

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS
OPERATIONS AND REGULATIONS COMMITTEE AND
PROVISION FOR THE DELIVERY OF LEGAL SERVICES COMMITTEE

OPEN SESSION

Friday, March 17, 1995

10:45 a.m.

Legal Services Corporation Headquarters
The Board Room
730 First Street, Northeast
Washington, D.C.

BOARD MEMBERS PRESENT:

Hulett H. "Bucky" Askew (Acting Co-Chair)
John G. Brooks (Acting Co-Chair)
Douglas S. Eakeley
Edna Fairbanks-Williams
F. Wm. McCalpin
Maria Luisa Mercado
Nancy H. Rogers
Thomas F. Smegal, Jr.

STAFF PRESENT:

Alexander D. Forger, President
Patricia D. Batie, Secretary
Martha Bergmark, Executive Vice President
Victor M. Fortuno, General Counsel
Edouard Quatrevaux, Inspector General
David L. Richardson, Treasurer/Comptroller
Renee Szybala, Counsel to the Inspector General

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P R O C E E D I N G S

(10:45 a.m.)

1
2
3 MR. ASKEW: I'm going to call to order a joint
4 meeting and hearing of the Corporation's Operations and
5 Regulations Committee and Provision for the Delivery of Legal
6 Services Committee. LaVeeda Morgan Battle, the chair of the
7 Operations and Regulations Committee, can't be here today.
8 She will be here with us tomorrow, as I understand, but she
9 won't be here for this meeting, so John Brooks is acting on
10 behalf of the committee in her absence.

11 Members of the Operations and Regulations Committee
12 are Bill McCalpin and John Brooks and Ernestine, who can't be
13 with us; is that right?

14 MR. BROOKS: That's right.

15 MR. ASKEW: And Nancy Rogers and Edna Fairbanks-
16 Williams are members of the Provisions Committee. So our two
17 committees will be meeting jointly to consider -- we only
18 have one agenda item. It's on Page 9 of the books that were
19 handed out for today's meeting. Beyond approval of the
20 agenda, it's discussion of proposed policy statement on
21 private attorney involvement/engagement.

22 Could I have a motion to approve the agenda for

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1 this meeting?

2

M O T I O N

3

MR. BROOKS: So moved.

4

MR. ASKEW: Second?

5

MS. FAIRBANKS-WILLIAMS: Second.

6

MR. ASKEW: All those in favor, say aye.

7

(Chorus of ayes.)

8

MR. ASKEW: The agenda is approved.

9

The item that we will be -- the sole item that this
10 committee will be considering will be the proposed PAI
11 statement. Let me give just a brief amount of background on
12 this before we call our panel up.

13

14

15

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17

At the last Provisions Committee meeting, before
the last Board meeting, this PAI policy statement was
introduced to the Provisions Committee. We had a very brief
discussion of it and put it over to the next Board committee
meeting.

18

19

20

21

22

The Operations and Regulations Committee was
meeting at the same time that we were and were not able to
participate in our meeting, and it became clear that, since
they will have ultimate responsibility for the PAI
regulation, that they should participate in this process.

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1 So we decided to hold this joint meeting today so
2 that both committees could participate and, secondly, to give
3 plenty of opportunity for people to comment on this proposed
4 policy statement and comment to both committees at the same
5 time.

6 The statement has been circulated, through, various
7 mechanisms, to the field and to the private bar, for
8 solicitation of comment. A number of the Board members,
9 including myself, Bill McCalpin, and LaVeeda, as well as Alex
10 Forger, were in Miami for the ABA mid-year meeting and heard
11 a good bit of comment from individuals at that meeting as
12 well as from the SCLAID committee, which we all attended,
13 where there was a discussion of this policy statement.

14 In addition to that, Reese Smith, a former
15 president of the ABA and someone who has been very involved
16 in PAI for many years, has written me a letter which we're
17 having copied right now, to make available to everyone that's
18 here, as well as to the other -- I think the other Board
19 members have seen it, but to have available to the audience
20 today, a copy of the letter that Reese sent me on February
21 9th, expressing his views and concerns about the proposed
22 policy statement.

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1 I wrote him back and then he's written me a second
2 letter which we will also have available.

3 Unfortunately, Reese could not be here today. He
4 had a conflict. I had asked him to come and appear today and
5 express his concerns in person. He can't be here, but I
6 think his letters are pretty clear about what his concerns
7 are.

8 The two committees are quite anxious to hear
9 comments and reactions to this policy statement, but Alex and
10 Bill -- especially Bill McCalpin -- reminded me in Miami that
11 to have this discussion we would probably need to have some
12 context of the history of this whole issue in legal services.

13 To consider this policy statement without
14 understanding the last 15 or 20 years of private attorney
15 involvement could possibly be a mistake, in that all the
16 Board members should have some historical perspective on this
17 before we go forward with adopting this statement.

18 What is the history of PAI? How have programs
19 responded to the Corporation's requirements and to the
20 interests of private attorneys in the involvement of delivery
21 of legal services? What is the current status of delivery in
22 the field? Some of those things we need to hear about as we

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1 go forward in considering this policy statement.

2 The staff has organized a panel to make a
3 presentation today to us, to help us with that, but before I
4 introduce that panel, I think I'd be remiss if I did not
5 acknowledge that, on our Board, we have a historian on PAI
6 who probably knows as much about this issue as anyone in the
7 country, and we should turn to Bill and ask him, before we
8 begin this discussion, to give us some history and background
9 from the prior times he served on the Board of the
10 Corporation when the original PAI regulation was adopted, but
11 even going back before that, his role with the ABA and the
12 involvement with the old OEO legal services program and then
13 the beginning of the Legal Services Corporation.

14 After Bill provides us with that background, I'll
15 introduce the panel and ask Alex to bring us up to date on
16 how we got to this point. I must acknowledge, before Bill
17 does this, I didn't give him much notice that I was going to
18 ask him to this, but I think he could probably do it off the
19 top of his head. We'll see.

20 MR. McCALPIN: "We'll see" is right.

21 (Laughter.)

22 MR. McCALPIN: I was in the middle of bylaws with

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1 Laurie when Bucky came up to me about ten minutes ago and
2 said, "Will you give the history of PAI?" You know, one of
3 the things about my age is it's easier for me to remember
4 what happened 15 years ago than what happened 15 minutes ago,
5 so I benefit, to that extent.

6 The concept of whether and the extent to which
7 legal services ought to be provided by staff or private
8 attorneys began back in the OEO days, certainly, and
9 particularly as exemplified by the Wisconsin JudiCare
10 concept, which was adopted probably in the late '60s, in
11 which all of the legal service was provided by private
12 attorneys under the Wisconsin JudiCare program. Of course,
13 the vast majority of programs were providing it through
14 staff.

15 The issue sort of came together in about 1980 and,
16 at that time, Representative Sensenbrenner of Wisconsin was
17 prepared to and perhaps did introduce a provision to require
18 a certain percentage, or all, of the funds to go to provide
19 legal services by private attorneys.

20 The ABA got into the act in the annual meeting in
21 Hawaii in 1980 when a group led by the general practice
22 section -- interestingly enough, the chair at that time was

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1 the present Mayor of Detroit -- negotiated -- the concept of
2 whether the ABA would adopt a resolution requiring a certain
3 level of participation by private attorneys was negotiated
4 with the then chair of SCLAID, who was Jerry Shestack,
5 presently a member of the Board of Governors of the ABA and a
6 candidate for president.

7 That negotiation eventuated with a general
8 requirement encouraging the inclusion of private attorneys in
9 the rendition of legal services but without any specification
10 or quantification of that level of participation. There
11 followed, of course, the election, in November of 1980, and
12 an attitude and an atmosphere somewhat reminiscent of what we
13 have seen in 1994 and '95.

14 At the NLADA annual conference in Puerto Rico,
15 about ten days or two weeks after the 1980 election when
16 there was great consternation about what was going to happen
17 to the effort in the Reagan Administration, the concept of
18 quantifying the private attorney participation in the
19 rendition of legal services began to be crystallized and that
20 was the origin or the birth of the 10 percent requirement.

21 There was a meeting a month or so later, as I
22 recall, involving the Corporation and those elements of the

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1 ABA which had worried with this in the preceding summer, and
2 that meeting was in New Orleans, and the concept began to be
3 crystallized further and further.

4 I don't remember precisely at which meeting it was
5 that the Board adopted the 10 percent requirement but it was
6 not to become effective until grants made at the end of 1981.
7 At that time, the provision became effective and it was
8 initiated.

9 Only two other things, I think -- well, a couple of
10 things -- are important after that. By virtue of the
11 pronouncement by the Reagan Administration of zero funding,
12 which came in early March of 1981, the ABA, led by Reese
13 Smith, at that point initiated a nationwide pro bono effort
14 and went around the country organizing pro bono efforts to
15 take up the slack, because at that time we suffered a 25
16 percent cut in funding, from 321 to 240, and the idea was to
17 get the private bar, through pro bono, to help make up the
18 shortfall of that 25 percent cut in the funding.

19 Sometime after that, when the ABA programs,
20 corporations, and all, began to worry about it, it was
21 decided to undertake a survey -- a two-part survey, one of
22 the programs in the field and the other of the bar through

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1 the bar associations working in the same area as those
2 programs -- to see how, in fact, the 10 percent requirement
3 was being implemented and working.

4 The survey was actually conducted through the
5 programs and tabulated. Unfortunately, the companion survey
6 with the bar associations was never undertaken, so we never
7 had any very definitive determination from that time of how
8 the bars thought the 10 percent requirement was working.

9 There was a later survey, as I recall, with which I
10 am not familiar, and I don't precisely remember how that
11 went. In any event, a few years later, when Mr. McCarthy
12 chaired this Board, at a meeting in St. Louis, without any
13 discussion or consideration, the 10 percent requirement was
14 increased to 12-1/2, and that was a compromise.

15 There were members of that Board who wanted to go
16 at least 25 at that time, and the compromise was eventually
17 reached at 12-1/2. So, ever since that time, which is more
18 than 10 years ago, this operation has been proceeding on the
19 basis of a requirement that 12-1/2 percent of basic field
20 grants be devoted to the inclusion of private attorneys.

21 When the concept was initiated at the 10 percent
22 level, it was clearly understood that that didn't necessarily

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1 mean paying private attorneys fees, that the requirement
2 could be expended in any way -- the training of private
3 attorneys, administering the inclusion of private attorneys,
4 paying private attorneys -- and private attorneys didn't
5 necessarily have to represent clients directly, they could be
6 engaged in education programs, mentoring programs, co-
7 counseling programs, any kind of participation of private
8 attorneys.

9 I think that covers the general elements of the
10 program, as I can remember. I'm sure there are gaps in my
11 memory, without having had much opportunity to think about
12 this, but I'm sure that Esther and others will remind me of
13 those gaps as we go along.

14 MR. ASKEW: Well, thank you for doing that, without
15 much notice. I am, when the panel comes up, I am going to
16 ask Esther at the beginning to briefly talk, from a
17 programmatic perspective, on what was happening in the late
18 '70s with the development of pro bono in the field before the
19 10 percent requirement was adopted, as the kickoff to this
20 panel, and then we'll go on from there into the other members
21 of the panel.

22 I'm going to ask the five members of the panel to

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1 come forward now and take their seats.

2 Welcome, and thank you each for coming. I
3 understand Laurie flew in last night and is flying back
4 today, so I especially appreciate the effort you've gone to
5 to be here.

6 I understand the staff has spoken to you about this
7 panel, but nobody has spoken to you about the order of
8 presentation, so let me make a suggestion to you about the
9 order of presentation and see if it's comfortable for you.

10 I was going to ask Esther to speak first, briefly,
11 as I just mentioned, about a little bit of the programmatic
12 history of this; and then I wanted Laurie to speak about the
13 history of ABA and, specifically, the SCLAID committee and
14 its interest in this issue; and then Phyllis Holmen, who is
15 the director of Georgia Legal Services, but also served, I
16 believe, as co-chair of the delivery working group that
17 developed a policy statement, I wanted Phyllis to speak about
18 the development of that policy statement by the working group

19 And then Hannah Cone, I was going to ask to speak
20 -- who is a pro bono coordinator -- ask to speak about her
21 perspective on the policy statement from her position; and
22 then Tom Maligno to speak as a program director on the

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1 implementation of private attorney involvement in his
2 program; and then lastly, come back to Esther, who is going
3 to talk some about innovations and possibly some future
4 issues.

5 Is that comfortable for all of you? Great.

6 Before we do that, however, let me ask our
7 president, Mr. Forger, who has a great interest in this
8 issue, and who is involved quite a bit in the drafting of the
9 policy statement, to give us a little bit of a -- to bring us
10 up to date on how we got to this point with the policy
11 statement, and then we'll go to the panel.

12 Alex?

13 MR. FORGER: Thank you, Bucky. I'll start back in
14 1980.

15 MR. ASKEW: In Honolulu.

16 MR. FORGER: I was then the president of the ABA
17 and serving as a delegate in Hawaii when this issue came up
18 and, as I recall, one of the resolutions was that 50 percent
19 be allocated to the private bar, but that didn't survive.

20 The draft statement of policy, which has been
21 distributed since our last meeting, was a revision in some
22 measure of the draft that Phyllis Holmen and Jon Asher have

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1 put together, and it was simply expanded upon by Martha and
2 myself in the Legal Services Corporation here.

3 The principal purpose of that expansion was to make
4 certain that the world understood that we were anxious for
5 this partnership between private bar and legal service
6 programs to go beyond just direct deliver of service in pro
7 bono models and in giving of money, and we wanted to assure
8 the private bar, from our point of view, that we wanted a
9 full partnership in every dimension of activity, whether it
10 be in instruction or working in legislative halls or working
11 for simplification of procedures in the court system and
12 perhaps peer reviews, monitoring visits, and anywhere and any
13 way that it seemed appropriate to join the private bar
14 together with the legal services programs.

15 There was a suggestion, as well, that I would like
16 to implement on the basis of what you all can tell us today
17 and other comments, of putting behind this policy statement
18 some illustrative illustrations of the kind of cooperation
19 and projects and programs that we may encourage both the
20 private and the public bar to work in.

21 One overall comment is that this was not designed
22 to address the 10 or 12-1/2 percent issue, although there are

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1 words in here that some may interpret as implying a result
2 that is not intended. This is not addressing the regulation,
3 but it was thought wise simply to have a general statement of
4 what it is that we are seeking to achieve.

5 We hope that when we ultimately arrive, from the
6 Board's point of view, with a complete policy statement with
7 supplementary illustrations and commentary, if that be
8 appropriate, to them have also the ABA, perhaps -- Laurie
9 suggests that it do a mirror resolution, sort of
10 corroborating what its position always has been, but taking
11 cognizance of this position and urging all the membership to
12 reach out to the programs and find ways of being involved in
13 all levels of activity.

14 We understand there is a lot of history in the
15 relationship and we encourage not only the legal services
16 programs to reach out to the private bar but also to have the
17 private bar not be reticent at reaching out and becoming more
18 involved in the legal services programs.

19 The last note is from my frequent visits to
20 Congress in discussing the legal services program. There is
21 a recurring theme, I think, premised on the notion that be
22 less money than more from the government to support legal

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1 services, an expectation that others will do more, and many
2 have referred to the private bar and the expectation of the
3 pro bono opportunity.

4 We all know that there is no way that the private
5 bar could fill the gap that already exists between the
6 resources we have here and the need out there, as Esther
7 Lardent's major project has demonstrated. But yet, I am
8 pleased always to give assurance in the halls of Congress
9 that the private bar is totally committed and supportive to
10 this program and that, without it, we would not be able to
11 reach near the numbers that we do.

12 So the world expects us to work closely together
13 and this is an endeavor to extend a hand from the legal
14 services side to the private bar, to assure it that there is
15 no intent here, other than to forge an even closer working
16 relationship. So we welcome the suggestions as to how we
17 might best achieve that.

18 MR. ASKEW: Thank you, Alex. Esther? Oh, as each
19 of you speak, could I get you to introduce yourselves for the
20 record and make sure that the court reporter knows your
21 names?

22 MS. LARDENT: I'm Esther Lardent from Washington,

1 D.C., and I'm delighted to appear before the Board. Can
2 people hear me? I'm having a little problem with the
3 microphone.

4 I first actually appeared before the Board of the
5 Legal Services Corporation to talk to them about pro bono in
6 1977, which gives you some idea about how long I've been
7 involved in that aspect of legal services work, and I do want
8 to add to what Bill has said about the history of private
9 attorney engagement, and use the Forger formulation, because
10 I think it is a good term.

11 By adding to it, in terms of the programmatic
12 aspects of it, all too often I think when we discuss pro bono
13 and private attorney engagement, we think of it in regulatory
14 or political terms but it is, after all, the programmatic
15 aspect that I think is the most promising, the most
16 important, because that's how we get more clients served and
17 do some creative work involving private attorneys.

18 In the act of creating the Legal Services
19 Corporation, primarily I'm told, at the urging of more
20 conservative Members of Congress, there was a provision that
21 required the Corporation to study the involvement of private
22 attorneys in the delivery of legal services, and that talked

1 about things like JudiCare and contracts.

2 In 1977, the Corporation funded a number of
3 programs -- ultimately, I believe, it was 22 programs --
4 through that study, the delivery systems study, and the
5 program that I ran in Boston, which was created with the
6 legal services funding in 1977, was one of those.

7 Originally, I think, the intent was to fund, for
8 the most part, only programs that did partially compensate
9 attorneys but, thanks to a concept paper that was sent to the
10 Corporation by the Boston Bar Association -- which I'm sure
11 John Brooks played a major part in, since he was at the heart
12 of pro bono and legal services in Boston at that time, as he
13 continues to be -- pro bono was added at the last minute, and
14 there were six programs that were funded at that time.

15 What happened as part of that study was that, I
16 think particularly with respect to pro bono, to a lesser
17 extent with respect to some of the partly compensated models,
18 like JudiCare and contracts, there was a clear demonstration
19 programmatically that private attorneys could effectively
20 provide representation for low-income people and that, in the
21 case of pro bono, you could leverage some very significant
22 resources as part of that.

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1 There was an evaluation done of the programs. In
2 fact, at times, we felt we were being evaluated every day.
3 Various teams would arrive from the Corporation and with
4 peers, and we were looked at and poked and prodded and put
5 under a microscope, and the delivery systems study report is
6 something I would really encourage people to take a look at,
7 because it looked at quality, it looked at impact, it looked
8 at cost.

9 While the answers were not as definitive as perhaps
10 all of us would like, certainly what we saw was that there
11 was a great deal of energy and promise in these programs.
12 The people who were involved in the pro bono programs, in
13 particular, were a group with missionary zeal. We called
14 ourselves "The Pro Bono Six."

15 We were particularly eager to have the Corporation
16 involved, more programs in pro bono work, and in pro bono
17 work as professionally done, which was one of the new
18 innovations in the delivery systems study.

19 Indeed, I believe it was in 1979 that the
20 Corporation approved \$500,000 in funds that went out on a
21 competitive basis to test the pro bono concept in smaller
22 cities, because, with the exception of the New Hampshire

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1 program, the pro bono programs that were funded under the
2 delivery systems study were programs in large cities -- Los
3 Angeles, New York, Boston, San Francisco, and I'm forgetting
4 one. It will come to me. Oh, Washington, D.C.

5 So I think that, while the initiative that was
6 undertaken was certainly undertaken in part because of
7 political realities, it was also done because there was a
8 great deal of excitement about what pro bono could accomplish
9 in this new formulation as an organized effort, and about the
10 role that private attorneys could play in pro bono work.

11 MR. ASKEW: Thank you, Esther. Laurie, would you
12 introduce yourself and then speak to the ABA history with
13 this?

14 MS. ZELON: Sure. My name is Laurie Zelon. I'm
15 from Los Angeles, California -- where it is dry at least
16 today.

17 (Laughter.)

18 MS. ZELON: The ABA history, as Bill points out,
19 goes back to 1980 in an organized way. I don't want to
20 repeat what Bill has said, but talk about a couple of other
21 aspects about what the ABA has done.

22 In the early '80s, there was a significant effort

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1 by the ABA to help local communities begin and develop pro
2 bono programs, and that effort continue through today. There
3 is a standing committee of the ABA which has, as its primary
4 task, assisting in pro bono.

5 There is the Pro Bono Center -- Center for Pro
6 Bono, sorry, the name just changed -- which is funded by the
7 ABA and has been funded, since the early '80s; there's the
8 law firm Pro Bono Project, which works with major law firms,
9 and which Esther is the life blood of, and various other
10 programs.

11 The result of that has been a vast expansion of
12 private bar/bar association-supported pro bono programs, many
13 of which have very strong relationships with the legal
14 services grantees in their communities, whether or not they
15 have direct funding.

16 In the early years, one of the functions of the ABA
17 SCLPSR Committee, which is the committee that facilitates pro
18 bono, was actually to go into communities and have joint
19 meetings.

20 I served on SCLPSR at that time and I recall
21 several meetings at which, on one side of the table, were the
22 legal services grantees; on the other side of the table were

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1 the local bar leaders; and we sat in the middle. In some
2 communities, it was the first time that they had sat down
3 together, despite a strong mutual interest. And so a lot of
4 programs were built that way and have been supported.

5 SCLAID's role has been, throughout this, to look at
6 policy issues for the ABA and to look at support of the ABA
7 for the work of the Corporation itself, and to help
8 coordinate the efforts between them, and that work is
9 continuing today.

10 I want to tell you a little bit about what's going
11 on now, if that's all right.

12 MR. ASKEW: Sure.

13 MS. ZELON: The really glimmer of good news in the
14 whole situation right now is that local bar leaders are very
15 cognizant of the need to have the LSC continue in a strong
16 position, both because they understand the needs for the
17 delivery of legal services in their communities and because
18 they have a strong interest in their own pro bono programs.

19 In the last three months, I have probably spoken to
20 six groups of major bar leaders around the country and there
21 has been an overwhelming understanding of the need, not a
22 significant need for re-education, and a willingness to

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1 support the work of the Corporation. There is a need to
2 continue to encourage that.

3 One of the concerns that the private bar has about
4 the PAE policy and the work that been done with PAE is a
5 concern that this is an attempt to limit the relationship in
6 some way or to cut back the support of the relationship. In
7 many communities, for the local bar leaders, their pro bono
8 programs are a source of great pride to them and a
9 centerpiece of their bar program, because it gives them
10 public visibility in a positive way, which many of their
11 programs do not.

12 Bar leaders, I think, have understood and are
13 coming to understand fully that, whether or not they get
14 direct funding, there is an intimate relationship between a
15 successful pro bono program on a local level and the local
16 legal services grantee, because there is an interdependence
17 between them in terms of intake and staffing and training and
18 general provision of service that makes the programs go, and
19 people understand that their programs will not be as good in
20 the absence of that.

21 So there is a concern among bar leaders that there
22 will be a cutback on the support for these pro bono programs,

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1 and that concern is very real. There is a certain tension
2 with programs which look at potentially large funding cuts
3 and worry about their staffing needs.

4 Our hope at SCLAID is to try and continue to keep
5 the dialogue between the local bars and the programs going in
6 such a way that that tension does not rise to a level that
7 creates a breakdown, but I think that one of the concerns in
8 looking at this policy has to be to mediate between those two
9 concerns.

10 Where the local programs work well, it leverages
11 the delivery of services. It increases pro bono because of
12 these ties and it increases linkages between the programs and
13 the private bars which ultimately strengthen both of them.

14 There are communities where PAI, as it's currently
15 formulated, simply does not work well, for a variety of
16 reasons and, in those case, it's true that it does diminish
17 the fundings available for staff programs, and it does
18 frustrate the programs and probably frustrates the bar
19 leaders, as well, because they're unable to get an effective
20 program off the ground.

21 But, notwithstanding the fact that there are areas
22 where the present formulation does not work well, I think we

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1 have to keep in mind the threats that are perceived by the
2 private bar and the risk of alienation of the private bar and
3 the risk of having adverse effects in the legislative arena
4 if the private bar is alienated, that is part of the tension.

5 I think also, in terms of what we've all been
6 trying to do, the continuation and enhancement of the
7 partnership will ultimately lead to the ability to fill more
8 of the gap than we have been able to fill.

9 The gap is substantial. It's going to get bigger
10 as funding decreases and the private bar is going to have to
11 play a bigger role, and that's something that we very much
12 want to assist at SCLAID and through the other ABA programs
13 that work on this.

14 The key words that I pull out of this policy that I
15 think are of great importance to the private bar are
16 flexibility, partnership, and innovation together, with one
17 caveat. The word "flexibility" has been taken by some, and
18 Reese Smith is probably the most vocal of those, to be a code
19 word, a code word for a cutback of support for private bar
20 involvement.

21 I was on Phyllis's committee, that drafted at least
22 one iteration of this policy, and that was certainly not the

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1 intent of that committee and I don't believe it's the intent
2 of this redraft, as well. I'm sure everybody in this room
3 has had at least one conversation with Reese and others about
4 what is and is not a code word.

5 I think that that is a perception which is there
6 and needs to be addressed, but it is not one that should
7 drive the process. I think that the mediation of the tension
8 between the programs and the private bar is the key of what
9 we're all trying to work at.

10 MR. ASKEW: Thank you, Laurie. We may have some
11 questions or a need for dialogue, but I think I'm going to go
12 through the rest of the panel and then come back to
13 individual members.

14 Phyllis, would you introduce yourself?

15 MS. HOLMEN: My name is Phyllis Holmen from
16 Atlanta, Georgia. Laurie is unduly modest. She was co-chair
17 of the subcommittee that came up with the draft that the
18 working group prepared.

19 Some of my notes, interestingly, reiterate what has
20 already been said, so let me try to be brief. If I may, I
21 would also like to say a couple of words as a project
22 director who does try to administer a pro bono project in

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1 Georgia, as well.

2 Our working group was intentionally diverse with an
3 effort and an eye toward getting as much input as possible
4 into the process and development of the policy statement that
5 we submitted to President Forger. We had public meetings.
6 We had a gazillion conference calls. Laurie was intimately
7 involved in coming up with language. We had 3 gazillion
8 drafts, I think, of the policy statement which we ultimately
9 submitted.

10 One of the principal things that we said before to
11 ourselves when we first started meeting was the development
12 of a statement which would articulate a goal behind private
13 attorney involvement, that would articulate the values behind
14 what PAI was intended to accomplish.

15 When we started, of course, we thought we were
16 dealing in a context of expansion, never dreaming that eight
17 months later we'd be in a totally different boat. But,
18 regardless, we feel that -- and felt that and feel now --
19 that it is important to have a philosophical underpinning to
20 whatever the Corporation does with respect to PAI, whether
21 that contemplates overall funding cutbacks -- which, of
22 course, looks like what we're going to have to deal with --

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1 or, in better days, expansion of resources.

2 We had lengthy discussions about what a well-
3 funded, well-run PAI program would look at. We took some
4 time to get all of the state programs to describe their
5 vision in that regard, and that's different, depending on
6 where you're looking at it, whether you're in a big city like
7 Laurie is, where there are many, many contributors to the
8 effort, or whether you're in a small town like Bainbridge,
9 Georgia where there aren't many contributors to that effort.

10 But, as I was reviewing my notes to prepare for
11 this, I found a couple of things that might illuminate a
12 little bit of what we talked about. One was something to the
13 effect that we need to ensure that Bucky and the Provisions
14 Committee understand that the intent of the policy is to
15 build bridges.

16 Another quote was that we legal services staff
17 people need to acknowledge that the delivery system is not
18 owned by staff attorneys, that the private bar has an
19 essential part to play. Neither one of us can do the job
20 completely; and apart, we can't do it at all.

21 The studies have shown that many low-income people
22 are getting representation by private attorneys, whether or

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1 not that's as a participant in an organized PAI or pro bono
2 project or not, and we don't know enough about that.

3 One of the other things that we discussed over and
4 over again was the importance of the involvement and support
5 of the private bar for legal services as a whole, as a
6 political entity, as an institution and organization, and
7 that, to me, has been nowhere brought home more acutely than
8 the recent intense support of our private bar in Georgia.

9 Two weeks ago, our state bar leadership organized a
10 trip to Washington with 15 of the most prestigious
11 individuals in the bar and on the bench in Georgia -- three
12 Supreme Court justices, several leading Republican lawyers,
13 several leading PAI volunteers.

14 Our Congress people were impressed again and again
15 and again with that volunteer effort on their part, their
16 willingness to take their time to come up here and make the
17 case for legal services in Georgia, as well as their
18 descriptions of how important the programs is on a local
19 level and what volunteer efforts the program is able to
20 leverage at the local level.

21 Let me say a word or two as a project director, if
22 I can switch hats for a moment.

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1 It has been our experience in Georgia that the best
2 PAI programs work with active and deep commitment on both
3 sides, if you will -- the legal services program on the one
4 hand and, to some degree, the organized local bar but, more
5 broadly, the local bar community as a whole. Without both
6 sides working together, you don't have a good program.

7 In Georgia, we have some areas where they are very
8 good, where those things are present, and some areas where
9 they're not present, where we continue to work and I continue
10 to work on our managers to do better.

11 The organized bar at all levels -- not just the
12 American Bar Association but our state bar and our local
13 bars, because there are some local bars in Georgia which not
14 only wouldn't respond to Chicago but wouldn't respond to
15 Atlanta. That energy has to come from Bainbridge, Georgia or
16 Waycross, Georgia, and that's where the commitment has to
17 arrive.

18 One of the things that we struggled with on the
19 committee was the fact that the Corporation can only really
20 effectively deal with what programs do, what grantees do. The
21 Corporation cannot mandate anything to local bars or state
22 bars or the ABA, for that matter, so we have to constantly

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1 look at ways to build bridges and have that dialogue and
2 mediate those tensions.

3 We are starting a process in Georgia of coming up
4 with some principal, thoughtful ways to deal with funding
5 cutbacks and what that will mean in terms of staff
6 reductions, office closures, serving remote areas. Likewise,
7 we on the committee and I, as a project director, believe
8 that it's important for the Corporation to have a principal,
9 thoughtful way to approach the issue of private attorney
10 involvement and how best that can be approached.

11 I believe it's going to be more important than ever
12 that the private bar is involved, and we are working with our
13 state bar and local bar leadership to bring people together
14 to talk about what's happening to legal services and why it's
15 more important than ever that volunteer efforts on the local
16 level be strong and ongoing.

17 At the same time, I am acutely aware that there is
18 a constant tension, within our program and others, between
19 our role as a law firm serving clients and what our role
20 needs to be and should be and is, not as much as I wish, but
21 as a volunteer management agency, those are two very
22 different jobs. We try to do them both and some people have

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1 strength at one and not the other.

2 But helping to support a local PAI effort involves
3 staff time in recruitment, in screening cases, in referring
4 cases, in supporting cases, in delivering volunteer
5 recognition. It is a big job to run a PAI effort at a local
6 level. That's not to denigrate its importance at all, but is
7 a job that takes resources and we need to have a thoughtful
8 way about how to deal with diminished resources.

9 Finally, just as a project director, I would urge
10 the Corporation, as embodied in the draft statement, to look
11 at ways to loosen up some of the accounting requirements, and
12 let us have some more flexibility in developing different
13 ways. Even around, for instance, the state of Georgia, we
14 can do different things in different parts of the state that
15 will work well.

16 Thank you.

17 MR. ASKEW: Thank you, Phyllis. I'm constantly
18 impressed by how well the people in Georgia organize and get
19 their work done.

20 (Laughter.)

21 MR. ASKEW: Hannah, would you introduce yourself?

22 MS. CONE: Sure. I'm going to need magnification,

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1 today. My name is Hannah Cone, from Rochester, New York. I
2 am the executive director of a program called Volunteer Legal
3 Services Project in Rochester, New York. I think that my
4 role here today is to describe how at least one pro bono
5 program works.

6 I think that Rochester does offer a good model of a
7 partnership between a strong pro bono program, a staff model
8 LSC program, and the private bar, and the ways in which that
9 partnership leverages increased services for clients,
10 increased dollars for the delivery of legal services, and
11 increased political support for legal services and for our
12 clients.

13 Just by way of personal introduction, I am an
14 alumna of an LSC program. I was sent to Rochester as a
15 Reggie in 1977. I had requested an urban, Northeast program
16 and that's what they considered urban Northeast. But 18
17 years later, I'm still there, so I suppose it was a good
18 match. I worked as a staff attorney at Monroe County Legal
19 Assistance Corporation for six years before moving over to
20 the pro bono side.

21 Esther alluded before to the second stage of pro
22 bono development that came after the six, and Rochester was

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1 one of the beneficiaries of that money, and I think that the
2 genesis of pro bono in Rochester is very instructive, because
3 it started at the urging of the attorney who was then the
4 project director of MCLAC, George Parker who, even before the
5 election of Ronald Reagan, saw the private bar as an
6 important partner that could leverage increased services for
7 the clients of that program.

8 So, when LSC put out a request for proposals for
9 the demonstration project money, he went after that money as
10 a partner with Monroe County Bar Association and obtained a
11 \$20,000 demonstration grant from the LSC to create a pro bono
12 program in 1980. That money required a match, which was
13 quickly raised by the Monroe County Bar, and that's how the
14 LSP was born.

15 I think that the fact that, from the get-go, the
16 local legal services programs saw pro bono as an integral
17 part of the delivery really has a lot to say with the way we
18 started in Rochester and the way that we continue to operate.

19 When the money came to Rochester from the LSC, a
20 decision was made for political reasons to make the program a
21 project of the bar association. There had been some history,
22 and it was felt that pro bono would not do as well if the

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1 recruiter was the LSC grantee, so it became a project of the
2 bar association from the beginning. It was housed at the
3 legal services program, with an extremely close working
4 relationship with that program.

5 We opened our doors. I wasn't around then. But
6 the project opened its doors to clients in September of 1981
7 with 75 volunteer attorneys. After about a year, the program
8 spun off as a separate not-for-profit corporation, largely
9 because the bar association, given its tax exempt status,
10 could not receive United Way dollars or other foundation
11 dollars and so there was a need to create a 501(C)(3) to
12 expand the program.

13 Where are we 12 years later? Our program has a
14 volunteer panel that's a little shy of 900 volunteer
15 attorneys. This represents approximately 42 percent of the
16 bar in Monroe County. Our lawyers come from all parts of the
17 bar. We have big firm representation, small firm
18 representation, government lawyers. We also are very
19 fortunate to have very strong participation from our
20 corporate bar.

21 We have almost the entire legal department of Xerox
22 Corp. on board, Bausch & Lomb, Chase Bank, and Rochester

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1 Telephone, which is now called Frontier Telephone. We do
2 have some Kodak lawyers involved, although they're not quite
3 where the other corporations are.

4 Our program in Rochester, as I think in many
5 communities this is the case, we developed our program to
6 complement and supplement the work that was done by staff
7 attorneys and paralegals at the LSC grantee, Monroe County
8 Legal Assistance Corporation and one other provider in town,
9 the Legal Aid Society. I want to talk a little bit about how
10 we do that supplementation and how we complement.

11 In the family law area, we represent clients who
12 cannot be served by the Legal Aid Society either because of
13 conflicts of interest or because that program doesn't have
14 sufficient staff resources. We handle divorces, mostly for
15 battered women, child support, custody, and visitation cases.

16 In the housing area, volunteer attorneys handle
17 overflow cases that cannot be handled by the LSC grantee.
18 This includes both eviction defense and non-eviction matters,
19 not-eviction landlord-tenant problems. That latter category,
20 I should note, has not been handled by the LSC grantee for
21 some time because they don't have enough resources, and pro
22 bono counsel are picking up those cases.

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1 Similarly, pro bono counsel handle SSI overflow
2 cases when the SSI unit cannot handle the volume of cases
3 coming in, which is pretty much constantly.

4 In addition to the overflow role, the LSP has
5 picked up areas of practice that were discontinued by the LSC
6 grantee, MCLAC, when 40 percent of their LSC funds were cut
7 in the early '80s.

8 In the public benefits area, when the staff was cut
9 back drastically and hard decisions had to be made about what
10 public benefits work could be done with the staff that
11 remained, a decision was made to cut unemployment insurance
12 representation. The pro bono program picked that up. Our
13 program is now the only place in town that can represent a
14 worker who has lost his or her job and then faces denial of
15 unemployment insurance benefits.

16 Consumer law is another area which was handled by
17 MCLAC in the 1970s but, when hard decisions had to be made
18 about priorities, was picked up by the pro bono program.

19 In addition to the work of the private bar in
20 Rochester in what we traditionally call the poverty law
21 areas, the bar has lent its expertise in areas in which they
22 have expertise. Back when I did housing work at MCLAC, I

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1 remember sometimes clients would come in with legal matters
2 that were probably very, very simple, but we just didn't you
3 know how to handle.

4 An example would be a woman whose house was in
5 total disrepair, was eligible for a home improvement loan but
6 wasn't able to get that loan because someone else's name was
7 on the deed. All that person needed was a simple deed
8 transfer, and we would say, "We don't do deed transfers; we
9 don't know how to do deed transfers." Now, with pro bono, we
10 can handle it. We have real estate lawyers who do those
11 kinds of cases.

12 We do mortgage and tax foreclosure cases that no
13 one else handles. We do closings for income-eligible clients
14 who buy their homes through Habitat for Humanity, once again,
15 using the expertise of the private bar. We do some estate
16 administration, IRS problems.

17 Now, these are not problems that the poverty
18 community has in great volume, but I can tell you from
19 sitting on the other side of the desk from people that if
20 someone comes in who is a disabled person, whose parents have
21 died, and they need to have that estate administered so that
22 they can get title to that house and stay in that house, that

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1 problem is just as real as the tenant facing eviction and the
2 availability of resources that we have from the private bar
3 makes that service available right now.

4 I would be happy, if you're interested, to talk
5 about the specifics of the working relationship between the
6 Volunteer Legal Services Project and Monroe County Legal
7 Assistance, but I just want to end in talking a little bit
8 about the leveraging that I alluded to earlier.

9 First, leverage in service to clients. Our program
10 assists -- well, our program -- volunteer attorneys, through
11 our program, assist approximately 1,100 individuals and
12 families each year. These people would not be receiving
13 legal help were it not for the matching by our program with
14 volunteer attorneys.

15 And I think, as I described earlier the kinds of
16 cases that we handle, we are not only expanding the volume of
17 legal services available to poor people in our community but
18 also the range of services that are available to those folks.

19 The other, second type of leveraging that we do is
20 in financial support. We have close to 900 lawyers on our
21 panel and, through that panel, we have developed a large
22 cadre of attorneys who have an understanding, through their

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1 work through our program, of the importance of the
2 availability of free legal services for the poor. They have
3 an understanding and, I think, an enhanced sensitivity to the
4 problems of the poor.

5 And that cadre and even, I would say, the larger
6 bar -- because we have a very high profile in our community
7 and even those who aren't doing it hear a lot about us -- has
8 led to our ability to raise money in our community to support
9 legal services.

10 For the last three years, our program, together
11 with Monroe County Legal Assistance and the Legal Aid
12 Society, has conducted what we call a campaign for justice in
13 which we reach out to the entire bar for financial support.
14 Last year and this year, we have raised \$100,000, which I
15 think in a bar of 2,000 lawyers is pretty good. That money
16 goes to support pro bono and it goes to support staff
17 resources, as well.

18 I think that the success, I think there are a lot
19 of factors that go into why fund-raising is successful or not
20 successful, but I do firmly believe that the ownership that
21 our bar feels for the pro bono effort has resulted in lawyers
22 wanting to support legal services with their money as well as

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1 their time.

2 If I could use the "P" work, I think the political
3 support is also engendered by the involvement of pro bono
4 attorneys. We are now, in New York State, facing an
5 elimination of state funding for legal services for the poor
6 that's been in place for about two years.

7 The boards of directors of Monroe County Legal
8 Assistance Corporation and my organization have banded
9 together to create something called the Committee to Preserve
10 Legal Services. They've passed the hat, raised money for a
11 mailing that went out to the entire bar, describing the
12 predicament in which we're about to find ourselves.

13 The outpouring of support from the bar has been
14 truly remarkable. I actually regret that I didn't bring some
15 of the letters. I've been getting copies of letters almost
16 daily that have been going to state legislators.

17 But the tone of the letters tend to be something
18 like, "We realize that the government has to make some hard
19 choices and we realize the government spends too much money,
20 but I do pro bono and I can tell you, from my personal
21 experience, that my work has averted tragic consequences for
22 my clients and that my work has avoided long-term, more

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1 expensive cost to society." Letter after letter is coming to
2 me with lawyers saying this based on their personal
3 experiences.

4 I do think that, if the private bar were not
5 actively involved in our work, both the volume and the
6 quality of that support would have been dramatically
7 different.

8 I would be happy to answer any questions.

9 MR. ASKEW: Thank you, Hannah. Is Leanna Gipson
10 still the director in Monroe County?

11 MS. CONE: She is, and she sends her regards.

12 MR. ASKEW: Great. Tom --

13 MS. CONE: Could I just say, I didn't want to limit
14 the support of MCLAC to the historical story of George
15 Parker, because consistently, Leanna, who has been the
16 project director for ten years, has been extraordinarily
17 supportive of our work, as well.

18 MR. ASKEW: Another fine Southerner, I might add.

19 (Laughter.)

20 MS. CONE: She still has the drawl.

21 MR. ASKEW: Tom, would you introduce yes, sir?

22 MR. MALIGNO: Sure. My name is Tom Maligno and I'm

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1 the executive director of Nassau/Suffolk Law Services, which
2 is the legal services program in Long Island, New York.

3 I sometimes hesitate to say "program" because we
4 are now funded by 24 different sources, and there was a
5 point, just 10 or 12 years ago, where legal services was
6 almost 100 percent of our funding and there was a point a few
7 years ago, before IOA's precipitous drop, that legal services
8 was less than a quarter of our funding. The emphasis arose
9 that, although, of course, we hope legal services money
10 continues to increase, we do anticipate that our other
11 funding will continue to increase.

12 I also was a little concerned when I was introduced
13 as giving the project director's perspective here for,
14 although I have been the project director at Law Services for
15 the last four years, I was the pro bono coordinator for the
16 seven years before that and the managing attorney and a staff
17 attorney and a VISTA attorney. Coincidentally, Hannah and I
18 started at the same time. I started in 1977 as a VISTA
19 attorney.

20 But I was the pro bono coordinator and that's how I
21 first got involved in pro bono and legal services issues.
22 Some people have suggested that I'm a pro bono coordinator

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1 who made good.

2 I think some of my fellow pro bono coordinators
3 would question whether becoming a project director is "made
4 good," but I think I have and I think it's given me a
5 wonderful perspective to have been involved in the pro bono
6 part, which means becoming involved with the private bar, and
7 now heading up a program which, at one point, was over a \$6
8 million program, most of that going to staff delivery.

9 I should also just tell you a little bit.
10 Sometimes I wear the private bar hat I'm on the Executive
11 Committee of my local bars; I'm the chair of the New York
12 State Bar Legal Aid Committee as well as the President's
13 Committee on Access to Justice.

14 And Hannah and I helped form the New York Pro Bono
15 Coordinators Network approximately 10, 12 years ago, which is
16 an extremely strong and wonderful organization that has over
17 40 fairly active members. One of the things I'm proud about
18 in New York State is that we helped to convince the state bar
19 to hire backup staff, and we have a pro bono department at
20 the state bar, largely at the initial instigation of the pro
21 bono coordinators around the state.

22 So I wear many different hats. My private bar hat

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1 comes in handy, as well, obviously, for this debate. Let me
2 echo what Hannah had said. The wonderful support that comes
3 out of the pro bono movement through the staff legal services
4 program was brought home to me.

5 We're about to celebrate our 30th anniversary as a
6 legal services program. When we had our 25th anniversary
7 dinner, Judge Jack Weinstein, who currently sits in the
8 Federal District Court for the Eastern District of New York,
9 told a story about how, literally, a fist fight developed in
10 the Appellate Division as they were considering the creation
11 of Nassau/Suffolk Law Services, and the Nassau Bar president
12 at the time, who supported the creation of Nassau Law
13 Services, a motion for his impeachment was brought because of
14 his support of the creation of the legal services program.

15 Well, today, in 1995, it's the total reverse. We
16 could not have bigger supporters of the staff program,
17 including the pro bono effort and financial funding for us,
18 at every level -- state, federal, local, working with the
19 business community.

20 So certainly I want to echo what it's meant to Long
21 Island. The pro bono movement has significantly increased
22 our working relationship and the respect.

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1 One of the things that I'm proud of that we
2 developed on Long Island that now the state bar as adopted, I
3 was frustrated that every year we had a new president and
4 that a new education process had to start. So I convinced
5 the Suffolk County Bar first and the Nassau County Bar, and
6 now we've convinced the New York State Bar that legal service
7 delivery and pro bono is so important to the private bar that
8 no one should ever be president again without having been
9 directly involved in it on the way up.

10 So, at the state bar level, the president-elect
11 always chairs the legal services and pro bono committee so
12 that she or he is directly involved in our issues. That has
13 been true at the Nassau and the Suffolk Bar Associations for
14 the last seven or eight years now and it has immeasurably
15 helped our cause.

16 One quick little anecdote. At the state bar level,
17 we sometimes get into confrontations with other parts of the
18 bar about how much resources should go into pro bono, and I'm
19 proud to say that pro bono has always won, causing much of
20 the rest of the staff at the state bar to say that the
21 President's Committee on Access to Justice should be renamed
22 as the Committee on Access to the President. But I think it

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1 proves our point.

2 What I would also say, when I quickly talk a little
3 bit about our program, is that I think we have a wonderful
4 program, but I also know we have a long way to go and there's
5 much work to do. I also want to say that very little of what
6 we do is because of my original ideas. I was trained in the
7 early '80s by Esther when there were just a few of us, and
8 her idea has helped us create a foundation. I've stolen lots
9 of ideas from Hannah and other programs around the country.

10 Let me just quickly tell you about our program. We
11 have two programs in each county of the Volunteer Lawyers
12 Project in Nassau and the Pro Bono Project in Suffolk.
13 They've been in operation since 1981-82. I think the key to
14 our success is that my predecessor, as director, saw pro bono
15 at something important and let me run with what we can do.

16 We are proud to say that we frequently have spent
17 more than 12-1/2 percent, knowingly, willingly. In fact,
18 there was one point that we were up to 16-1/2 percent of our
19 budget. That's because we did not look at it as a separate
20 part of our program. It was part of our delivery mechanism.

21 Now, I should tell you that, as our income from the
22 private bar and the support, the financial support for pro

1 bono has risen, we have sort of settled in at around 12-1/2
2 or 13 percent of our federal grant and certainly, when you
3 add our private support in, that pays financially for our
4 program, it is far more than 12-1/2 percent of our federal
5 grant.

6 We traditionally started, like most programs, in
7 dealing with divorce cases and doing our initial recruitment,
8 but we now have expanded, and just quickly let me run down.

9 We have a Housing Rights Project in which we have
10 lawyers of the day who go -- volunteer lawyers of the day --
11 who go into court with our staff attorneys, because our
12 staff, unfortunately, the core units have been reduced in
13 their funding, and so our staff puts together a training
14 program which we do every September, with a big kickoff.

15 One of the interesting things about this program is
16 we got our Women's Bar Association to co-sponsor it as their
17 main pro bono project, and so we have attorneys going in,
18 doing good work. We're not just talking about settling
19 cases. We're talking about doing trials.

20 One of the keys to this success is getting the
21 judges involved and getting the court clerks involved from
22 the beginning. And so our Housing Rights Project is

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1 successful.

2 We've also expanded this to law students. I'm also
3 proud to say that Truro Law School, which is our law school
4 in Suffolk County, New York, we have opened up a branch
5 office of our legal services program at the law school, I'm
6 happy to say at their expense. All the costs of running the
7 office are paid for by the law school and two thirds of our
8 staff attorneys' salary there is paid at the law school.

9 We work with students under our Appellate Division
10 order. Truro has a mandatory pro bono requirement and one of
11 the ways they satisfy their requirement is by working in our
12 office and providing representation in the Housing Rights
13 Project, and now we've expanded to family law.

14 An idea that we stole from Hannah is our Bankruptcy
15 Clinic or our Debtor-Creditor Clinic. We were so overwhelmed
16 with cases that a one-to-one referral wasn't working. We
17 discovered that many of these people who were now going on a
18 waiting list really weren't good candidates for bankruptcy
19 and so they were on a waiting list a long time, for no
20 reason.

21 So, in taking some ideas from Hannah's program, we
22 put together a clinic where we have 30 individuals a month

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1 who meet with a panel of five to eight attorneys. One
2 attorney gets up and tells all the clients who are there the
3 general overview of bankruptcy law, so that that doesn't have
4 to be repeated 30 times. Then the attorneys break up into
5 individual rooms, where they meet with four or five people
6 that evening.

7 And now, here's the part I love about this. After
8 all the clients are gone, we sit as a group and determine who
9 should be accepted, who should be rejected, who is a good
10 candidate. Sometimes we disagree with the private attorneys,
11 and my staff makes their point known. Sometimes, their point
12 prevails.

13 What I like about this is when we first started
14 making bankruptcy referrals, it was difficult to get
15 attorneys to take cases. What we found is, when private
16 attorneys meet clients on a one-to-one basis, they're more
17 likely to say yes to taking the case than they are if we just
18 call them up, because we get past all the stereotypes. They
19 see the human being that has real problems. So that's been
20 the success of the bankruptcy clinic.

21 Our largest law firm on Long Island, Rifkin,
22 Radler, does a civil clinic with Hofstra, which is the other

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1 law school in Nassau County, in which every month they see 15
2 cases, general civil cases. They run the gamut -- consumer,
3 family law, landlord-tenant. And the key here is we match
4 them with Hofstra students who do all the research and
5 writing.

6 I'm particularly proud of Rifkin, Radler because I
7 guess I could say that, when we first started, the senior
8 partners were not too interested in the project and it was
9 really by working with the associates -- we had a little
10 mini-revolution within the firm -- that a pro bono project
11 was created.

12 We have a Pro Se Matrimonial Clinic, which is an
13 idea -- I don't know if we stole that from you, but we stole
14 it from another program, the Mid-Hudson Program. One of the
15 other things I'm proud of. And I actually have a few
16 brochures, which maybe I'll hand out.

17 We, along with San Francisco and the Bar
18 Association of the City of New York, were one of the first
19 programs to create a Breast Cancer Legal Advocacy Project.
20 Unfortunately, Long Island has a high rate of breast cancer
21 and what the breast cancer patients were telling us is that
22 they were being turned down by insurance companies for bone

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1 marrow transplants or other medicine.

2 So, three years ago, with the breast cancer
3 coalitions, we developed a Breast Cancer Legal Advocacy
4 Project which has now pretty much expanded to other areas,
5 and we have represented over 40 women and their families to
6 provide representation against insurance companies, and I'm
7 proud to say that not one case has had to go to trial. Once
8 we've gotten involved, we've got settlements in every single
9 case.

10 We have a family court lawyer of the day in child
11 support, which runs like our Landlord-Tenant Program. We
12 have an Unemployment Project that is run totally by pro bono
13 attorneys who are retired. They come in and they totally
14 staff the project right out of our office, as opposed to
15 taking one-on-one cases.

16 It reminds me of something else I want to tell you
17 about what the New York coordinators did. We were
18 instrumental in getting New York law changed so that retired
19 attorneys who want to do pro bono cases don't have to pay the
20 registration fee, as long as they're participating through an
21 organized program.

22 We also helped change the law with government

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1 attorneys and also helped to make the getting of an "in forma
2 pauperis," or poor person's motion easier, because that was
3 one of the reasons that pro bono attorneys were telling us
4 they didn't want to take pro bono cases.

5 We have an AIDS Clinic that we sponsor every Monday
6 night with our local Long Island Association for AIDS Care.
7 We have an Education Program in which we work with a staff
8 program that's not legal services-based, and we do their
9 appeals for them.

10 We have a Domestic Violence Project where we get
11 local county funding and we have 15 students who come in pro
12 bono and, every single day, we have our staff attorney and
13 three pro bono student volunteers who, in Suffolk County
14 Family Court, do all the domestic violence programs.

15 So I tell you all these. We have been extremely
16 lucky. If I could, I'd like to just hand out --

17 MR. ASKEW: Sure.

18 MR. MALIGNO: -- this is a combination, and I'm
19 sorry. I don't have enough brochures for everything for
20 everybody. This is our general staff brochure for the
21 program. This is our breast cancer brochure and some of our
22 recruitment brochures in Nassau and Suffolk Counties over the

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1 last couple of years.

2 I've been extremely lucky, because I've been able
3 to see this from both sides. I'm a little frustrated when I
4 hear my fellow project directors sometimes question the value
5 of pro bono. I think that's changed. On the other hand, I'm
6 also frustrated when I hear pro bono coordinators not
7 understand what the burdens are and the stresses on a
8 program.

9 One last idea that we've taken from Hannah is, our
10 bar association financially supports our pro bono program
11 through and IOLA grant, which was \$100,000. That has been
12 reduced to 37, due to IOLA interest rate cuts. The bar, on
13 their own, prints the brochures that you look at, pays for
14 all our expenses. For example, when we attend ABA
15 conferences, that's done at bar association expense not at
16 legal services expense.

17 But, with the drop in IOLA, we decided it was
18 finally time to have a more organized pro bono fund-raising
19 effort, and the bar associations this year, just last month
20 in fact, we did our first phone-a-thon, and we've raised
21 \$60,000, we've collected \$60,000 so far, and I have to tell
22 you we really didn't know what we were doing. So my feeling

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1 is, once we know what we're doing, we're going to do much
2 better than \$60,000.

3 But this is -- it's just amazing to see the
4 people's commitment to giving money, and attorneys are also
5 sending similar letters, that, "I'm part of the pro bono
6 panel and we will continue to do what we do. We may even
7 increase. But we can't do it without the foundation of the
8 staff program, that is the foundation of the pro bono effort,
9 as well."

10 So I hope I didn't tell you too much about our
11 program, but that's a little bit about where we've come since
12 1981, with the help of many people.

13 MR. ASKEW: Thank you, Tom.

14 MR. FORGER: Mr. Chairman, may I note that, with
15 your interest in geography, the last two witnesses are from
16 New York?

17 MR. ASKEW: I didn't realize that. Thank you for
18 pointing that out.

19 (Laughter.)

20 MR. ASKEW: Thank you, Tom. I don't believe we've
21 ever met, but the staff told me you were both energetic and
22 creative. You came as advertised.

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1 (Laughter.)

2 MR. ASKEW: I appreciate your being here. Esther,
3 you were going to speak to innovations. Can you follow that?

4 MS. LARDENT: It's actually a very good segue, both
5 Hannah's comments and Tom's.

6 Because I think, when you think about innovations,
7 what we're talking about are different ways of leveraging pro
8 bono resources, ways that differ from what I would call the
9 traditional pro bono program, of a program that is handling a
10 fairly narrow range of cases with an emphasis, often, on
11 family law, and is referring those cases to volunteer
12 attorneys one at a time.

13 That was certainly what most pro bono programs
14 looked like in 1981, when many of the programs were created.
15 But what we're seeing is some very significant changes and, I
16 think, some opportunities, where as yet we haven't even
17 scratched the surface.

18 Let me talk briefly about three areas. They've
19 been mentioned in many ways, as I said, by Hannah and Tom.

20 The first in the way in which cases are referred.
21 One-on-one case placement is enormously time-consuming. It
22 gobbles up the resources of the often very small staffs of

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1 pro bono programs. It attempts to get busy lawyers who are
2 impossible to reach on the phone.

3 And so there have been a number of ways in which
4 that effort has been changed, and there are different ways of
5 getting people to take cases.

6 As Tom mentioned, clinics are a very good way of
7 doing that. First of all, it means that the program doesn't
8 have to do any intake, or only has to do preliminary intake.
9 As Tom said, people who see clients are much more willing to
10 take those cases.

11 What it means is you don't have to go through the
12 process of trying to refer these cases one at a time.
13 Indeed, in some of the clinics that are going on now, there's
14 enough information available that, particularly in the firm-
15 sponsored clinics that are run by large law firms, where the
16 firms do a preliminary conference check and pre-approve the
17 case so that they don't even have to go back and get
18 approval. It's done by the time that they see the client.

19 It is important, as Tom mentioned, though, I think,
20 to have the kind of quality control, case acceptance process,
21 mentoring, tutoring, and that sort of thing, so that people
22 are taking cases with all the support that's necessary, but

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1 certainly that's an important area.

2 Bundling of referrals is another way that people
3 have done it. Again, particularly with larger law firms,
4 sending cases one at a time is an incredibly time-intensive
5 way of dealing with an institution that has methods of
6 handling this, and so people have worked out various systems
7 with firms in which they get firms to agree to a set number
8 of cases, a set number of cases at a particular time.

9 No, with a preliminary conference check, ten cases
10 can be sent over at a time without trying to contact
11 individual attorneys. The firm takes the responsibility,
12 then, for assigning them through the firm.

13 The use of e-mail and faxes, because no lawyer is
14 ever at their phone, as near as I can tell, except for people
15 like Laurie, who is always at her car phone because she's
16 always in Los Angeles traffic, and that's where you can get
17 to talk to her. But the notion, with preserving client
18 confidentiality obviously, and avoiding ethical issues, of
19 sending out information on cases so that people can see them
20 and quickly fax back their willingness to handle the cases.

21 All of that results in efficiencies of operation.
22 It lets the program focus on support for attorneys and

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1 followup and quality control, rather than focusing on this
2 one by one process which requires two very busy people to
3 connect over the telephone.

4 The second innovation, and it's also been
5 mentioned, is changes in types of cases. The term that's
6 been used -- and it's not a term I like, although I think I
7 coined it -- one of them is "boutique panels."

8 But it is certainly the case that the problems of
9 low-income people have changed significantly and issues like
10 people with AIDS, cancer patients, homeless people, programs
11 that focus on children, programs that focus on the elderly --
12 we see a great deal more emphasis on some of those
13 specialized areas where, in some cases, much of the expertise
14 is in the private bar. If you're going to have battles with
15 insurance companies, for example, private insurers, you've
16 got that expertise in the private bar.

17 More emphasis on main-stream poverty work. When
18 Hannah talks about some of the things that her folks are
19 doing -- SSI cases, and that sort of thing -- there are
20 people who have always thought that private attorneys can't
21 handle government benefits cases. The reality is, of course,
22 with training, orientation, and materials, they can, and they

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1 do a terrific job, and so we're seeing more of that.

2 Impact work, in class actions. I think you heard
3 from Larry Fox and Ken Frasier when you were in Boston about
4 the lab project, which I was involved in creating.

5 There is no reason why that needs to be done only
6 on a national level and, indeed, there are programs --
7 although not, as often, legal services programs, but
8 certainly other public interest pro bono programs -- which
9 have a very strong reliance on, again, primarily larger firms
10 to handle impact work. They often co-counsel that work.

11 It is something that lawyers are very interested in
12 doing. It's something that the private bar has real
13 expertise in doing. It is a way for programs to handle more
14 resource-intensive cases than they might otherwise handle and
15 -- you know, as Hannah said, the "P" word -- it often can
16 provide some political cover for the programs, as well.

17 The area that I think is beginning to really take
18 off and where I think there is great promise, and we've
19 barely scratched the surface in innovation, is the
20 involvement of transactional lawyers -- again, primarily
21 people in large firms -- in pro bono work.

22 There is a hunger among transactional lawyers, in

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1 many places, to do pro bono work. It's a growing segment of
2 the bar. It's a segment of the bar that hasn't had a pro
3 bono tradition.

4 To some extent, I think what's happened is that
5 there's been an attempt to try to convince people to handle
6 cases which have a litigation flavor, which is much of the
7 work of legal services programs, and that, I think, in many
8 ways, may be -- particularly for more senior and specialized
9 people -- may be a real misuse.

10 We are seeing, in a number of places, extraordinary
11 work being done by real estate lawyers, tax lawyers,
12 bankruptcy attorneys, lawyers who specialize in public
13 finance, banking, and securities work. And when that
14 expertise is made available to low-income people in their
15 communities, the results are extraordinary, they're long-
16 lasting, they often address root issues of poverty. They
17 create jobs, they create affordable housing. They strengthen
18 communities. We're seeing extraordinary things being done.

19 I could spend all day giving you example. I won't.
20 But bankruptcy attorneys, for example, who coordinated with
21 landlord-tenant people to really strike at what could only be
22 called a major slum landlord -- the properties that this

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1 landlord owned had -- there were, I think, 2,000, almost
2 2,000 serious code violations in those properties over the
3 course of a year-and-a-half.

4 The person finally went to declare bankruptcy, and
5 what the bankruptcy attorneys did was to work with the court
6 and with some of the debtors to structure and restructure
7 ownership of the buildings so that some of them became, in
8 fact, tenant-owned properties, and some of them went to a
9 separate 501(C)(3) and they became decent and affordable
10 housing.

11 A firm in New York is working to take a bakery that
12 was closed and turn it into a worker-owned bakery that will
13 create 300 jobs in a very hard-pressed neighborhood. There
14 is example after example.

15 There's a firm in Washington, D.C. that is setting
16 up a community loan bank there will provide low-income loans
17 to poor people who want to start small businesses, as well as
18 business expertise that's going to be provided by business
19 school students and corporations.

20 Corporate law departments and law firms are working
21 together to develop community-based affordable day care so
22 that people can work where there isn't really the

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1 availability of day care at this point.

2 There are so many ways in which these firms and
3 these lawyers have skills that could benefit poor people and
4 low-income communities, and we haven't, as I said, I think
5 even begun to scratch the surface. But the desire is there
6 and people are beginning to understand how to put those
7 skills together with the needs of low-income people.

8 Finally, there's been a change in the role that
9 lawyers play. As programs understand that pro bono attorneys
10 have other interests beyond taking cases, and as lawyers get
11 more invested and involved in the programs, you see people
12 doing things. Tom has talked about some of them.

13 The lawyer of the day program can be a court-
14 involved program or a program where lawyers actually come in
15 and do intake for the legal services program or where lawyers
16 do the referral to other volunteers, which can often be more
17 effective than a staff person because you're talking about
18 somebody who is already making that program commitment.

19 Lawyers involved in legislative and policy advocacy
20 -- we see that particularly effectively in, for example, a
21 city like D.C. where you've got firms with very large
22 legislative departments who have a great deal of access and

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1 who have the capacity to go up and talk about poor people's
2 issues just as they do for their corporate clients.

3 Rotation programs -- we're seeing an increase in
4 those. They started in Boston and Washington, D.C. 25 years
5 ago. But firms send in associates -- typically third or
6 fourth-year associates -- to programs for three months or six
7 months, and do so on a continuous basis so there's no gap in
8 the cases, essentially creating another full-time equivalent
9 staff person.

10 Covington & Burling, which has been doing this
11 continuously for 25 years, now sends three attorneys at a
12 time and also provides funding for fellows, so they are
13 providing seven full-time staff people to the Washington
14 Legal Services Program. We're seeing rotation programs start
15 in many firms around the country.

16 Co-counseling major cases, making other resources
17 of the firm available -- training programs, computer
18 expertise, librarians, litigation paralegals who can work
19 with people to go through exhibits and discovery in large
20 cases -- all of that is available -- available and, at this
21 point, under-utilized.

22 I'll mention briefly two other innovations that are

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1 beginning and I think are very promising. Pro bono programs
2 have a very interesting perspective, I think, because, if run
3 well, they are at the intersection of the private bar, legal
4 services, and community organizations and so, what we're
5 seeing in some areas -- most notably in San Francisco -- is
6 the use of multi-disciplinary volunteer resources.

7 Phyllis talked about volunteer management. That's
8 what pro bono programs are good at. There's no reason that
9 that volunteer management need only include law firms or
10 lawyers.

11 So that we see, in San Francisco, a program for
12 women and families in poverty where people are invited to
13 come in to a full-service clinic. Not only are they provided
14 with legal advice and assistance, they're provided with
15 health checkups and dental checkups. There's day care for
16 their children. There are people there to help them draft
17 resumes. There are people there to counsel them on
18 employment. There are people there to counsel them on mental
19 health issues. There is a clothes closet for them so that,
20 if they are going to interviews, they can have appropriate
21 attire. They're counseled in how to interview.

22 All that is done, and then there are monthly

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1 support groups following up with it -- a recognition that
2 legal services is only one of the aspects of the assistance
3 that people need, that there are other organizations out
4 there that can help with it, and putting lawyers in
5 partnership with volunteers who work with other agencies so
6 that there is an attempt to create a holistic social service
7 fabric even at a time when that fabric is very fragile.

8 Finally, Phyllis mentioned rural communities and
9 the very different resources that those communities have.
10 It's obviously very important to create locally based support
11 for them. But one of the things we're also seeing -- and LAP
12 and Business Commitment and other national programs are an
13 example of that -- is a willingness on the part of, again,
14 particularly larger firms, to go out and provide assistance
15 wherever that assistance may be. That may be done over the
16 phone.

17 One of the things we're seeing is lawyers staffing
18 volunteer hotlines that are done on a statewide basis. That
19 may be done through direct representation. It doesn't work
20 for every case but certainly, where expertise is needed, for
21 example, in appellate matters, that can be done.

22 There's no reason why the resources that are in

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1 urban areas can't be made available in rural areas of the
2 state, and we're seeing more and more people willing to
3 travel and to expand those resources.

4 I think that there is an enormous both volume of
5 assistance and willingness to assist, and what we haven't
6 been able to do because of limited resources is figure out
7 how to capture that in a way that doesn't overwhelm the
8 administrative staffs and capacities of the pro bono programs
9 and the field programs, but more and more people are figuring
10 out how to do that in an effective and creative way.

11 Laurie is a partner at Morrison and Forster, which
12 is a firm with a major pro bono tradition, one of the
13 strongest pro bono traditions in the country. When I looked
14 at their pro bono docket about five years ago, I was very
15 disheartened to see that only one of the cases, the major
16 cases that they were working on, was being done in
17 cooperation with a legal services program. All the others
18 were being done in cooperation with public interest
19 organizations that were not legal services related.

20 It's my hope that what the Corporation can do is to
21 promote the kind of awareness of the breadth of resources
22 that are available, encourage innovation, promote quality, so

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1 that, the next time we look at the docket of MoFo, we see
2 lots and lots and lots of legal services-related cases and
3 matters and representation.

4 MR. ASKEW: Thank you, Esther. What you just said
5 at the end if probably the perfect segue into what we really
6 need to do -- we're running out of time to do it today --
7 which is, our hope would be that every program in the country
8 would be as creative and energetic as Tom has been and that
9 every pro bono coordinator was as knowledgeable and as
10 energetic as Hannah is and that people would understand
11 Phyllis's perspective on this and agree with it.

12 The fact is, that probably there's a great need out
13 there for us to help in that regard. I think Alex's
14 motivation, probably, and the motivation of the Delivery
15 Working Group in drafting this policy statement, was to do
16 exactly what you just said. How do we encourage this; how do
17 we support it; how do we get information out, help people do
18 it -- that's our goal or one of our goals for doing this.

19 The problem is now, are we accomplishing that and,
20 in fact, is there a negative consequence for what we're
21 doing, as Laurie pointed out in her remarks? And we only
22 have 15 minutes left before we're supposed to break, and

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1 we're got another group who is supposed to speak to us.

2 But it seems to me that -- and there are other
3 committee members, I'm sure, who would like to either ask
4 questions or make comments, and we're practically out of time
5 to do that. But what we wanted to do here was discuss the
6 policy statement and the content of it and the timing of it
7 and all of those things, and what changes, if any, should be
8 made it in -- that sort of thing.

9 It seems to me there are four things that we need
10 to address, and we can't do it here today.

11 One is the concept of this. Phyllis mentioned the
12 philosophical underpinning. It's helpful to have that. You
13 know, is the concept of this a good idea? Is this something
14 that needs to be done? From my perspective, it would have
15 been helpful to have had this 15 years ago, but it's
16 certainly helpful to have it today. But people may disagree.

17 Secondly, has the Corporation explained its reasons
18 for doing this and the goals for it adequately enough so that
19 we deal with the tensions that Laurie identified, so that
20 people don't read something into this that's not intended or
21 believe that we have some hidden motive for doing this, other
22 than what we have said, but maybe not well enough or

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1 thoroughly enough to people?

2 Thirdly, the statement itself -- is there language
3 in there that's a problem? Does it cover everything? Are
4 there things that we need to do to change that statement to
5 make sure it accomplishes the goals that we have set out for
6 it?

7 And fourthly, an issue that Reese raised, and other
8 bar leaders have raised, of the timing of this -- is that a
9 problem for us in the sense that, in the reality we're facing
10 today, is the timing of this bad and we should put it off?

11 We don't have time to address those issues here
12 today, but those are the things that concern me, and how do
13 we address those things, to make sure that, when we issue
14 this policy statement, that people understand why we're doing
15 it -- program directors, bar leaders, and local pro bono
16 participants -- that the statement is as well-written as it
17 can be and accomplishes the things that Esther outlined and
18 that, third, it certainly doesn't have any negative
19 consequences in any way for what we're trying to do, because
20 that's certainly not the motivation behind it.

21 Would any of you like to speak to that, briefly?
22 Laurie?

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1 MS. ZELON: Bucky, let me make a comment on the
2 timing that I think may incorporate some of the other issues.

3 My sense, from talking to people right now, is
4 that, whereas maybe six or eight months ago or even a year
5 ago this was something that bar leaders, from that side of
6 it, had some real interest in -- you know, what is going to
7 be done with this, how does the changing environment affect
8 the relationship between local bars and the programs?

9 I think right now this is not a very big item on
10 most people's radar screens. I think the issue that is very
11 important for people right now is the necessity to make sure
12 that the Corporation exists, that the Corporation has
13 adequate funding, and that the Corporation's ability to
14 operate in the areas of which it is traditional they operate,
15 operated either in conjunction with the private bar or
16 separately, are maintained.

17 I think that's a very important focus for the
18 private bar right now. People are motivated and people are
19 very well-intentioned in that, and I don't think that there
20 is a lot of energy right now in the private bar to devote to
21 a principal discussion of these issues. People want the LSC
22 to stay in existence and they want the partnership to remain,

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1 and so I'm not sure that we want to spend a lot of that
2 energy focusing on this right now. That's not the sense I'm
3 getting from the local communities.

4 MR. EAKELEY: How about SCLAID? SCLAID has
5 discussed the policy, I know, but is there a position that's
6 emerging or is it more as you've described generally?

7 MS. ZELON: Well, SCLAID did discuss the policy.
8 In February we had a discussion at which Alex was there and
9 other people were there to hear our discussion, and SCLAID
10 has been committee to this partnership for a long time but,
11 quite frankly, our primary energy right now is on the more
12 fundamental issues of what is the Corporation going to look
13 like in the years to come or, indeed, next year. And again,
14 that is where our efforts are focused.

15 MR. ASKEW: Maria?

16 MS. MERCADO: Yes. I guess, in line with the
17 ultimate decision, not only of SCLAID but of other people
18 that you're talking about, where our fundamental shift ought
19 to be or our attention ought to be at this point, in line
20 with that, one of my concerns is that when we're dealing with
21 Congress in looking at whether or not legal services ought to
22 survive, is that I know from the informal discussions we've

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1 had with members of the Hill, that one of the recurring --
2 and I think that our president mentioned and maybe some of
3 the panelists mentioned it -- is that legal services, the
4 delivery of legal services to poor people is something that
5 the bar would take up on its own or that if, in fact, you
6 have programs like Mr. Maligno's program or Ms. Cone's
7 programs that have been very successful, why isn't that
8 something that could be duplicated to take over the services
9 of legal services?

10 I guess part of my concern, or trying to get input,
11 I guess, from the broad community out there, is how do we
12 respond to that? I don't know whether SCLAID or the other
13 pro bono groups have discussed that, that if the response of
14 a lot of these congressional people is that there's a lot of
15 cuts that are going to have to be made and it's the bar that
16 needs to take up.

17 Now, obviously, it has worked in some areas very
18 well, because you've pretty much taken a bulk of legal
19 services funding and programming at the local level. What
20 kind of strategies or responses is it that you're looking at
21 on how we deal with it?

22 I mean, we have some ideas and that, but I wonder

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1 whether there is any kind of formal -- go ahead.

2 MS. ZELON: What SCLAID has been helping to
3 develop are some answers to some of those questions. The
4 most important answer to those questions is that the private
5 bar, while criticism can be made as to the amount of the
6 effort in some places, the private bar is working quite hard
7 now to leverage out and to provide both funding and
8 volunteers to increase the amount of legal services that's
9 being delivered.

10 With the emphasis in those educational pieces on
11 the relationship between successful private bar programs and
12 the legal services grantees, I think that probably all five
13 of us today feel strongly that, without that relationship,
14 none of the programs will be as successful. Your grantees
15 will not be able to deliver as many services as they are now
16 and certainly the private bar depends heavily on the
17 expertise, the knowledge, and the resources of your grantees
18 in order to deliver their legal services.

19 This is a point that I think cannot be made too
20 strongly to Congress. It's an educational issue for many of
21 us and, you know, a repeat of the education that was done
22 with the private bar, frankly, in 1979, 1980, '91, and on in,

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1 that led to the development of a lot of the successful
2 programs and that people like Hannah and Tom continue to do,
3 every day.

4 MS. MERCADO: I know that one of the things, when
5 we compare ourselves, I think that when they say that we
6 don't need to have the government fund lawyers, one of the
7 equal, I guess, factors that we ought to look at is that,
8 when we provide Medicare and Medicaid assistance to people
9 for health care, no one says, "We shouldn't provide money to
10 fund doctors," I mean, because you're blaming, I guess, the
11 source of what the assistance will provide. There has to be
12 some sort of way of categorizing that.

13 MS. LARDENT: I think too -- I mean, history is a
14 great teacher on this. And that is that we weren't able to
15 marshal these kinds of resources on the part of the private
16 bar until we had that critical core framework of staff
17 programs with experts who handle these issues every day, know
18 their communities, know the community agencies.

19 Without that, even if you've got attorneys who are
20 willing to provide their services, they're not going to do it
21 in a particularly coherent and effective manner, at all. So,
22 in a very real sense, what we're seeing is one important

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1 benefit of having the staff programs.

2 MR. ASKEW: Bill.

3 MR. McCALPIN: Bucky, I have some other comments to
4 make with respect to this. I assume that the committees will
5 have, and the Board will have, other opportunities. I think
6 it's more important to hear the people who have come to give
7 us their ideas --

8 MR. ASKEW: Right.

9 MR. McCALPIN: -- than for us to participate.

10 MR. ASKEW: Right. That's right. Well, yes.
11 Doug.

12 MR. EAKELEY: We've heard from, I don't want to say
13 the organized bar, but we have a message that's unmistakably,
14 "Go slow, let us focus on survival strategies for the
15 Corporation." Where are the field programs and the pro bono
16 coordinators and the Delivery Working Group on the timing of
17 this? I think that's the most important question we've got
18 to ask ourselves today.

19 MS. HOLMEN: If I can just add one thing on the
20 question that Ms. Mercado asked, and that is, one thing that
21 we have said on the question of why can't the private bar do
22 all this is the example of Georgia which -- I mean, we cover

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1 every county in the state. There are many counties in
2 Georgia where there are no lawyers, and so there are people
3 out in the country who would not be served, and that's an
4 important thing that I think staff programs do provide.

5 John Asher and I have discussed the timing question
6 and feel that, on behalf of the committee, that the timing
7 question is a delicate one, also that the language, the
8 content needs to be worked through carefully and the
9 statement should be circulated as broadly as it can be,
10 certainly within the organized bar. And my understanding is
11 it has not been real widely circulated by the organized bar.
12 The programs have seen it. I don't know that we've received
13 much, if any, response from the programs.

14 Having said that, we feel that we hope that you
15 would not take it off the stove completely, because we are
16 all under the gun, so to speak. We are going to be wrestling
17 with these issues on a local level, of how to continue to
18 provide the services, and the support of the private bar is
19 crucial.

20 I was sitting here taking notes about things. I'm
21 going to go back to Macon and see if I can get an AIDS clinic
22 going in Macon. Those things are critical and we will

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1 continue to do those things. We do need your support and
2 your thoughtfulness about this.

3 One of the things the Corporation could be doing is
4 seeing that ways are developed to share these kinds of ideas.
5 The ABA, in its pro bono conference, is very, very important
6 in that role, and most of the programs send people to that
7 conference.

8 But to get back to the point, I hope you don't take
9 it off the agenda completely. I understand the timing
10 issues. We do need to build bridges and we're supportive of
11 that. But don't let us dangle out there.

12 MR. ASKEW: Alex.

13 MR. FORGER: I think the words on the page are far
14 less important, however they be modified or massaged. It's
15 the unquestioned essential need of developing, one, a closer
16 partnership and, two, more activity. So I think the
17 formulation of a policy, whatever words we use, putting aside
18 12-1/2 percent, is basically how can we do more things
19 together. There has been a huge variety of examples given
20 here today.

21 A question, Esther. In response to the inquiries
22 we get frequently in Congress about the degree of the bar

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1 participation, the private bar, we've been using a figure
2 suggesting that there may be 120,000 or 130,000 private
3 lawyers rendering pro bono service.

4 In absolute terms, that's a great number. But I
5 guess we count, perhaps, some 800,000 plus or minus, 900,000,
6 some retired, some in the judiciary, et cetera, constituting
7 the private bar. So, from a percentage point of view, it
8 doesn't seem like an overwhelming participation.

9 Do you have any thoughts as to the numbers and
10 whether it's moving in a still larger direction?

11 MS. LARDENT: I think it's very difficult to come
12 up with a definitive answer, for several reasons. The number
13 that you have is the number that comes out of the survey of
14 pro bono programs that's conducted by the Center for Pro
15 Bono, which is sponsored by the Consortium, which I chair.

16 I think that it's fair to say that that's a self-
17 reported number which probably both under-reports and over-
18 reports -- over-reports in the sense that that may include
19 attorneys participating in panels who are wholly inactive,
20 for example; but it under-reports as well, because, frankly,
21 not all of the pro bono programs in the country are included
22 in the directory.

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1 For example, programs that tend to focus more on
2 civil rights and civil liberties issues, which often affect
3 poor people, are not included there. Non-bar programs
4 sometimes are not included. And, in addition, one of the
5 things we've seen -- admittedly, again, through self-
6 reporting in the bar -- one of the things we've seen in
7 surveys like those done in New York and that we see through
8 the National Legal Needs Study is that we have a great many
9 private attorneys who are providing services to low-income
10 people, not through any organized program at all.

11 We've seen that in, as I say, New York, Maryland,
12 Arizona. We don't have those kinds of figures nationally,
13 but those show a very high percentage of attorneys who
14 simply, on their own, are undertaking pro bono work.

15 So I think that we can probably -- and, if it would
16 be helpful to the Corporation, certainly we could do this --
17 try to come up with some extrapolated number, but it would be
18 an extrapolation, because we don't -- nobody has a handle on
19 everyone who is doing pro bono work, except -- well, the
20 State of Florida is beginning to get a handle on it, but even
21 they don't have that.

22 MR. FORGER: A follow up on Tom, though -- the

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1 press recently reported that New York State has 50,000
2 lawyers doing pro bono, and that's 2 million hours and,
3 therefore, there was no longer a need for legal services
4 programs in New York State, and I take it that was simply
5 part of the presidential committee or the followup on the
6 mandatory proposal, where half of the bar, on a random
7 survey, suggested they were doing pro bono, and so that was a
8 matter of arithmetic.

9 MR. MALIGNO: They came from the OCA, self-
10 reporting, where attorneys self-reported back to the Office
11 of Court Administration, and difficult to tell.

12 Interestingly enough, on Long Island we have five attorney
13 Congressmen, all of whom are members of the Bar Association,
14 none of whom are members of the Pro Bono Project.

15 When you are a pro bono coordinator, everyone has a
16 reason not to participate in pro bono. They're a corporate
17 lawyer, they're a government lawyer, they're retired, they're
18 a legal services lawyer.

19 You know, I encourage -- I do pro bono work with
20 the state bar program, off hours -- that's at nights and on
21 weekends -- because I feel it's everyone's responsibility.
22 Now, a lot of my staff disagrees with that; and I certainly

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1 wouldn't want this to be mandatory.

2 When Congresspeople ask those questions, you know,
3 we're planning to engage in a debate with our five
4 Congressmen about why they don't participate in our local pro
5 bono program; and our bar leaders are fully prepared to list
6 all of the reasons why they will redouble their efforts, but
7 that will still not be enough to meet the need, and how the
8 administration of a pro bono program, in our view on Long
9 Island, it's best done in conjunction with a staff legal
10 services program and how the need is still only being barely
11 met, even with everything that we've done.

12 That's why, when I go through a list of the things
13 that we do, you know, is the glass half full or is it half
14 empty? Most days, I think it's half empty, because I'm
15 dealing with the grievances of all the people that we turn
16 away, that we don't get to yet.

17 And so the problem is, will people listen? Our
18 private bar people from New York are going to very strongly
19 list why they can't go it alone, and one of the reasons won't
20 be lack of will, but will people listen to them, is the
21 issue.

22 MR. FORGER: Can I have one further comments, Mr.

1 Chair?

2 MR. ASKEW: Sure.

3 MR. FORGER: Your collective judgment as to
4 strength of the pro bono program, absent a Legal Services
5 Corporation corps and program, there is a sense that it will
6 continue on and it will grow, and the LSC effort, this has
7 been a good seeding start, and it won't be necessary.

8 What's your judgment as to the future of pro bono
9 without a legal services corps program?

10 MS. CONE: Well, I'd say in Rochester I just can't
11 conceive of how it would work. We are so -- our relationship
12 is so symbiotic, in terms of service delivery, that I think
13 we could do some work. One of the issues, of course, is how
14 are you going to support the administration of the pro bono
15 program.

16 The suggestion that LSC could be done away with
17 because there are all these lawyers out there doing the work
18 -- well, as was pointed out in letters that are being sent to
19 our state legislators, we can't do it unless the program
20 matches us with clients, screens the clients, and matches us
21 with -- matches us as volunteer lawyers with cases that are
22 appropriate for our expertise. So you have the one issue of

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1 who is going to provide that matching service.

2 But in terms of the substantive work, in almost
3 every area of our practice, we are extremely reliant on staff
4 attorneys to help us as the staff of the pro bono program, as
5 well as to our pro bono attorneys. We are regularly matching
6 the pro bono attorneys with SSI experts, with housing
7 experts, to answer those questions. And I think it probably
8 will continue, but both the quality of service and the volume
9 of service that we're now experiencing, given the
10 interconnection, I just don't think it would continue.

11 MR. MALIGNO: And also, we have fairly wealthy bars
12 in comparison to much of the rest, so it would be fair to say
13 that some of the administration could be picked up by money
14 that might be raised from increased phone-a-thons in our
15 communities.

16 But, as I've traveled throughout the country and
17 listened and worked with my co-workers, many bar associations
18 are social entities more than they are, or as much as they
19 are, professional and many attorneys do not have large
20 incomes that you know, even if they did contribute, might not
21 be able to support it. So I think that's an issue that has
22 to be looked at.

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1 The only complaint that I've heard from our local
2 bars about working with our legal services programs is that
3 legal services money is too restricted and bar associations
4 want to raise financial guidelines. Bar associations, at
5 least on Long Island, wanted to get involved in more
6 immigration work and deal with different kinds of issues, and
7 they chafed at some of the things that were proposed in the
8 '80s that they looked at as restricting their effort --
9 somebody from Washington.

10 So, you know, that was the only complaints we
11 heard, not that legal services programs shouldn't be a part,
12 but that some of these restrictions that were coming from
13 Washington should be looser.

14 MS. ZELON: One thing that I just want to add,
15 because I think, Alex, what you're getting to is a real
16 political reality, which are the questions that are asked.
17 You know, "Isn't this true," and yes, there is a Legal
18 Society and New York City in 18-something, I think, and as
19 Esther's study points out, you know, there continues to be
20 lawyers in every community who provide services to the poor,
21 who come to find them in whatever way they find them, and
22 they do that, and it's not organized.

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1 But I think that, in the last 15 years, we have
2 seen such a development of professionalism in pro bono and
3 high-quality deliver of legal services to poor people in
4 areas which have grown increasingly complex, and that that
5 kind of professional delivery of legal services, which does
6 not occur on an ad hoc basis but occurs because there are
7 relationships between programs that are pro bono programs and
8 are service programs, is only possible in an environment
9 where both exist and work together.

10 MR. ASKEW: Well, thank you. We're out of time,
11 unfortunately. This has been very helpful to both
12 committees, I think, and very instructive, and we appreciate
13 each of you taking the time to be here. I think if we had
14 the time there would be a lot more questions and a lot more
15 discussion with you but, unfortunately, we're out of time.

16 The committees, it's my belief, are not going to --
17 I'm certain are not going to -- act upon this policy
18 statement at this meeting. It will be carried over at least
19 to the next meeting.

20 What I'm going to suggest to the president is that
21 we circulate this statement further for comment, maybe with a
22 cover document that goes with it so that it doesn't just come

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1 in cold to some bar leader or some other person and ask to
2 comment on it, but with a cover document that explains a
3 little bit about the goals, why this is being done, why it's
4 important, a little bit of the history of this, so that a
5 person will understand the context better for why we're doing
6 this, and then ask for comments back, and we'll revisit this
7 at our May meeting, assuming we hold a May meeting; we'll
8 decide tomorrow. But nothing is going to be done at this
9 meeting about it.

10 But I would encourage you to the extent that you
11 represent organizations -- if NAPCO, for instance, would like
12 to submit some comments or speak to us on this issue.
13 SCLAID, obviously, if you have a chance between now and May,
14 other groups, speak to us about it between now and then.

15 As far as I you know now, Merceria told me, I think
16 about a week ago, we had only gotten one comment on this so,
17 other than Reese Smith's letter, we'd only gotten one
18 comment, I think. Maybe some more have come in in the last
19 week or ten days.

20 There hasn't been a great reaction to this from the
21 circulation we've done so far, but it hasn't been circulated
22 directly to bar leaders, as far as I'm aware, directly to

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1 people by the Corporation with some sort of explanatory memo
2 what this is all about, and that may generate more comment
3 and reaction.

4 We very much appreciate what you've had to say and
5 your being with us today, and we'll continue discussing this.
6 Thank you.

7 We have two other people who are going to appear,
8 if they would come forward -- Ed McGuire And Henry
9 McLaughlin. Thank you for your patience. We're sorry we're
10 running late.

11 MR. MCGUIRE: I'm Ed McGuire for those who may not
12 know, and this is my distinguished associate, Henry
13 McLaughlin. I work for AARP. I'm the legal programs
14 coordinator for an eight-state area in this part of the
15 country. Henry is the director of the Central Virginia Legal
16 Services Organization.

17 I'm a legal services recidivist. I've been around
18 since, believe it or not, the '60s, and I asked Henry to come
19 today because I think he has -- he's the architect of what I
20 think is a very fine, new pro bono delivery system that may
21 be of great benefit to clients and also help our image, draw
22 us closer to the bar and, in general, enhance our public

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1 image. It seems to be working that way in Virginia.

2 Now, oddly enough, I did prepare a two-page
3 document -- actually only one page, the second page is your
4 document -- with a few places marked as to where I would like
5 to put in a few incisive phrases, and they have to do
6 primarily with populations with special access problems, and
7 I would like the statement to point in that direction.

8 I think it also answers Maria's question a little
9 bit about there are huge populations of frail elderly, 4
10 million or so older -- well, people of all ages, who live in
11 long-term facilities, the disabled who live in the community,
12 that neither our programs nor the private bar's is adequately
13 able to reach. And that may be part of the -- you know, you
14 were wondering about what's the need? Well, this is almost
15 -- it is underserved, if not -- if touched at all in various
16 communities.

17 I will leave this, or maybe I'll just take this up
18 to Bill and he can start around the table and, without
19 further ado, this is what you really need to hear. This man,
20 besides being Irish and a rather tall leprechaun, he has
21 constructed, truly, a better legal services mousetrap.

22 Go to it, Henry.

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1 MR. McLAUGHLIN: Mr. McCalpin, I'd like to thank
2 you for what you started in the 1980s with private attorney
3 involvement. I started in legal aid in 1978 at a time in
4 which there really was a conflict between the private bar and
5 legal aid people, and I think that what you did with the
6 private attorney involvement requirement was bring us
7 together.

8 In Richmond, we had two different programs. One
9 was legal aid and one was bar. And the two have merged and
10 we now get over \$300,000 donated services each year. I agree
11 that it is a really difficult question that gets put, why
12 can't the lawyers handle this problem? It's the orphanage
13 question, of course, why can't the problems of the poor be
14 dealt with through orphanages?

15 The amount of money that goes into legal aid is so
16 small, it's a drop in the bucket. Legal aid works well, and
17 I think the fact that legal aid is working with the private
18 bar is an example of how well it's working. To a large
19 degree, that's because of the vision of the legal services
20 board at the beginning of 1980 and 1981.

21 Ed McGuire has passed out to you a written
22 explanation, a description of a pro bono hotline telephone

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1 program that we have at our program, and at five programs in
2 Virginia, which is sponsored by the Virginia Bar Association.
3 Because of your limitations of time, I won't go into the
4 details of that except to say I believe it is a real way to
5 bring the bar and legal aid together, and it does not -- it
6 does not conflict in other kinds of legal aid programs.

7 In our programs, for example, we have two lawyers
8 who come to our office every day to give legal advice on the
9 telephone Monday through Thursday, and two more lawyers who
10 come to take contested cases in housing and consumer cases.
11 Virtually all our housing cases are done by volunteer
12 lawyers.

13 I think telephone pro bono legal advice is a good
14 way for lawyers to provide services, because so much of what
15 we do is telephone advice. It frees up the staff to deal
16 with other things.

17 Thank you very much.

18 MR. ASKEW: Henry, let me -- oh, did you want to
19 say something, Bill?

20 MR. McCALPIN: No.

21 MR. ASKEW: Henry, let me ask you this, because we
22 obviously haven't had time to read this or know much about

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1 it.

2 But things like this, a creative new program or an
3 idea that someone has come up with, how do these things these
4 days get circulated within our communities so that other
5 programs can look at this and see if this is something that
6 might work well for them? Is that mechanism working well
7 today or is that something the Corporation could focus on?

8 MR. McLAUGHLIN: I think the Corporation could
9 focus on that and could do quite a bit of helping in that
10 regard. I do think that a lot more could be done and, in
11 Washington, you could do -- you could help throughout the
12 country with that.

13 Ed McGuire, for example, on this telephone legal
14 aid program, has pushed this very hard across the country,
15 and we are not in a position to do that in Virginia, and the
16 Virginia Bar Association which sponsors this program and
17 really runs it and does all the work isn't in a position to
18 do that, and Ed has done this for the Elder Law Project.
19 But, as you've heard so many innovative programs presented to
20 you today, and many of them, I've been working in pro bono
21 and I had never heard of, until I came today.

22 MR. ASKEW: Bill?

1 MR. MCCALPIN: I will way a word. One, Bucky, as
2 you know, this is something that Victor Gemaniani has been
3 pushing for years, as far as legal services programs are
4 concerned.

5 But, too, a week ago, I was at the meeting of the
6 American Pre-Paid Legal Services Institute. There's an ABA
7 committee which furnishes a substantial part of the board of
8 that organization, and there is a group of Pre-Paid Legal
9 Plans around the country which are doing this all the time,
10 some of which are doing this exclusively, and nothing else.

11 So it's not a foreign concept or a new concept, it
12 is simply one that hasn't been applied in our area.

13 MR. MCGUIRE: Exactly so. I would agree, and I
14 hope it is. It's pretty well-proven. Telephone legal advice
15 is not exactly a radical idea.

16 MR. MCCALPIN: Wayne Moore has been doing this.

17 MR. MCGUIRE: The only distinction between Wayne
18 Moore's effort and this is his program, in general, has
19 provided the advice with staff attorneys or attorney
20 consultants who are paid.

21 MR. MCCALPIN: Yes.

22 MR. MCGUIRE: This program provides the advice

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1 entirely through private attorneys.

2 MR. McLAUGHLIN: We got our idea from Wayne Moore.

3 MR. McGUIRE: Responsive to your question, Buck --

4 MR. ASKEW: Mr. Chairman, Ed.

5 (Laughter.)

6 MR. McGUIRE: Mr. Chairman.

7 MR. ASKEW: We've known each other 25 years. I can
8 call him Ed, but he has to call me Mr. Chairman.

9 MR. McGUIRE: All right, Mr. Chairman. I would
10 gladly work with a member of your staff to prepare a mailing
11 to all programs, simply maybe enclosing what we have here for
12 their consideration?

13 MR. ASKEW: Great.

14 MR. McLAUGHLIN: And we'd really love to do that.

15 MR. ASKEW: Okay. Thank you for that offer and
16 thank both of you for being here and for your patience.
17 We're sorry we didn't have more time.

18 MR. McLAUGHLIN: We really enjoyed listening to
19 this panel, because we have great admiration for what they do
20 and their leadership, and we feel in good hands with what you
21 do and what our leadership does when we are in the field.
22 It's a very good feeling.

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1 MR. ASKEW: Thank you.

2 MR. MCGUIRE: I tell you, I grew up in the Bronx,
3 and I was just delighted with what those two New York
4 programs are doing, and especially the Rochester one. That's
5 really great.

6 MR. McLAUGHLIN: Thank you.

7 MR. ASKEW: Thank you.

8 MR. FORGER: Mr. Chairman?

9 MR. ASKEW: Yes.

10 MR. FORGER: Can I just extend this one minute? To
11 those who are interested in pro bono and the private bar, we
12 have here part of the language of the House Budget Committee
13 recent proposed cut of the budget and it's phasing out
14 federal funding for Legal Services Corporation is what the
15 House Budget Committee is proposing.

16 It states that legal services is one of several
17 organizations intended to provide the poor with access to
18 free legal services in civil matters.

19 "Too often, lawyers funded through LSC grants are
20 focused on political causes and class action lawsuits rather
21 than helping poor Americans solve their legal problems.
22 Lawyers have used the LSC grants to file lawsuits against

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1 welfare reform.

2 "The phaseout of federal funding for LSC will not
3 eliminate free legal aid to the poor. State and local
4 governments, bar associations, and other organizations
5 already provide substantial aid to the poor. The phaseout of
6 federal funding would just end the most controversial and
7 counterproductive legal representation."

8 So you can see, some people are looking to the
9 private bar and others to carry on the work. So more
10 strength to you in pro bono.

11 MR. McCALPIN: Bucky?

12 MR. ASKEW: Yes, Bill?

13 MR. McCALPIN: If I can extend this one minute, for
14 the committees -- and I'd appreciate it if they're finished
15 -- I have long had the view that it is inappropriate to try
16 to formulate policy without knowing the facts on which that
17 policy would be based.

18 And, as I indicated earlier, we have attempted in
19 the past to develop those facts in the two areas of this
20 marriage, and I think that we have the ability within the
21 Corporation, particularly for re-funding applications and
22 other matters of that sort, to get a fair handle on how this

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1 venture is working, from the perspective of our recipients.

2 With all due respect to Laurie and others, and
3 having some background of the organized bar myself, I'm not
4 at all sure that we really have a very good handle on how the
5 bar feels this policy is working in the local communities
6 around the country, and I would hope that we would attempt,
7 on some sort of a local basis, to inquire of those bar
8 associations which deal with our recipients, how they view
9 this program as operating in their particular jurisdictions.

10 I think, without that kind of a factual basis, we
11 will not have an appropriate policy and I would hope that,
12 even in the two months between now and our next meeting we
13 might do that and I am encouraged to do that by the fact that
14 we have had such bare response to the circulation of this
15 proposed policy, and I would hope that we would try to
16 generate more response by asking bars some specific questions
17 of how they view the operation of this policy within their
18 bailiwick.

19 MS. ROGERS: Mr. Chair?

20 MR. ASKEW: Yes.

21 MS. ROGERS: I am opposed to the idea of
22 circulating this proposed policy as a proposed Board policy.

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1 I think I agree with Bill that we need some time and some
2 more information, and I believe the circulation of it will be
3 misunderstood, so I don't think we ought to. I think we
4 ought to use the next couple of months to gather more
5 information.

6 MR. ASKEW: Are you putting that in the form of a
7 motion?

8 MS. ROGERS: I don't think that you put yours in
9 the form of a motion, you just said go ahead and circulate
10 it, and there wasn't a motion to speak against.

11 MR. ASKEW: Okay.

12 MS. ROGERS: I speak against your proposal.

13 (Laughter.)

14 MS. ROGERS: If that requires a motion, I'll make
15 one.

16 MR. ASKEW: Okay.

17 MR. McCALPIN: I'm not sure how, when committees
18 meet jointly --

19 MR. ASKEW: Right.

20 MR. McCALPIN: -- what the procedure is.

21 MR. ASKEW: Right. Merceria, could you tell me,
22 have there been any more comments submitted on this, other

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1 than the one letter I had heard about a few weeks ago?

2 MS. LUDGOOD: No, there's been none.

3 MR. ASKEW: Okay.

4 MS. LUDGOOD: Other than when Ed called earlier
5 this week.

6 MR. ASKEW: Okay.

7 MS. LUDGOOD: I came here to, just as a bit of
8 information, to tell you that we are very close to closing a
9 contract with a consultant who will do what's called a
10 private attorney engagement study. It will be a full view of
11 how this is working and I think will include, Mr. McCalpin,
12 the concerns that you just raised.

13 Whether or not we can report by the May meeting, I
14 think, will be a stretch. John Arango is the person with
15 whom we've been dealing. But we are certainly trying to pull
16 together the information to be able to have some statistical
17 base from which to evaluate private attorney involvement.

18 MR. McCALPIN: Well, I don't know; I like facts. I
19 was in Oklahoma a while back and I ran into a problem that
20 they were having down there that I don't know -- and I just
21 think there are other problems around. I could go into more
22 of the background than I did earlier. I'm not going to

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1 extend this to do that. But I do think we need to have a
2 better factual basis for the formulation of a policy than we
3 have now.

4 MS. LUDGOOD: Would it help if we share with you
5 the proposal that we are considering with Mr. Arango and then
6 you can add any other inquiries that you think are --

7 MR. McCALPIN: It was John and I who did that
8 survey ten years ago. I know how John goes about it. And
9 when John and I did it ten years ago, it was programs only.
10 I just hope there is an element in this that inquires of the
11 bar its view.

12 MS. LUDGOOD: This one does.

13 MR. McCALPIN: Good.

14 MS. LUDGOOD: This one does.

15 MR. McCALPIN: I'm satisfied. I'm not going to
16 micromanage. I just think we ought to do that.

17 MR. ASKEW: But your position, you agree with
18 Nancy --

19 MR. McCALPIN: Absolutely.

20 MR. ASKEW: -- that we shouldn't go forward until
21 we have that factual basis?

22 MR. McCALPIN: Absolutely.

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1 MR. ASKEW: Any other comments from committee
2 members?

3 MR. FORGER: Nancy, you would not distribute this
4 draft?

5 MS. ROGERS: No, I think it would be misunderstood;
6 even though it's not a Board policy, it would be
7 misunderstood if LSC distributes it as something that LSC is
8 poised to adopt, and I'm not poised to adopt it.

9 MR. FORGER: Well, then, we wanted to solicit
10 points of view with respect to the issue of private attorney
11 involvement. One other way, I suppose, is simply saying the
12 Corporation is studying this issue and for those of you who
13 have any views or comments, like maybe the local bars, please
14 communicate with us.

15 MS. FAIRBANKS-WILLIAMS: I'd rather have it that
16 way.

17 MS. MERCADO: Yes, because it doesn't give a pre-
18 supposed agenda from us on how we proceed.

19 MR. MCGUIRE: How does the Board react to my offer
20 to help prepare a mailing which would just simply present
21 this as a new development and that seems to be working in
22 Virginia and that people may want to consider in their

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1 communities?

2 MR. McCALPIN: I think that's a staff matter.

3 MR. ASKEW: Yes. We'll refer that to the staff and
4 ask the staff to be in touch with you about that.

5 MR. McGUIRE: Okay, thank you.

6 MR. ASKEW: Great. It sounds like there's a
7 consensus here that Merceria is going ahead with a contract
8 to do this study, that certainly a piece of that should be
9 contact with solicitation of ideas, recommendations, comments
10 from local bars, pro bono, experiences, and that we will hold
11 the policy statement, awaiting the gathering of that data.
12 Hopefully, we can get as much of it as we possibly can by May
13 and revisit this in May.

14 MS. MERCADO: But I think that part of it, though,
15 should deal with some of the issues that were brought up by
16 the Budget Committee last night in that private attorney
17 involvement aspect.

18 I mean, I don't know whether that will include some
19 of the statistics of the actual number of poor people that
20 are assisted through their program, aside from how the
21 program works itself in partnership with the bar and Legal
22 Services Corporation. I mean, how much of that is actually

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1 the percentage of poor people that are being helped through
2 these programs?

3 I would hope somewhere in there is that number,
4 because that number is going to be critical on this other
5 agenda, as far as Congress is concerned. I don't know
6 whether they can get that.

7 MR. ASKEW: We may not. What we may get back would
8 be anecdotal, because we can't require people to respond to a
9 survey and, therefore, we wouldn't have national numbers, but
10 I think some questions should be in there similar to the
11 question that Alex put to Tom -- What will happen to your
12 program if LSC funding goes away? Will you be able to
13 maintain it?

14 MR. FORGER: I have a comment for Ed, if I can get
15 his ear for a second. I just now looked at the suggested
16 amendments to our statement and the thing that concerns me as
17 I look at it is that maybe we're trying to do too much in a
18 statement of policy, of engendering close support between the
19 private bar and LSC programs, because what I see here is now
20 how best to deliver legal services in the most efficient way.
21 We could then get into non-lawyer practice and assistance and
22 pro se.

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1 What you are suggesting here is we have the
2 hotline, a telephone, which I think is a very important
3 mechanism for us to leverage our dollars, but my hunch is
4 that what started out as just a simple declaration, I
5 thought, of the private and the legal services bars working
6 together in four ways, if it becomes a sort of a roadmap for
7 how should a legal services program function, I'm just
8 fearful that we'll be here five years from now, unless the
9 Republican budget has gone through, still modifying this and
10 trying to finetune how we should do this with alternate
11 dispute resolutions and discrete populations and the like.

12 Yes, sir.

13 MR. McGUIRE: What you've said deals with Point B
14 there, and you're probably quite right. You may want to
15 consider still the material under Point A.

16 MR. FORGER: Okay.

17 MR. McGUIRE: That deals with just putting a little
18 focus on some of the populations.

19 MR. FORGER: Okay.

20 M O T I O N

21 MR. McCALPIN: I move we adjourn.

22 MR. ASKEW: Okay. Any other business?

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1 [No response.]

2 MR. ASKEW: There's a motion that the two
3 committees adjourn. Is there a second?

4 MS. ROGERS: Second.

5 MR. ASKEW: All those in favor?

6 (Chorus of ayes.)

7 MR. ASKEW: The committee is adjourned.

8 (Whereupon, the joint meeting of the Operations and
9 Regulations Committee, and the Provision for the Delivery of
10 Legal Services Committee was concluded at 1:00 p.m.)

11

* * * * *

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