgia, of course,  
■ because Georgia Legal Services has such a large area and a  
■ lot of rural programs, and you could see very easily where  
■ the clients were and they were centered. But then they still  
■ have the problem of reaching the rural clients, who aren't  
■ there. And it indicated, you know, if the offices were, you  
■ know, perhaps in the right place. I think in Georgia, it  
■ turned out that everyone agreed the offices were properly  
■ located.

■                   And it just raised -- the thing about the maps is  
■ you can see them. You don't have statistics. It's there.  
■ You can see in color that this branch is closing a lot more  
■ cases than one right next to it. And so you ask the question  
■ why. It's kind of sterile. If you look at statistics that  
■ say, "Well, this branch closed 50 cases, and this one 20,"  
■ that doesn't convey a lot. But when you see it on the map,  
■ and you also have the position of how many clients are in  
■ that area and that type of thing, it's a very, very good  
■ management tool.

■                   So this project has gone on for some time. We're  
■ pretty much finished now. As I said, we'll issue a report  
■ and give a much more extensive presentation at the next board  
■ meeting. And certainly by that time, we'll have the final  
■ reports issued. And then we're looking forward to what  
■ should we do with this.

■                   We've talked to Bob Cohen here in Orange County  
■ about expanding, doing some work out here. Dave Maddox, the  
■ assistant inspector general for information and resource  
■ management, and our consultant, gave a presentation at the  
■ TIG conference a couple weeks ago that was very well received

■ on this mapping. And I think there's a good chance that more  
■ of our grantees would be interested in being involved in this  
■ kind of project.

■ As I said, the next board meeting, we'll go into a  
■ much more detailed presentation.

■ CHAIR EAKELEY: We actually saw a demonstration of  
■ mapping at work yesterday in one of the presentations, where  
■ a mapping revealed a grossly underserved area. And that led  
■ to a diagnosis of the cause and a change in the operations of  
■ the provider.

■ MR. KOCZUR: The maps that we produced in Georgia  
■ showed several cases like that. On the other side too, where  
■ there was very good service provided. And the program  
■ director looked into it, and there was a very interesting  
■ reason. It just happened that a lot of attorneys retired to  
■ this area, and so they continued to provide pro bono  
■ services. So that office closed a lot of cases with  
■ relatively few resources.

■ CHAIR EAKELEY: Well, we look forward to the  
■ presentation. I'm sorry we didn't have enough time to  
■ accommodate it on today's agenda, but it's going to be



■ worthwhile in January. Maria Luisa?

■ MS. MERCADO: Yes. I know you'll probably do this  
■ in the January report, but I was just curious. In the  
■ mapping, when you look at, like, number of cases that are  
■ close to one program or the other, are you taking into  
■ consideration in your data gathering the complexity of the  
■ cases that are closed, or, you know, the amount of hours that  
■ are spent on the case, or anything like that?

■ MR. KOCZUR: No. That's something we can't deal  
■ with at this level. It's a higher level.

■ CHAIR EAKELEY: But it does give you some sense of  
■ numbers of contacts or lack of contact between pockets of  
■ presumably qualified and eligible and needy groups or  
■ neighborhoods and the local provider.

■ MS. MERCADO: And, in fact, in the Rural Symposium  
■ that I was at, one of the key areas that they were looking at  
■ was in documenting this lack of presentation to rural areas  
■ and rural delivery, and mapping obviously would be able to do  
■ that for you. So, you know, it's a tool that can be used for  
■ a whole lot of other reasons.

■ MR. KOCZUR: That's one of the things I did. We

■ see it as -- I don't like to use the term "marketing,"  
■ because that kind of may have a bad connotation. But it  
■ enables the program directors to show localities that -- what  
■ the need is in the area, and what they can provide with  
■ current resources, and perhaps get resources from the local  
■ government, the local United Way, or things like that. So it  
■ can be used to help get additional resources to come into the  
■ programs. So you're right. There are just a lot of uses  
■ that can be made.

■ But the thing that -- it doesn't answer the  
■ questions. It gives the program managers the information  
■ they need to ask questions.

■ CHAIR EAKELEY: You can't find solutions if you  
■ don't define the problem.

■ MR. KOCZUR: In the executive session, I'll go into  
■ our investigation and some other sensitive issues.

■ CHAIR EAKELEY: Thank you, Len. Any other  
■ questions for the Inspector General?

■ (No response.)

■ CHAIR EAKELEY: Hearing none, thank you again.

■ Next, I think, we turn to the president's report. John

■ Erlenborn.

■ MR. ERLBORN: Thank you, Mr. Chairman. I'm  
■ pleased to report that management and staff have had an  
■ extremely busy and productive fall. It afforded LSC's  
■ leadership numerous opportunities to recognize advocates in  
■ the field, and make announcements with key stakeholders.

■ September 24th, LSC sent its fiscal year 2004  
■ budget request to the Office of Management and Budget for its  
■ consideration. LSC is asking for an increase of \$85.7  
■ million. This would bring our annual appropriation to 415  
■ million, equal to our original funding level in fiscal year  
■ '94.

■ Our request asked for 375 million for general  
■ client services, 20 million for technology initiatives, 17.7  
■ million for management and administration, and 2.6 million  
■ for the Office of Inspector General.

■ We will be discussing our funding request with the  
■ new Congress elected last Tuesday. Mauricio and his staff  
■ plan to reach out to new members in the House and the Senate  
■ in the coming months to make the case for the funding  
■ increase.

With Congressman Barr's primary defeat in August, LSC will have a new chairman of its Oversight Subcommittee. The gavel will not pass directly to Congressman Gekas, or in any way Congressman Gekas, because he was defeated. He was a long-time member of the Commercial Administrative Law Subcommittee. He lost his re-election bid last Tuesday, and a new chair is expected to be named in January.

In our letter to OMB director Mitch Daniels, we explained that the request comes at a time when the new census shows that our grantees have more clients to serve than ever before. More than 43 million Americans are now eligible for our services. We noted the importance of a federal increase, given that outside funding sources are stagnant. And actually, many of them more than stagnant. They're doing a very poor job of staying anywhere near where they were in the past. This is a result of budget crisis in almost every state. A stock market downturn, record-low IOLTA rates, and census funding cuts in many states.

This morning, you received LSC's just-published 2000-2001 Annual Report entitled "Progress in the New Millennium." The report describes LSC's successful reforms

over the last two years, and the strides that we've made in the capital and in the field in cultivating support for legal services. The report highlights our efforts to transform state systems into justice communities, as well as our advocates' heroic responses in the aftermath of 9/11, our rededication to clients last year in Hershey, our success in securing bipartisan support, and our implementation of new technologies to reach underserved clients. This report creates an impressive record of the breadth and depth of LSC's accomplishments in the first two years of the new century.

Oregon continues to be a model in how to form beneficial partnerships and raise the profile of legal services. When LSC's Equal Justice Magazine highlighted the experiment in its last issue, the article noted that the state's Open House Day has focused statewide attention on civil justice challenges while encouraging more pro bono activity.

This fall, Mauricio and Eric continue GRPA's successful press conference series announcing the most innovative LSC technology projects. In Columbus,

■ Congresswoman Deborah Pryce, the highest-ranking Republican  
■ woman in the House of Representatives, was joined by Nancy  
■ Rogers and me to announce funding for a statewide self-help  
■ web site.

■ Over Labor Day weekend, LSC held a successful event  
■ in Austin with Congressman Lloyd Doggett, Texas Supreme Court  
■ Justice Deborah Hankinson, and University of Texas Law School  
■ Dean William Powers. We announced an innovative partnership  
■ between TRLA and UT Law School that will utilize law students  
■ to staff a call center dispensing legal advice to low-income  
■ clients. The announcement received news coverage by three  
■ local television stations and a half dozen print reports.

■ LSC also had a strong presence at the first-ever  
■ statewide legal aid summit in Mississippi, convened by State  
■ Supreme Court Justice Edwin Lloyd Pittman. We announced a  
■ half-million-dollar TIG grant, our largest of the funding  
■ cycle, at the meeting in Jackson. The funds will be used to  
■ build a technology infrastructure in the state.

■ In addition, we will be manning a booth next  
■ weekend at the NLADA conference in Milwaukee, where we will  
■ distribute free copies and sign up advocates for our LSC

■ updates e-mail alert.

■ In the fall issue, we make our case for the \$415  
■ million funding increase. The magazine also features  
■ articles about the pro se issue, profiles on State Supreme  
■ Court Justices Margaret Marshall of Massachusetts and Thomas  
■ Kilbride of Illinois, and a cover story about a Chicago  
■ project aimed at fighting racial and gender discrimination in  
■ employment.

■ Randi Youells traveled to Canada on September 11th  
■ to participate in the first Ontario Legal Aid Speakers  
■ Luncheon. Randi was invited to talk about the LSC State  
■ Planning Initiative to Canadian lawyers who are in the  
■ process of launching a similar effort. Randi told our  
■ neighbors to the north that state planning's strongest legacy  
■ has been its success in fostering cooperation among  
■ stakeholders. The engagement of entire state justice  
■ communities -- in particular, judges, legislators, bar  
■ members -- has led to funding increases for our grantees.  
■ Randi noted that private bar giving is at an all-time high.  
■ She also discussed how state planning has addressed the  
■ access barriers facing so many eligible clients, especially

■ non-English-speaking.

■           Randi received a warm reception from the Canadian  
■ bar and their legal services providers. In turn, leaders  
■ from the Canadian legal aid community traveled to Nebraska  
■ last weekend to participate in LSC's Rural Delivery  
■ Symposium.

■           Also in September, Randi joined the Montana public  
■ interest community to speak at the first-ever Equal Justice  
■ Conference. She and former ABA President Bob Hirshon  
■ addressed this productive meeting attended by lawyers from  
■ around the state dedicated to ensuring civil justice. Randi  
■ congratulated conferees for holding the historic meeting.  
■ She also talked about some of the indicators of the thriving  
■ justice community, such as making the highest and best use of  
■ all available funding, forging meaningful working  
■ relationships with partners, and recognizing the value of  
■ diversity.

■           Finally, Randi was in Phoenix a month ago for the  
■ 50th anniversary of Community Legal Services. You will find  
■ her speech in the Provisions Committee section of our board  
■ book. In her remarks, Randi honored CLS advocates on their



program's golden anniversary. She saluted Executive Director Lillian Johnson and her hard-working staff for embodying the four pillars of a strong legal services program: leadership, stewardship, creativity, and commitment.

If you haven't read Randi's speech yet, I encourage you to do so. A few days after Randi returned, a staff person from CLS sent her a thank you e-mail saying how much it meant for them to receive the recognition from LSC. All three of Randi's speeches are on the web site. So are photos from our extremely successful Rural Issues Delivery Symposium in Nebraska City. And if you have not seen them yet, you might want to visit our site.

We have also included a discussion by Randi's LSC work in developing a state planning evaluation instrument. It was published in the MIE Journal in the fall of 2002. She wrote this at the request of the MIE Journal to help readers, including our grantees, understand LSC's goals in designing and implementing the state planning evaluation project.

And I think you can see how many of these things that Randi has been involved in will help us achieve some of the measures that we talked about yesterday that are so

■ necessary, measures of our meeting, or at least improving,  
■ our grasp toward the ends that we hope to achieve.

■ And by the way, we didn't see much of Randi during  
■ the last month or six weeks. It's good to see you here.

■ Finally, congratulations go to the Office of Legal  
■ Affairs, which recently won a big courtroom victory in New  
■ Jersey. As you now, the Passaic Legal Services has filed a  
■ suit to block reconfiguration in that state. A federal  
■ district judge recently denied Passaic's motion for a  
■ preliminary injunction, saying Passaic had no probability of  
■ success on the merits. The judge said that Passaic was  
■ allowed to bid on the new service area, and therefore, had no  
■ grounds to complain. He also found that there was no  
■ irreparable injuries, since LSC funds comprise only 15  
■ percent of the program's funding.

■ And finally, he stated that only New Jersey's  
■ designated state planning body can challenge an LSC  
■ reconfiguration decision. And that last item, I hope, will  
■ be something that will be noted by other courts when the  
■ issue is presented to them.

■ The judge did allow briefs and oral arguments on

one issue only, alleged tortuous interference with the business relationship. However, the judge was skeptical that Passaic could make a successful case in this regard.

And finally, Mr. Chairman, I'd be remiss if I didn't mention Victor's work toward getting the new program -- excuse me -- the new building ready for us for next spring.

It's amazing to see how he has picked up on this. He's talking like the experts. He knows what's going on. And he does an awful lot. He puts an awful lot of his efforts into this building project, and I think he deserves a lot of credit.

CHAIR EAKELEY: I noticed he was sort of walking a different walk and talking a different talk since the last time we saw him.

MR. ERLNBORN: Thank you, Mr. Chairman.

CHAIR EAKELEY: Thank you, John. Any questions or comments on the President's report?

MS. MERCADO: All I can say is that I know it may seem like Randi was out there a lot. But I can speak at least from the Rural Symposium that the Legal Services Corporation as an entity was aptly represented. I mean,

■ she's there throughout the whole time. And people are  
■ constantly asking, you know, "What is LSC going to do about  
■ this?" "What are they going to do about that?" You know,  
■ "How do you respond to that?"

■ So as far as we as the board, you know, having your  
■ staff that responds to the field and to our partners and  
■ delivering legal services, we certainly have hard-working  
■ people that are out there.

■ And, of course, Mauricio was there doing -- also in  
■ the Rural Delivery Symposium, asking the International  
■ Leadership Conference of Hispanic Leaders that was there,  
■ also carrying out the messages about legal services. So, I  
■ mean, our staff are out there.

■ It seems like -- but they're trying to get all the  
■ important information, figuring out what is the best way for  
■ us to deliver our legal services.

■ CHAIR EAKELEY: Well, I think it was great. You  
■ were there, too. I think we probably ought to renew efforts  
■ to engage more board members or new board members in going  
■ forward. But I think there continues to be an interest on  
■ the part of board members to participate when needed or

useful. And I thought Randi's note to you to thank you for attending and what that meant was appropriate, but also highlighted just how important it was for you to be there too. So that worked out well.

The one other footnote I wanted to mention to John's report is that Latham & Watkins was retained by the Legal Services Corporation to represent us in the Passaic County Legal Services Corporation case, and did so entirely pro bono. So it was a very nice contribution, and a major -- a short-term expedited briefing schedule, and obviously, a pretty good result so far.

MS. MORGAN BATTLE: I just wanted to mention, you mentioned work that some law schools are doing around the Access to Justice issue, and I forgot to mention during my report work that I'm doing with a Yale law professor, and a compendium of articles done by Yale law students on the future of Access to Justice and Legal Services that I forgot to bring with me. But I will bring it to our next meeting, so that we can share some of the things that students are looking at and looking to the future for Access to Justice and Legal Services.

CHAIR EAKELEY: Any other questions or comments?

(No response.)

CHAIR EAKELEY: Next, then, is "Consider and act on the report of the board's Committee on Provision for the Delivery of Legal Services." Ernestine?

MS. WATLINGTON: Well, what can you say to add to what we received yesterday? I was telling the -- at the reception last night that you live in your community, and you know the problems are there, and you see them, but you're just really astonished when you really find out how serious it is in other places. It helps to give you that renewed commitment of trying to make a difference.

When I, you know, heard those statistics yesterday -- you know, we've been presented at board meetings with the migrant workers, but never just your regular everyday people trying to survive, low-income person. And to hear those numbers and those figures, and not only with the housing, with the health, and with the barrier of language.

There's nothing that we need to vote on today. But I don't think -- of going out and making a choice to come to a community. And I want to commend them on the tremendous

■ amount of work I'm sure they had to do to present that to us  
■ the way they did. That was a lot of staff work, working with  
■ the corporation and putting that together.

■ CHAIR EAKELEY: And I see Ahn's here, at least, and  
■ we thank her directly.

■ MS. WATLINGTON: Absolutely.

■ CHAIR EAKELEY: Eric, it seems to me that we should  
■ take the transcripts of the presentations and edit them, and  
■ find ways to circulate them. I don't know whether posting on  
■ the web site is an appropriate step, or putting them into a  
■ modest compilation that we could submit to our funders and  
■ Oversight Committee staff and the like. But the information  
■ and the message were so -- it was just really worthwhile. So  
■ hopefully, we can capture it and make good use of it.

■ MR. KLEIMAN: Another idea, we could put it -- post  
■ it as an Adobe Acrobat file on the web site, and include it  
■ in our e-mail updates. We have over a thousand subscribers  
■ to that. Then we can direct them to the web site, where they  
■ can read it there.

■ MR. MCCALPIN: I was about to say, as important as  
■ the transcript were the things that appeared on the overhead,

■ projections that appeared, or whatever you call the  
■ technology.

■ CHAIR EAKELEY: Power Point. I suspect that is not  
■ going to challenge our technologically-capable staff.

■ Good. Thank you, Ernestine. Next, we have  
■ "Consider and act on the report of the board's Finance  
■ Committee." Nancy?

■ M O T I O N

■ MS. ROGERS: Out of the Finance Committee meeting,  
■ we had some substantial discussion of modifications within  
■ the budget, and those are summarized, for those of you who  
■ weren't there, in a November 4th or November 5th memorandum  
■ that reviewed the budget and indicates what modifications  
■ have been made.

■ Having discussed those with David Richardson, the  
■ Finance Committee unanimously recommends to the board the  
■ approval of a resolution approving the modified budgets. And  
■ that resolution, I think, is Resolution 2002-20.

■ CHAIR EAKELEY: And somebody can help us out to  
■ find it in the meeting materials? Are they in the  
■ supplemental -- did the full board get the supplemental



materials, David? Hold on.

It's a little handout called "Supplemental Information for the Finance Committee." And the resolution is on page 12 of that supplemental -- and let me just read it, Nancy, if I could.

"Whereas, the Board of Directors of the Legal Services Corporation has reviewed LSC's operating experiences for FY 2002. Now, therefore, be it resolved that the board hereby adopts a consolidated operating budget totaling \$336,804,796 reflected in the attached documents, as revised, of which \$320,364,090 is for the delivery of legal assistance, 13,554,525 is for the management and administration, and 2,886,181 is for the Office of Inspector General."

And Nancy, you might just -- if you have the materials there, you might just go back to Attachment A and point out where the revisions are being made that we're being asked to approve. David's here, too.

MS. ROGERS: David is at the table, I hope?

CHAIR EAKELEY: David is about to be at the table.

MS. ROGERS: The revisions are primarily in what

■ had been anticipated to be carryover unrestricted net assets.

■ And those, if you look on page 5 of the supplemental

■ attachment, you will begin to see at the right side,

■ "Projected carryover unrestricted net assets." And a number

■ of revisions were made as the result of some additional

■ compensation expenses.

■ David, do you want to speak further?

■ MR. RICHARDSON: The only other highlight that I  
■ would make is when you look at page 5, and you look at column

■ 2, you'll see that this proposal moves money that was

■ originally projected for use. In the Executive Office, the

■ \$97,500 was redistributed to the Office of Human Resources

■ for 15,000; Information Technology for 70,000; and

■ Information Management for 12,500.

■ There are other adjustments for consulting, other  
■ operating expenses that are within budgets but did not have a  
■ budgetary impact between offices, such as these.

■ I'd be glad to answer any questions that you might  
■ have.

■ MR. ERLBORN: Might I ask, is it the proclivity  
■ to not spend all of the appropriation for the Executive

Office of the President, so that we could then help out at the end of the year?

MR. RICHARDSON: There was certainly some contingency money in there. Because, of course, we are trying to, as we have done for the last two years, tried to balance issues between this board and the coming-in board, and trying to make some money available for whatever operations or whatever projects that they would like to undertake. So we are now using that money that was set in for a contingency for those operations for these, yes. We do that each quarter.

MR. MCCALPIN: Pointed out that the Board of Directors has a bigger carryover than the Executive Office.

MR. ERLNBORN: I should hope so. They're so much bigger than we are.

CHAIR EAKELEY: That's for the new board's executive search, in fact. That's not for us. That wasn't our proposal to spend.

You know, I forgot to ask for a -- Nancy had moved the resolution. I read it precipitously. I don't recall whether we had a second.

■ MS. MORGAN BATTLE: I'll second it.

■ CHAIR EAKELEY: Well, LaVeeda has seconded it. And  
■ we're still in the discussion of -- any other questions? I  
■ have one. My understanding is that the carryover funds have  
■ been largely committed in the current operating budget for  
■ the current fiscal year. Is that right, David?

■ MR. RICHARDSON: That's correct. When we did a  
■ temporary operating budget for 2003, we included 670, almost  
■ \$680,000 of carryover funds to be used in 2003. When you net  
■ the figures that we have here, it's like 810, so there is an  
■ additional 130, \$140,000 that we'll be able to use for either  
■ contingency for some other issues that are going on, or being  
■ reallocated to operations within the corporations.

■ CHAIR EAKELEY: I would like to just ask management  
■ to consider, and I think we need also to consult with  
■ incoming board members informally. But we have one huge  
■ contingency confronting a number of our grantees right now,  
■ and that is the loss of significant funds, including the  
■ State of Ohio, as a consequence of the post-census  
■ readjustments.

■ Our carryover isn't going to come near the 19

million but those programs are losing. But it seems to me that if we could find -- if we have some contingent fund flexibility, the provision of some technical assistance to the most impacted programs might well be in order. And I would just encourage everyone to take a look at that between now and our next meeting to see whether or not we can find a means to alleviate this true hardship in some ways, or at least moderate it a bit.

And the other point I made in my opening remarks about taking another look at the budget to see whether we have a means of making marginal adjustments to enhance delivery, access, and quality, I think that's just something that ought to be an ongoing process.

If there are no other comments or questions, I will ask for a vote on the resolution. All those in favor, say "Aye."

(Chorus of ayes.)

CHAIR EAKELEY: Opposed?

(No response.)

CHAIR EAKELEY: The ayes have it. Nancy, back to you.

■ MS. ROGERS: There's no further report from the  
■ Finance Committee.

■ CHAIR EAKELEY: Well, thank you, Finance Committee.

■ Next, we have "Consider and act on the report of  
■ the board's Operations and Regulations Committee." Justice  
■ Broderick.

■ MR. BRODERICK: Mr. Chairman, I wonder if Mattie  
■ Condray is in the room.

■ MS. CONDRAY: Yes, I am.

■ MR. BRODERICK: And I wonder if Mattie is at the  
■ table, because we might want to be asking her some questions  
■ as we go. And Bucky and LaVeeda, obviously, were there  
■ yesterday, and they're free to jump in at any time they think  
■ appropriate.

■ We had a pretty lengthy meeting yesterday. It  
■ lasted 2-1/2 hours. And I think to say it was enjoyable  
■ might be an overstatement.

■ (Laughter.)

■ MR. BRODERICK: But I think it was productive.  
■ Specifically, we spent a fair amount of time on amended Rule  
■ 1611, which had been the subject of a negotiated rulemaking,

■ which went on for some time, and which I think I can report,  
■ both by comments from our staff and from field  
■ representatives who testified yesterday, that it was  
■ enormously successful. And I think agreement was struck on  
■ virtually all of the amendments. There was not great  
■ controversy in a broad sense.

■           There were a couple of items that were in dispute  
■ about which we heard testimony. One of them was the original  
■ Section 1611.7 dealing with retainer agreements, and the  
■ other was 1611.9 dealing with group representation. After  
■ much discussion before the committee, we voted unanimously to  
■ recommend to the board that 1611.7 as it appeared in the  
■ draft be eliminated, the feeling being that retainer  
■ agreements and notices defined in 1611.7 were not required by  
■ statute, were not required by Rules of Professional Conduct,  
■ and that we did not want to impose on the field additional  
■ burdens which best practices might indicate they follow. And  
■ I think in most cases, they would. But we felt we didn't  
■ have to burden them further if they chose not to be burdened.

■           We were also told by LSC staff that the number of  
■ times that the Office of Compliance Enforcement needs to look

at retainer agreements is diminimous. And so when you weight the additional time, trouble, and expense against the practical utility of doing it, we felt that it should be eliminated, and we made that recommendation unanimously.

The second issue is 1611.9, which deals with group representation. And if you have your board books handy, looking at my board book, I'm at page 110 in the upper right-hand corner. And the parameters of the issue on group representation are set out well at the bottom of page 110, and go on to page 111. In essence, the draft that we had before us yesterday would have prevented group representation by legal aid lawyers unless the groups were substantially composed of people who were otherwise eligible for legal assistance.

The field believes that we should roll that regulation back to look like it did prior to 1983. At that time, group representation was allowed where either substantial number of the members were eligible, or the primary purpose of the group was the furtherance of interests of persons in the community who could not afford legal services.



That really was the guts of the debate yesterday. We heard from the Office of the Inspector General; we heard from Office of Legal Affairs; we heard from the field. The field strongly recommended that we go back to the pre-1983 circumstance. The corporate staff, legal staff at the corporation, did not recommend we do that, but I think it's fair to say they weren't terribly opposed to it either. I don't think they felt it was illegal. They thought there were some policy issues that we needed to be concerned about, the main policy issue, I think, being that we might be criticized by some for trying to do indirectly what we cannot do directly. By that, I mean we might be providing services to a group that would have some members of the group who were not individually eligible for legal services, but the group's primary purpose, obviously, was to provide services to those who were not eligible. And our critics might say that we're trying to do by indirection what we couldn't do directly.

But our view unanimously at the Opps and Regs Committee was while it's a policy issue that we need to be aware of, it's not a policy issue we need to be frightened away on. And the field, at least it's representatives, they

understood the vigilance that would be required, and the potential criticism that could follow if they were not vigilant.

And anyway, that was basically the debate, and we would recommend that 1611.9 in the draft be modified to accommodate the pre-1983 regulation and its requirement.

I don't know whether LaVeeda or Bucky want to add anything, or whether, after they do that, Mattie wants to add anything.

MS. MORGAN BATTLE: I'd like to just read the specific language so that for those of the board members who have 1611.9 before them in the board book, you'll have the language that I think we adopted. And I think the committee's view was that we would put this out for notice and comment, and after receiving comment, make a final decision on it.

The changed language starting at the top in (a) would read, "A recipient may provide legal assistance supported with LSC funds to a group, corporation, association, or other entity if the recipient had determined that the group, corporation, association, or other entity

lacks and has no practical means of obtaining private counsel in the matter for which representation is sought, and one of the four following:

(1) At least a majority of the group's members are financially eligible for LSC-funded legal assistance; or (2) For a non-membership group, at least a majority of the individuals who are forming or operating the group are financially eligible for LSC-funded assistance; or (3) The group has as its principal function or activity the delivery of services to those persons in the community who would be financially eligible for LSC-funded assistance; or (4) The group has as its principal function or activity the furtherance of the interests of those persons in the community who would be financially eligible for LSC-funded assistance, and the representation sought relates to such function or activity."

So that language is a little bit different than what's in your board book, and I just wanted the other members to be aware of it.

CHAIR EAKELEY: So John, I take it the motion that you're offering is that the board approve for publication

■ Section 1611.9 as amended or modified or proposed by LaVeeda.

■ MR. BRODERICK: Yes, and --

■ MS. MORGAN BATTLE: Well, really, propose the whole  
■ rule.

■ CHAIR EAKELEY: Yes, it's the whole rule, but with  
■ the language changed from what's in the board book.

■ MS. MORGAN BATTLE: And other conforming changes as  
■ necessary.

■ MR. MCCALPIN: Were you giving the whole content of  
■ 1611.9, or --

■ MS. MORGAN BATTLE: No. Just the changed. (b) and  
■ (c) remain substantially as it is in your board book. (b)  
■ and (c) are -- there is an (a), (b), and (c) in 1611.9. The  
■ changes were principally to Section (a). (b) and (c) remain  
■ the same.

■ MR. BRODERICK: Mr. Chairman, I also want to  
■ indicate that unless one of my committee members corrects me,  
■ 1611, which was the retainer agreement section, would be  
■ deleted.

■ MS. MORGAN BATTLE: That's correct.

■ MR. BRODERICK: And so some of these sections would

■ be renumbered, obviously.

■ CHAIR EAKELEY: Right.

■ MR. BRODERICK: But we would delete 1611.7, and  
■ modify 1611.9. And we also unanimously recommend to the  
■ board that we have only a 30-day notice and comment period in  
■ view of the fact there's been an enormous effort put in to  
■ date by the working group.

■ CHAIR EAKELEY: So do you want to put this back  
■ into a motion?

■ M O T I O N

■ MR. BRODERICK: I would move, Mr. Chairman,  
■ consistent with the unanimous recommendation of the Opps and  
■ Regs Committee, that the board approve for publication 1611  
■ as modified and as recommended be modified by the Opps and  
■ Regs Committee, and that it be published in the Federal  
■ Register with a notice and comment period of 30 days.

■ CHAIR EAKELEY: Is there a second for that motion?

■ MR. ASKEW: Second.

■ MS. MORGAN BATTLE: I would second it. There was  
■ just one other minor correction in Section 1611.4, Financial

Eligibility for Legal Assistance. There was a misquote of a section in subsection (c).

CHAIR EAKELEY: But I think that's incorporated into the motion as it is. Comment.

MR. ERLNBORN: Mr. Chairman, question. I notice the language that I now have before me and LaVeeda had read just a few minutes ago requires one of the four alternate situations, and each one of them is based upon financial eligibility. Are there other places in the rule that go to other necessary qualifications other than just financial?

MS. MORGAN BATTLE: Well, no. Because this is particularly a rule addressing the issue of financial eligibility, the question -- the substantive question as to whether representation is within the priorities of a particular program would be addressed in another regulation.

MR. ERLNBORN: Well, I was not thinking of the priorities. I was thinking of the eligibilities, the fact that the person has to be eligible based upon their being an American citizen and other qualifications.

MS. MORGAN BATTLE: Mattie?

MS. CONDRAY: If I may. This regulation only talks

■ to financial eligibility. Eligibility of groups and/or  
■ individuals under citizenship and alienage eligibility  
■ categories is covered by 1626, and will continue to do so.  
■ And when we get through the 1626 rulemaking, the issue of  
■ representations of both individuals and groups -- citizenship  
■ and alienage eligibility of individuals and groups will be  
■ covered in 1626.

■ CHAIR EAKELEY: Go ahead, Bill.

■ MR. MCCALPIN: I wanted to raise a question about  
■ the 30-day comment period. Over the years, we have  
■ typically, at the request of programs and bars, allowed 60  
■ days. We have a holiday period within the 30 days. Sixty  
■ days would take us through both the holiday periods, and  
■ still bring a response back three weeks or so before our  
■ January 31st meeting. It seems to me doubtful that we ought  
■ to cut the comment period to 30 days.

■ CHAIR EAKELEY: What was the thinking behind the 30  
■ days?

■ MS. MORGAN BATTLE: Well, our thinking was that if  
■ we went for 60 days, at our next meeting, we would not have  
■ the responses prepared to the comments in time for us to be

■ able to deliberate and make a final decision, and we wanted  
■ to wrap this one up. Particularly since this has been a  
■ negotiated reg with all people who have an interest having  
■ had an opportunity to participate in the negotiations on the  
■ front end, we understood from staff that the need for 60 days  
■ in this instance was a lot less. Because, for the most part,  
■ all of the parties that had an interest when this first went  
■ out for the reg/neg process have been at the table and been  
■ involved in the negotiations.

■ MR. MCCALPIN: You can't mean that all the programs  
■ have been at the table.

■ MS. MORGAN BATTLE: No. But all with an interest -  
■ - no. All that had a particular interest and wanted to  
■ participate, I don't think -- as I understand, from what  
■ Mattie has told us, anyone who wanted to participate was  
■ allowed to participate.

■ CHAIR EAKELEY: Would a 45-day notice --

■ MS. MERCADO: I think this is what you all decided  
■ at your committee meeting.

■ MS. MORGAN BATTLE: Well, we decided 45 on some  
■ others.



MS. MERCADO: Oh, 45 days was in the others?

CHAIR EAKELEY: John, Bill McCalpin raised the question about 30 days being less than normal.

MR. BRODERICK: I agree with LaVeeda, but I understand Bill's concern. If you want to do it for 45 days, I don't think that's a problem.

MS. CONDRAY: I mean, it's not a problem, you know, an extra 15 days. My plan, and I think the understanding of the working group, is that when I develop a draft final rule, that they will get to see it as well. So if I'm giving them a chance, the working group a chance to see it, and then vetting it through LSC management before it comes to you, I'm not saying it can't be done, but, you know, that's 15 days. It's going to be tight.

And part of the -- the philosophical underpinning of negotiated rulemaking is that you spend more time at the outset, because you save it at the end, you don't have to put something out for comment for as long a period. There were a wide variety of individual programs who were on the committee on the working group. The ABA Slade Committee was on the working group. In addition, both the Center for Law and

■ Social Policy and the National Legal Aid and Defenders  
■ Association, who are groups that kind of speak collectively  
■ for the field, were members of the working group. As of  
■ yesterday, nobody from the field complained about a 30-day  
■ comment period.

■ MS. MORGAN BATTLE: Yeah. I was just going to add  
■ that to the extent that we have some other rules that we  
■ considered that had not gone through the negotiated process,  
■ we allowed for the 45 days, because that was in recognition  
■ for the fact that there had not already been substantial  
■ input to the process. I think that the distinction between  
■ the negotiated reg-making and the notice and comment was the  
■ reason for this truncated time frame in this instance.

■ MR. BRODERICK: Yeah, there was no objection. I  
■ realize the entire field was not present yesterday, but there  
■ was no objection, and a lot of time has been spent on this  
■ rule. I don't think anyone is going to be offended by 30  
■ days. It sounds like Mattie and the staff would rather have  
■ it be at the 30. So if Bill isn't terribly concerned about  
■ it, maybe we can leave it at 30.

■ MR. MCCALPIN: I guess my problem is that I don't

■ really understand the concept of the negotiation and the  
■ working group and everybody involved. It's new to me.

■ MR. BRODERICK: I think, Bill, that -- Mattie would  
■ know, but I think there might have been 25 people on this  
■ working group, a pretty substantial cross-section of folks.

■ MS. CONDRAY: I think there was 15 or 18  
■ organizations represented on the working group, and we met  
■ extensively to develop this. And with the exception of the  
■ two areas that were discussed, everything else contained in  
■ the Notice of Proposed Rulemaking was agreed upon by  
■ everybody sitting at the table, that they could live with,  
■ you know, what we're proposing.

■ CHAIR EAKELEY: Okay. Any other comments or  
■ questions?

■ (No response.)

■ CHAIR EAKELEY: It's been moved and seconded that  
■ Section 1611.9 be modified as proposed. All those in favor?

■ (Chorus of ayes.)

■ CHAIR EAKELEY: Opposed?

■ (No response.)

■ CHAIR EAKELEY: The ayes have it. The motion

■ carries.

■ MS. MORGAN BATTLE: And also 7.

■ CHAIR EAKELEY: And 7, yeah. 1611 and --

■ MS. MORGAN BATTLE: And 7 be deleted. 1611.7 be  
■ deleted was a part of that motion, I believe.

■ MS. CONDRAY: Correct. And I'll make any other  
■ conforming amendments to the draft that are necessary.

■ MR. BRODERICK: Mr. Chairman?

■ CHAIR EAKELEY: Yes, Mr. Justice.

■ MR. BRODERICK: I need to ask you, was I the only  
■ person hearing the music?

■ CHAIR EAKELEY: No. The entire room heard the  
■ music, except for Nancy.

■ MR. BRODERICK: Well, I think if the music was  
■ heard, I think your vote was wise. Had you gone the other  
■ way, it would be tempting fate. So I don't know whether we  
■ get a drum roll on 1602.

■ Anyway, 1602 is the Freedom of Information Act.  
■ You know, LSC has a regulation dealing with that. The Draft  
■ Notice of Proposed Rulemaking which we reviewed is really  
■ technical amendments to our FOIA regulation, and is also made

■ explicit in some areas that which I understand has been a  
■ custom or practice, but not reduced to writing. It appeared  
■ to be terribly non-controversial. I don't think it was  
■ anyone from the field who commented on it.

■ And so that we can move it forward for our last  
■ meeting, if indeed it is our last meeting in late January, it  
■ was recommended to us by corporate staff, legal counsel  
■ staff, that we send it out with your approval, the board's  
■ approval, for notice and comment for a 45-day period so that  
■ we get it back in time to actually deal with it. And it is  
■ largely technical, and, as I said, not controversial.

■ CHAIR EAKELEY: And John, the proposed motion is to  
■ approve and publish the draft of part 1602 that starts at  
■ page 142 of the meeting materials?

■ MR. BRODERICK: Yes. And we'd publish it for  
■ notice and comment for 45 days.

■ M O T I O N

■ CHAIR EAKELEY: And is that a motion?

■ MR. BRODERICK: Yes, it is.

■ CHAIR EAKELEY: Is there a second?

■ MS. MORGAN BATTLE: I'll second it.

CHAIR EAKELEY: Any questions or comments?

(No response.)

CHAIR EAKELEY: Hearing none, all those in favor?

(Chorus of ayes.)

CHAIR EAKELEY: Opposed?

(No response.)

CHAIR EAKELEY: The ayes have it.

MR. BRODERICK: Apparently, Arthur Fiedler was not interested in it.

MS. CONDRAY: Arthur Fiedler was not.

MR. BRODERICK: The next item on our agenda was something of broader interest, I hope, to the board, and that is the staff report on the rulemaking protocol. At the last meeting of Opps and Regs in August, LaVeeda specifically, and Bucky as well, raised some issues about our rulemaking protocol along the following lines. There was a general concern that it was perhaps too costly, the working groups and the facilitators, that it took too long, and as important, I think, for LaVeeda, and hopefully for some others, and Bucky, was the fact that the board, and also secondarily, the Opps and Regs Committee, did not get their

policy in the water soon enough. And so that by the time we got a draft rulemaking through the working group model, it was largely cast in stone. And for us to get in then and raise policy objections and concerns, while it was still possible, it was somewhat unworkable.

And so in August, Opps and Regs Committee asked legal counsel to come up with a memo -- and I know John Erlenborn was very much involved in this -- recommending some alternatives or options to what we're now doing, with the goal that, number one, the board, in particular, would have more policy input on the front end. It would have a greater role in actually initiating rulemaking. And number two, that opps and regs people would also be more involved at the front end. Number three, that we would cut down the time and, therefore, the cost of this process.

And we were also most concerned that the field, which has enjoyed and fully participated in negotiated rulemaking, not feel as if the tide was going out. And so the modified rulemaking protocol would move from a presumptive negotiated rulemaking model we now have to essentially a presumptive notice and comment rulemaking model

with the addition of something called working groups, which would consist of field representatives, and perhaps members of our own board or the Opps and Regs Committee, if they were interested. So that before the draft went out for notice and comment, it would have some input on the front end by the field.

There would also be instances, obviously, at the board's discretion where negotiated rulemaking would still be the method used and would still look like the method we have now, but we'd have more front end comment and involvement on policy.

So we want to cut down cost, we want to cut down time, we want to make sure the field feels comfortable. Because obviously, they have enormous practical experience in input, which is very valuable, and it has worked enormously well thus far. So we don't want to do anything that dramatically changes it, but we need to streamline it as best we can.

And I think I would ask LaVeeda and Bucky if they want to jump in, or Mattie, to expand on what I've said, and then any board member, obviously.



CHAIR EAKELEY: LaVeeda? Bucky?

MS. MORGAN BATTLE: Well, I think that, John, you have very accurately set out the designs for the protocol that we discussed yesterday. So I think that's complete.

MS. CONDRAY: I would just say that there were three amendments that the committee discussed to the draft that's in here in the materials, the first amendment being to add some additional language to the Initiation of Rulemaking section, making it clearer that that's an opportunity for the committee and/or the board to provide some location guidance at the outset of the rulemaking. I think that was implicit.

But we decided that it would be better to state that explicitly, so we will do that.

To add a provision in the section on Notice and Comment Rulemaking and Rulemaking Workshops that Draft Notices of Proposed Rulemaking, in addition to being distributed to the board, in addition to being posted on our web site, would be distributed to any person who have participated in a Rulemaking Workshop.

And the last change was in the section on Negotiated Rulemaking to take out the references to the word

■ "rare" occasions, and just have it be "on occasions where LSC  
■ believes that negotiated rulemaking is appropriate."

■ So those were the three changes agreed to in the  
■ committee yesterday for moving this draft forward for  
■ adoption.

■ MS. MORGAN BATTLE: One other point that I'd like  
■ to make to augment what Mattie just said is that there was a  
■ provision in the previous protocol that took up substantial  
■ time after the board had decided to go forward on the  
■ rulemaking, which required the President to get together with  
■ the chair of the committee and to do some things that seemed  
■ to have taken a lot of time. Once the board makes a decision  
■ to go forward now, it's time for the staff to go straight to  
■ implementation.

■ CHAIR EAKELEY: So remind me. What happens to this  
■ revised protocol if we adopt it today? We don't publish it,  
■ or do we?

■ MS. CONDRAY: Well, we published the last one not  
■ for comment, but as, you know, public notice so everybody  
■ knows what we're doing. And we could well do the same thing.  
■ We could approve this just to have our modified one

published and posted on our web site, so again, the world at large knows what we're doing.

MR. BRODERICK: I would think it would be published.

M O T I O N

CHAIR EAKELEY: But that's getting ahead of ourselves a little bit. So John, I take it your motion is that the revised rulemaking protocol set out at pages 155, the board materials as modified as described by Mattie and LaVeeda, be adopted.

MR. BRODERICK: I couldn't have said it better myself. Excellent.

CHAIR EAKELEY: How about "So moved"?

MR. BRODERICK: So moved.

MS. MORGAN BATTLE: I'll second.

CHAIR EAKELEY: Any further comments or questions?

(No response.)

CHAIR EAKELEY: All those in favor.

(Chorus of ayes.)

CHAIR EAKELEY: Opposed.

(No response.)

CHAIR EAKELEY: The ayes have it.

MR. BRODERICK: Mr. Chairman, we're almost done.

MS. MORGAN BATTLE: Before we move on, John, my other suggestion would be that the final draft be something that you review to make sure it's consistent with everything that we've said before it goes up on the web site, so we're all comfortable.

MR. BRODERICK: That makes sense.

MS. MORGAN BATTLE: Okay.

MR. BRODERICK: I wanted to turn briefly to an item on our agenda which was "Consider and act on limited English proficiency guidance with LSC recipients."

At the last board meeting in August, the Office of Legal Counsel brought to the Opps and Regs' attention what appeared to be a government-wide effort to provide guidance to federal grantees on compliance with Title VI of the Civil Rights Act in providing service to persons with limited English proficiency. And the question was should we, LSC, provide formal guidance to the field on that.

After the meeting, it was left Legal Affairs would consult informally with the field to see if they had any

■ predisposition. And we were told that they did that, and  
■ that there were a number of legal and practical  
■ considerations that were raised. And it was unclear, based  
■ on those kind of informal discussions, what we should do.

■ There is no immediate requirement or pressing  
■ requirement that we issue guidance. And so yesterday, Legal  
■ Counsel told us that the best course of action, at least at  
■ the present time, would be to issue a notice formally  
■ soliciting public comment, so that those comments can be  
■ received, and then a recommended course of action determined.

■ And they recommended that they thought that was the best  
■ approach, and the field supports that approach. So that's  
■ what they would do.

■ CHAIR EAKELEY: So there's no action required by  
■ the board, I take it.

■ MR. BRODERICK: Well, I don't know that there's any  
■ formal action required. I don't think we have to have a vote  
■ on it. But I think if anyone had any strong objection to  
■ that, now would be the time to raise it. Otherwise, the  
■ staff would go forward and publish and get some comment.

■ CHAIR EAKELEY: Maria Luisa.

MS. MERCADO: I think one of the other issues that was brought out in that discussion was in looking at best practices of our grantees that are already on their own complying with that requirement, and, of course, noting that our programs presented yesterday morning were a great indication of the fact that they're dealing with those issues of limited English proficiency for client delivery. And so to also in the comments section somehow incorporate a best practices comment to that.

CHAIR EAKELEY: Yeah. I think that's a good idea. Any questions or comments? Edna.

MS. FAIRBANKS-WILLIAMS: Do we have in our questionnaire that goes to all the people whether they use interpreters, or do we list any money that's spent on interpreters, or is there anything that's sent back to you that you analyze that says "interpreters," or anything along that line?

CHAIR EAKELEY: I don't think so.

MS. FAIRBANKS-WILLIAMS: We pay for interpreters --

MS. CONDRAY: I don't know. But somebody else here may know, but I don't.

MS. FAIRBANKS-WILLIAMS: Well, it might be something to think about to ask them if they have to pay for interpreters, or if they have somebody on their staff that speaks French, Spanish, Cantonese, and so on and so on and so on. It would be a very small thing to do.

MS. MERCADO: And in following up with Edna's comment, several of the factors that we were looking at -- and I know I keep coming back to the Rural Symposium -- aside from looking at documenting the amount of work that you do, whether it's case matters or case funding, and looking at what funding it takes, another issue that came up was an issue of language as far as cost for translating, especially whether it's actually court proceedings or administrative hearings, or if you don't have the staff necessary to represent a particular client, what that added cost equals to -- not only in that state, but nationwide, to the client community that we represent that has language difficulty -- as an added cost in allocating funds and resources for delivery of legal services.

CHAIR EAKELEY: Mike Genz is at the table. Did you have something to add to this, Mike?

MR. GENZ: Just by way of the information that we currently have, we do have descriptions from programs of what they do with respect to language. But we do not have a dollar amount for translation at this point.

CHAIR EAKELEY: I'm not sure that the survey of best practices for compliance with limited English proficiency requirements is the way to do it, but it might be a very useful piece of information to gather in some other inquiry of the field.

MS. MERCADO: And also for funding. I mean, for future funding, and looking at what you actually need to make that program run effectively.

CHAIR EAKELEY: Yes. That's why. Yes, agreed.

MS. FAIRBANKS-WILLIAMS: It would be harder to talk about funding, because some of our Bosnians in Burlington, the children that go to school speak English, and they oftentimes come in and speak for their parents. So that wouldn't be a cost, but it would still be -- you know, it would still be interpretation.

MR. GENZ: We have a diversity inclusion advisory board, and they'll be meeting on November 22nd, I believe,



and we will take up this issue with them and go from there to see what we should build into our procedure.

CHAIR EAKELEY: Okay. John Broderick, anything else?

MR. BRODERICK: Mr. Chairman, there was one last item on our agenda. It was "Staff report on other open rulemakings." And let me report this briefly.

The staff republished the 1995 Notice of Proposed Rulemaking on part 1604, which was the Outside Practice of Law. They published it for comment. The comment period ends November 12th, so it would be right after this meeting concludes. And depending on the number and the content of the comments received, the staff was hopeful that they could get a final draft prepared for the Opps and Regs Committee at its next meeting, which would be wonderful.

And lastly, the final open rulemaking we're dealing with at the moment is 1626, which is Alien Eligibility. That was a negotiated rulemaking. And Mattie informed us yesterday that she had recently sent out to the working group a second draft revised for their review.

So, you know, it's in process. I can't tell you at

the moment when the Opps and Regs Committee is like to see it, but it's in the works.

And with that, that was really the gist of our meeting. I think we accomplished a great deal yesterday.

CHAIR EAKELEY: Well, thank you for your hard work, and the hard work of the committee and the staff, and all of the participants in the negotiated rulemaking process.

MR. BRODERICK: I just want to say -- I don't want Mattie's head to get so big she won't be able to leave the room. But she did a terrific job, and that's not a feeling that only I have. I know others on the board share it. But the field also indicated that she was a very honest broker and a very helpful force in those working groups. So she's to be congratulated.

MS. CONDRAY: I appreciate that. Everybody on the working group worked very, very hard and contributed a lot to the product that we have. It was very much a group effort, and I appreciated everybody's support and patience with me in getting it done.

CHAIR EAKELEY: Thank you, Mattie. Thank you, John. Next, we have a report by Mauricio Vivero, Legal

■ Services Branding Project.

■ MR. VIVERO: Thanks, Doug. I'd like to just give  
■ the board a very brief report on a very exciting project that  
■ now has been implemented. We reported to the board in May of  
■ this year that we were launching with NLADA and the ABA a  
■ project to develop and assist our grantees in creating  
■ comprehensive communications plans in order to brand the idea  
■ of legal services at the state level.

■ We have found over the years that broad access to  
■ justice commissions often use a communications plan as a way  
■ to bring in partners, possible funders, other supporters to  
■ the issue of legal services, and that it is critical to have  
■ a statewide strategic communications plan in order to support  
■ a filing fee advocacy effort, in order to support a direct  
■ appropriation advocacy effort, in order to support awareness  
■ with the public, in order to support awareness with new  
■ funders, in order to support awareness with corporate  
■ entities.

■ We are making a modest investment of \$15,000 in the  
■ states of Iowa, Pennsylvania, and Texas. NLADA is  
■ contributing an equal amount to each of those states, and the

states themselves are contributing \$15,000, for a total of \$45,000 in these three pilot states to hire consultants, to work with the leadership, often the statewide Equal Justice Commission, to develop plans to establish these kinds of organized strategic branding and communications efforts.

I was able to visit Iowa and Texas and participate in their plans. They're going very well. They both are in the final stages of developing very well-thought-out communications plans. The money has allowed them to do research for the first time on what the public perceptions are about legal services with local stakeholders, to do a review of all the media hits and the kind of coverage that has been in their states about legal services. So it has both a research component and a planning component.

One of the things that is, I think, worth noting to the board is that this is one of the projects where I think we leverage the expertise of offices within LSC. The folks who work in the state planning group work with me and Eric very closely. And often we participate together in helping states through the state planning process, and through these broader coalitions tackle these issues, and communications is

one of them. So I think we've found a vehicle -- we found a need within our programs and working states to do this, and we're trying to meet that need.

I want to conclude my brief remarks, and of course take any of your questions, by showing you a video of -- over the last few months, I think a result of better organized communication strategies is that our programs are having more luck in getting TV coverage. We've always gotten good press coverage.

But it takes some expertise to set up events that will be covered by the TV media, the electronic media. I think our pros are getting much more sophisticated. We are for the first time compiling a list of all the programs that have a designated marketing and public affairs person. We're working with NLADA to coordinate much better e-mail alerts to all of those people, and have our programs at the local level leverage other issues in the news, whether it be health care or children's issues, and then tie in what we do to those trends that may be hot in the news coverage for a particular cycle.

You're going to see four or five TV clips. Some of

■ these are the result of events that we've staged to create TV  
■ coverage, and some are the result of our programs getting  
■ much more savvy in selling the idea of equal justice and  
■ promoting services to clients, the needs of clients, and the  
■ value that our money brings into local communities. So I'll  
■ take any questions, if you have them, but if not, we'll show  
■ the video.

■ CHAIR EAKELEY: Roll it.

■ (Videotape is played.)

■ MR. VIVERO: I want to just underscore one thing  
■ that we're trying to do with this. You obviously saw the  
■ messages that we're trying to focus on. Lloyd Doggett's  
■ speech about this is a bipartisan issue, this is a philosophy  
■ that goes beyond politics, highlighting the need when we can  
■ about the need for more services, more funding. You didn't  
■ hear him speak, but the person who was shown at the podium in  
■ Atlanta was the executive counsel of the Coca-Cola Company,  
■ who was at the press conference.

■ One of the goals of our communications strategy is  
■ to find influential local individuals who will speak on this  
■ issue. You didn't see the usual faces. We're trying to get

people who would -- we need to have surrogates deliver this message for us. We are often not the most effective advocate in either a local campaign or a national campaign. The President of the Georgia ARP was the one that the news channel selected to run in the clip. That's very important to us. That was the goal.

Despite the fact that Bucky was there, you know --  
(Laughter.)

MR. VIVERO: -- we weren't trying to get Bucky on TV. We wanted ARP to -- we wanted to have their credibility in pushing this issue and helping move things along.

MR. ASKEW: Frank was there, too, and he didn't get on TV.

(Laughter.)

MR. VIVERO: That's right. That's the report.  
Thank you very much.

CHAIR EAKELEY: Thank you. Any questions?

MS. FAIRBANKS-WILLIAMS: One question. You're calling it a branding. Were you wearing a cowboy hat when you decided that? What was the reason for calling it branding?

MR. VIVERO: Well, the goal is for leaders at the state level to figure out a way to brand the idea of legal aid in the most effective way. So how we sell legal aid in Iowa will be different than how we sell legal aid in Texas or Pennsylvania. And it's a chance for people at the state level to figure out how to market the concept of equal justice in their state. And it will be slightly different. There's a lot of similarities, the techniques are the same, the tactics for getting press are the same. But how you define it and brand it will be unique to each state.

CHAIR EAKELEY: Good. Interesting.

MR. VIVERO: Thank you.

CHAIR EAKELEY: The last item before we take a quick break, and then we go into executive session, is item 12, "Consider and act on a proposal to authorize the President of LSC to lease up to an additional 2,000 square feet of office space for LSC's headquarters."

MR. EIDLEMAN: Good morning --

CHAIR EAKELEY: Good morning, John Eidleman. How are you?

MR. EIDLEMAN: -- Mr. Chair and members of the



board. I'm very well. Thank you.

As we move forward to occupy our permanent home at 3333 K Street, we've determined in our planning process and in meeting with our architects that it will be necessary for us to have some additional space in order to meet our goals of having adequate office space now and some modest expansion in the future.

Last Wednesday, we met with our architects. And during the course of that meeting, it was determined that we need approximately 4,000 additional square feet, in addition to the 45,000 square feet that we asked this board to allow us to occupy in April. When we came before you in April, we had not had a chance to do an analysis of the needs of our staff, nor did we know at that time what space would be available in the building, because there were still some tenants there. Now we have a much better idea as to those needs.

We've been very flexible in this process, and moving our plans as necessary. For example, we learned recently that one of the tenants on the second floor that we thought would remain as a tenant is now going to move out, so

■ we'll be able to occupy the entire second floor of the  
■ building.

■           If you remember, this building is five floors. The  
■ first floor is called the ground floor, and then there's one,  
■ two, three, and four. Our plans at this point are to occupy  
■ part of the ground floor, part of the first floor, the entire  
■ second floor, the entire third floor, and part of the fourth  
■ floor.

■           Some of the benefits we think we'll derive from  
■ this space will be we'll have professional offices for  
■ several attorneys who are now in carrels in an open works  
■ area. We will have adequate conference space, where right  
■ now we are cramped for meeting space. Our Office of  
■ Information Technology will have adequate room for their  
■ server, room where they can roll out new equipment, test it,  
■ and repair old equipment, plus provide necessary training for  
■ the staff on the latest technology.

■           We also will be able to comply with the ADA and  
■ other rules, where now we have some problems in some of our  
■ file rooms and meeting rooms, where someone who's occupying a  
■ wheelchair would have trouble getting around.

■ And lastly, we are planning for some modest  
■ expansion, approximately 19 percent over the next three  
■ years.

■ I would be happy to answer any questions, if you  
■ have any.

■ CHAIR EAKELEY: We just want to mention that it's  
■ roughly incremental cost of rent of about 152,000 annually?

■ MR. EIDLEMAN: That's correct, yes.

■ CHAIR EAKELEY: Any questions?

■ M O T I O N

■ MS. MORGAN BATTLE: Mr. Chairman, I would so move  
■ that we adopt the resolution, which would allow us to  
■ increase the space in our new building by 4,000 square feet.

■ CHAIR EAKELEY: I think you should all have a copy  
■ of Resolution 2002-019. It's been moved and seconded. Any  
■ questions or comments?

■ MS. MERCADO: I was just trying to figure out, and  
■ I didn't have a copy of -- I'm assuming that the 152,000  
■ would be just for this year, or would it be incrementally?

■ MR. EIDLEMAN: Our rent will be fixed for the 10  
■ years of our lease, so it would be each year would remain --

CHAIR EAKELEY: This is truly advantageous to the corporation, the rent.

MS. MERCADO: How do we compare with the current square footage that we have now in rent?

MR. EIDLEMAN: Well, what we have now is 40,103 rentable square feet, and what we're looking for is the similar -- around 49,000 rentable square feet. And the reason I'm saying "rentable" is because the architects use "rentable" and "useable" square feet, and useable square feet is less than your rentable square feet.

CHAIR EAKELEY: Any other questions?

(No response.)

CHAIR EAKELEY: All those in favor of the resolution, say "Aye."

(Chorus of ayes.)

CHAIR EAKELEY: Opposed?

(No response.)

CHAIR EAKELEY: The ayes have it. John, thank you very much.

MR. EIDLEMAN: Thank you.

CHAIR EAKELEY: Before we entertain a motion to

take a brief break and go into executive session, I did want to just recognize and acknowledge Jose Padillo, the Executive Director of California Rural Legal Assistance. And since we had moved the agenda item for public comment up to accommodate Justice Johnson, I'd like to invite Jose to come to the table briefly.

MR. PADILLO: When President Eakeley asked me if I was interested in making comments, my initial reaction was to say no. No, because I'm not prepared to make any comments. But in the Mexican culture, when people talk about lawyers, they say [in Spanish], that there's never a lack for spit. So we always have a word to say. So I --

CHAIR EAKELEY: So we should keep our distance.

(Laughter.)

MR. PADILLO: There's enough space here, I think, for you not to worry.

I wanted to -- I did jot down three things that I wanted to comment about. One is that as I was thinking about last night, talking about the inability for this board to pass on the leadership to the next board, and the thing about you leaving, and you leave and you don't leave, like an old

■ Mexican song that we know, [in Spanish]. To me, there is a  
■ sense of closure that I wanted to bring on a very personal  
■ level.

■           Quite a number of years ago, I addressed this  
■ board, I think, as some of you were beginning. And I  
■ addressed you in San Francisco. And as I was thinking about  
■ it, I remember what I talked to you about. I mentioned  
■ Ghandi to you, the fact that when we go forward in trying to  
■ make decisions about justice and poverty and poor people and  
■ oppressed people, that if we carry with us a face of poverty,  
■ a person, a life story, something that has touched us deeply  
■ about those people who don't have that, those are the things  
■ that make us -- that give us the motivation and the strength  
■ to continue doing that good work, as difficult as it becomes.  
■ And I know you've been through difficult times.

■           At that time, I also remember showing you pictures  
■ of farm worker housing. And I remember bringing a client. I  
■ brought you a client who actually -- whose case actually  
■ began 85 miles north of here. It was the last labor  
■ enslavement case done in Rancho Somis. And that worker, he  
■ was from an indigenous community in Wauhauka, had happened

■ upon our services, and we were able to assist him and his  
■ compatriots. But it was very near here. So to some extent,  
■ there's a justice there as I talk about closure.

■ But I wanted to personalize this a little bit more.

■ I've been with Legal Services now for 24 years, all at CRLA,  
■ all serving the rural poor. What Mauricio said a little  
■ while ago about change and what you've brought to the table  
■ is an incredible change, this notion of bipartisan  
■ responsibility for justice and for the poor, has been  
■ something that, as a field director, has been very critical  
■ in us continuing to believe that legal aid goes forward and  
■ will go forward, even with the transition of leadership.  
■ Because I've been there when it was only about partisanship.

■ But on a more personal level, you know that rural  
■ poor are different than other poor. And we all know that  
■ you've stood up for the poor that we all see, but then there  
■ are so many poor that we don't see. And those are the poor  
■ that we at CRLA always assume responsibility for. Those are  
■ the ones that are hidden away in those labor camps, those  
■ folks who are hidden away as workers living in bushes,  
■ whether you believe it or not.

Whether any of you took faces with you in your nine years, or found faces or found stories, I do know that President Eakeley takes at least one story that he and I share, or takes at least one face that he and I share. The openness of some of you on this board to want to feel the lives of our clients has been also an incredible change, from what I had seen in the past. Mr. John McKay visited labor camps with me, and I was honored to have Douglas Eakeley visit a labor site with me. And that, too, is 80 miles from here, 80 miles south.

And I will always, for the rest of my career, take that family's face with me, a woman who was living essentially in bushes in the hillside in an encampment in a house that was maybe three times the size of this table, and there were four of them living there, from what I recall. My facts may not be totally correct. But it was the woman and her husband and, I think, two children.

But what I will always take with me is the hope that she shared with Doug. Doug may not remember what he asked me to translate. The question you asked me to translate was "How is it that you can make a life living



here?" And she answered you -- you asked, "How can you live like this?" And she answered you, "[in Spanish]." "I live because of miracles."

But then what struck me the most and that I will always carry with me is that she did not care to speak with Mr. Eakeley or I, really. She was very anxious to share something with us, and she took us to the back of her shack made of a plastic tarp. And she wanted to share with us her garden, which was literally the size of this sheet of paper.

She had a very beautiful piece of grass, and out of the piece of grass was growing a red flower. And she wanted us to know that of all the people and those families living in that encampment, she had a garden.

And it just struck me how people who live even in those conditions still want to have, in their homelessness, a sense of home. And in their homelessness, they want a sense of garden. Symbolically garden. Because for all of us, gardens symbolize home. So I will carry that face with me, and you and I shared that one face.

And I want to end with this. This is not a funeral, obviously.

CHAIR EAKELEY: It's the second time that theme has been set.

(Laughter.)

MR. PADILLO: At CRLA, when I lose good people -- it's the toughest thing as a director to lose those who have been working with you day in, day out, and struggled with you. I learned a long time ago that the way you deal with that is you just never say good-bye, because you never say good-bye to friends. You just say thank you, because you always believe that you will run into each other again somewhere.

And I know that all of you will disband and take your justice learnings from these nine years and take them into justice somewhere else. And it may be that we may or may never meet again. But I am struck by the fact that all of you who brought experience in justice work only did nine years more, and then will take it to deliver more somewhere else. I truly believe that this is not a nine-year thing for you, that it's about a value that you carry, and I trust that you will do that. And maybe we might meet again.

And I wanted to end with a story that Bucky heard

■ many, many, many years ago in San Francisco. He was  
■ receiving an award, an award that you reminded me of last  
■ night. And somebody told a story, Bucky, there that I always  
■ repeat. I didn't tell the story, but I always repeat it when  
■ I speak to people who do justice. And I repeated the  
■ story yesterday at a conference in San Jose, where I was  
■ talking to farm worker advocates from all over the State of  
■ California. And I told them that there's so much suffering  
■ out there, that if you really truly believe in justice, it  
■ becomes a life thing, a life commitment, a life value. And I  
■ told them the story that Bucky and I heard about 15 years  
■ ago. And this is the symbolism of that, about the fact that  
■ this fight never ends. And it comes from the union context,  
■ and I've modified it.

■ It's a union organizer who's at the very end of his  
■ life, actually, and he's been fighting this one company man,  
■ essentially, for his life trying to unionize. And he  
■ confronts the company man at the end and says, you know,  
■ "I've been fighting you until now. But you know what? I  
■ will continue to fight you. We will continue to fight you.  
■ And we will fight you wherever a union man is left standing.

■ And we will fight you until the last union man is left  
■ standing. And if you are unfortunate enough to go to hell,  
■ we'll fight you there. We'll follow you there, and we'll  
■ fight you there until hell freezes over. And then we'll  
■ fight you on the ice."

■ And maybe we will run into each other again, and  
■ I'm sure some of you and I will. But I have the feeling that  
■ with some of you, I'm going to run into you on the ice  
■ sometime somewhere. Thank you very much.

■ CHAIR EAKELEY: Now we will entertain a motion to  
■ go into executive session, to be chaired by LaVeeda Morgan  
■ Battle.

■ M O T I O N

■ MS. FAIRBANKS-WILLIAMS: So moved.

■ CHAIR EAKELEY: All those in favor?

■ (Chorus of ayes.)

■ CHAIR EAKELEY: Opposed?

■ (No response.)

■ CHAIR EAKELEY: The ayes have it. We'll take a  
■ quick break, and then go into executive session. I'm going  
■ to say farewell now.

■ (Whereupon, at 11:45 a.m., the meeting was  
■ adjourned to executive session.)  
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■ VICE-CHAIR MORGAN BATTLE: There were two things  
■ that Doug mentioned to me that we needed to handle. One is  
■ the fact that after our meeting on yesterday, it's determined  
■ that we probably are going to need two days for our next  
■ board meeting, rather than the one that's been scheduled for  
■ the annual meeting coming in January. And I'm assuming we've  
■ got -- is it January 31st already is the date for our  
■ meeting, that we'll need also February 1st?

■ MR. FORTUNO: Yes, that's correct.

■ VICE-CHAIR MORGAN BATTLE: And the other thing --

■ MR. MCCALPIN: Wait a minute. Let's look.

VICE-CHAIR MORGAN BATTLE: Everybody get your --  
take a look.

MR. FORTUNO: In Washington, right?

VICE-CHAIR MORGAN BATTLE: In Washington.

MS. MERCADO: Yeah. Because you're required to  
have at least beginning, then, on the 31st.

MR. MCCALPIN: So we have the 31st and the 1st?

VICE-CHAIR MORGAN BATTLE: That's right. What are  
those dates? What are the days of the week we're talking  
about?

MS. MERCADO: Friday and Saturday.

MR. MCCALPIN: The 31st is Friday, and the 1st is  
Saturday.

VICE-CHAIR MORGAN BATTLE: Okay. And also, we're  
going to have to receive the Inspector General's report, and  
I understand we need a conference call for that? Do we need  
to try to look at some dates now that we can do that?

MR. MCCALPIN: Well, we have to do it by the 30th  
of November.

MR. ASKEW: Do we know when it's going to be ready?

VICE-CHAIR MORGAN BATTLE: Is it going to be ready?

MR. MCCALPIN: Oh, you mean our response.

VICE-CHAIR MORGAN BATTLE: Our response.

MR. FORTUNO: Your response is being drafted. The draft response will be available for the board to review. What you currently have is the IG's semi-annual report. What staff is doing is taking the usual liberty of preparing a proposed response for your consideration. We could easily have that available by the 22nd, and that would still give us time -- or we could do it the 25th. Either one. The 22nd is Friday. The 25th is Monday. Either one would still give us --

MS. FAIRBANKS-WILLIAMS: Isn't the 22nd when some of us might be coming to Washington?

VICE-CHAIR MORGAN BATTLE: I think that is a date that conflicts. And I'm actually going to be in another meeting. The 25th is going to be a better day for me.

MR. ASKEW: Monday, the 25th?

VICE-CHAIR MORGAN BATTLE: Yeah. Okay. Monday the 25th for the conference call to --

MR. MCCALPIN: What time?

VICE-CHAIR MORGAN BATTLE: What time, Victor?

MR. FORTUNO: Considering some folks will be on the east coast, would 11:00 be too early, or --

MR. MCCALPIN: Eleven o'clock east coast?

MR. FORTUNO: East coast time.

MR. MCCALPIN: That's 8:00 out here.

MR. FORTUNO: Uh-huh.

MS. FAIRBANKS-WILLIAMS: Okay. Monday, November 25th.

MR. FORTUNO: Or we could do it that afternoon.

MS. FAIRBANKS-WILLIAMS: Eleven o'clock, fine.

VICE-CHAIR MORGAN BATTLE: Eleven o'clock is fine.

MR. FORTUNO: Eleven o'clock east coast time on Monday, November the 25th. And the annual meeting, just to be clear, is on the 31st of January and the 1st of February, in Washington, D.C.

VICE-CHAIR MORGAN BATTLE: Yeah, that's right.

MR. FORTUNO: Elizabeth, we have a contract with the hotel?

MS. CUSHING: We have a signed contract with the Washington Court Hotel.

MR. FORTUNO: For the 31st.



■ MS. CUSHING: For the 31st and the 1st.

■ MR. FORTUNO: And 1st. We're squared away.

■ VICE-CHAIR MORGAN BATTLE: Washington Court.

■ MS. MERCADO: Now, some of us need to fly in  
■ Thursday night. I mean, that's not a problem, is it?

■ MS. CUSHING: No.

■ MS. MERCADO: Okay.

■ VICE-CHAIR MORGAN BATTLE: All right. Are there  
■ any other items that need to come before this board?

■ (No response.)

■ VICE-CHAIR MORGAN BATTLE: Is there any further  
■ public comment? I think we've already actually had public  
■ comment in two parts during this meeting. Hearing none, I'd  
■ like to entertain a motion that we adjourn this meeting. And  
■ I'd also like to -- Victor, what time is -- are we late for  
■ lunch, or --

■ MS. MERCADO: Yeah.

■ VICE-CHAIR MORGAN BATTLE: What I'd like to do, I  
■ know that Bucky is going to try to catch a flight. I'd like  
■ for those of us that are on the Performance Review Committee  
■ to stay -- are we meeting in this room or the other room?

■ Here? To stay and maybe go pick up your lunch. And let's  
■ meet over lunch and just go straight through, so that those  
■ of us, we have a choice of either catching a flight at 3:00  
■ this afternoon or 12:00 tonight, will be able to possibly  
■ make their flights.

■ MR. FORTUNO: Shouldn't be a problem.

■ M O T I O N

■ VICE-CHAIR MORGAN BATTLE: I will entertain a  
■ motion from one of our board members.

■ MS. WATLINGTON: So moved.

■ VICE-CHAIR MORGAN BATTLE: It's been properly moved  
■ and seconded.

■ MR. MCCALPIN: Aye.

■ VICE-CHAIR MORGAN BATTLE: Acclamation. We're  
■ adjourned. Thank you so much, everyone.

■ (Whereupon, at 12:48 p.m., the meeting was  
■ concluded.)

■ \* \* \* \* \*

