MEMORANDUM

TO: 
FROM: 
SUBJECT: 2008 Annual Meeting of the American Bar Association and Meeting of the House of Delegates 
DATE: September 9, 2008

REPORT ON THE ABA ANNUAL MEETING

The 130th Annual Meeting of the American Bar Association (the “ABA”) was held August 7-12, 2008, at the Hilton New York Hotel in New York, New York. Wide varieties of programs were sponsored by committees, sections, divisions, and affiliated organizations. The House of Delegates met for a two-day session. The Nominating Committee also met.

The Nominating Committee sponsored a “Meet the Candidates” Forum on Sunday, August 10, 2008. Stephen N. Zack of Florida, candidate for President-Elect seeking nomination at the 2009 Midyear Meeting, gave a speech to the Nominating Committee and to the members of the Association present.

THE HOUSE OF DELEGATES

The House of Delegates of the American Bar Association (the “House”) met on Monday, August 11, and Tuesday, August 12, 2008. Laurel G. Bellows of Illinois presided as Chair of the House.

On August 11, the New York Police Department presented the colors and Regina Wilson of the New York City Fire Department sang the national anthem. The invocation for the House was delivered by I. S. Leevy Johnson, incoming State Delegate from South Carolina.

The Chair of the House Committee on Credentials and Admissions, Palmer Gene Vance II of Kentucky, welcomed the new members of the House and moved that the signed roster be approved as the permanent roster for this meeting of the House. The motion was approved.

Linda A. Klein of Georgia, Chair of the Committee on Rules and Calendar, provided a report on the Final Calendar for the House, including recently filed reports. She moved to consider the late-filed reports, adopt the final calendar and approve the revised list of individuals who sought privileges of the floor. She also moved adoption of a special rule regarding the definition of jurisdictions in appropriate resolutions to include legislatures, courts and bar associations of territories, tribes, local governments, the Commonwealth of
Puerto Rico and the District of Columbia. All four motions were approved. Ms. Klein noted that the deadline for submission of Reports with Recommendations for the 2009 Midyear Meeting is November 19, 2008, while the deadline for Informational Reports is December 5, 2008. She also referred to the consent calendar, noting the deadline for removing an item from the consent calendar or from the list of resolutions to be archived.

For more details of the House meeting, see the following two-part report of the House session. The first part of the report provides a synopsis of the speeches and reports made to the House. The second part provides a summary of the action on the recommendations presented to the House.

I. SPEECHES AND REPORTS MADE TO THE HOUSE OF DELEGATES

Statement by the Chair of the House

Laurel G. Bellows of Illinois, Chair of the House, noted in her opening remarks that the ABA first adopted the canons of professional ethics one hundred years ago, in August 1908. She recognized those members who had served twenty-five years or longer as members of the House. Chair Bellows encouraged House members to add their contact information to the online directory of House members. She also referred House members to the results of a survey regarding operations of the House that was completed by House members at the 2008 Midyear Meeting.

Chair Bellows encouraged House members to donate to the ABA Legal Opportunity Scholarship Fund. She recognized U. Pamela Rivas of New York, a 2004-07 scholarship recipient, who thanked the ABA and contributors to the Fund for their support of the program. She also encouraged House members to attend ABA Day in Washington on April 21-23, 2009, noting that the ABA’s participation in 2008 resulted in $40 million in increased funding for the Legal Services Corporation.

Chair Bellows recognized David L. Brown from Iowa who thanked the ABA for the assistance it provided to Iowans and Iowa lawyers when storms flooded the state this past summer.

Chair Bellows thanked the Committee on Rules and Calendar, the House Tellers and the ABA staff who keep the House running smoothly.

Statement by the Secretary

Armando Lasa-Ferrer of Puerto Rico, Secretary of the Association, thanked the officers and members of the House for the opportunity to serve the ABA as Secretary over the last three years. He remarked on the profound impact the ABA has in America and around the world. He then moved approval of the House of Delegates Summary of Action from the 2008 Midyear Meeting; the motion was approved. On behalf of the Board of Governors, Secretary Lasa-Ferrer presented and referred the House to Report Nos. 177 and 177A, the Board’s Informational and Transmittal Reports to the House, and Report No. 177B, the Report of the Section of Legal Education and Admissions to the Bar. He moved
approval of the list of continuing special committees and commissions identified in Report No. 177A; the motion was approved.

**Statement by the ABA President**

ABA President William H. Neukom of Washington greeted the House and reflected on his year as President of the association. He thanked his fellow officers, past presidents and future officers of the association for their dedication to the organization. He also recognized his assistant, ABA staff and his wife, Sally Neukom.

President Neukom praised the legal profession. He recognized that there is no other profession so firmly rooted in achieving a common good, and that lawyers therefore play a special role in our communities. He said that no matter our areas of practice, we all believe that the rule of law is the foundation of communities, of opportunity and of equity, and that all persons, regardless of race or ethnicity, gender, disability, or differing sexual orientation or gender identity, should be treated fairly and equally under the law. Further, President Neukom emphasized, we all believe that our government should be held accountable to the people it serves and must safeguard our fundamental rights, and that justice requires that we have just laws, and that they be made, administered and enforced fairly by a cohort of competent, ethical, and independent advocates and umpires who are as diverse as the communities they serve. He cited examples of lawyers who meet the highest standards of our profession, including legal aid attorneys working with low-income medical clinics, large firm lawyers who handle death penalty pro bono cases, military defense lawyers who strive to give detainees a fair trial, and lawyers who work in small communities charging only what their clients are able to pay.

President Neukom also praised the ABA. He said we can be proud that the ABA is on the forefront of lawyers’ and judges’ work to advance justice and serve our communities. He described the ABA’s role in responding forcefully and dramatically to the constitutional crisis in Pakistan. He also highlighted the ABA’s role in vetting judges for the federal bench; accrediting law schools; creating model rules, codes and standards; assisting state and local bar associations; and collaborating with affiliated associations to advance the rule of law.

President Neukom praised the House of Delegates. He recognized the important policies enacted by the House’s 555 lawyers, including speaking out against rendition and torture, warrantless wiretapping, erosion of the attorney-client privilege and work product doctrine, and politically motivated hiring and firing of United States attorneys.

Finally, President Neukom provided a status report on the World Justice Project, a multi-disciplinary project that promotes the rule of law worldwide. A team of scholars led by two Nobel Laureates recently published papers showing correlations between the rule of law and communities of hope and purpose. Multi-disciplinary outreach meetings were held in thirty-five states and in countries on five continents. A Rule of Law Index, the first and only comprehensive index that measures all factors that bear on the rule of law, has been tested in nine countries and will be used to analyze another one hundred countries in the next two to three years. In July 2008, 450 leaders of sixteen disciplines, coming from eighty-three countries, attended the World Justice Forum in Vienna and began to design
and make commitments to launch some 80 concrete programs to advance the rule of law in every region of the world. Seed money for those programs will be available from the World Justice Project’s Opportunity Fund. The Project commission has begun planning for a phase II, which will begin in January of 2009, and a transition to becoming a stand-alone entity.

**ABA Medal Presentation**

President Neukom introduced the **2008 ABA Medal Honoree**, The Honorable Patricia Ann Wald, who was the first woman judge on the U.S. Court of Appeals for the District of Columbia and who also served two years as an International War Crimes Judge in the Hague and helped launch the ABA’s Central and Eastern European Legal Initiative (CEELI). President Neukom called her a pioneer, noting that she was one of the first women to be appointed a law clerk for the U.S. Court of Appeals for the Second Circuit and to serve as an assistant attorney general in a senior executive branch position.

Judge Wald expressed her immense gratitude for the award. She noted that during her lifetime, she has seen the ABA come to the forefront of public policy on the many incredibly varied and complex legal issues arising in the last century. Judge Wald stated that she has had the good fortune to play a role in numerous ABA endeavors that have influenced the world, including serving as a legal services attorney and working with CEELI. She expressed her appreciation for the ABA’s crucial support of the International Criminal Court.

Over her three-generation career, she has seen the durability of the legal profession while it dealt with the nation’s most basic quandaries: liberty versus national security; executive power versus the legislature and the courts; the bursting appetite for energy versus preservation of the environment; and justice versus terror. Judge Wald said that for each of these issues, lawyers will always be the advocates, the defenders, the challengers and the decision-makers, and the ABA will be on the front lines. She noted there are additional challenges to be faced, including Internet-related crime, campaign financing and attacks on the judiciary, and again emphasized the role lawyers and the ABA play in confronting those challenges.

**Statement by the Treasurer**

The Treasurer, Wm. T. (Bill) Robinson III of Kentucky, referred members of the House of Delegates to his written report. Noting that his term of Treasurer is ending, he thanked the many ABA leaders who keep the ABA’s entities running smoothly, and his wife Joan for her support throughout his three years as Treasurer.

Treasurer Robinson reported that the ABA is in sound financial condition, especially in light of the volatile economy. He spoke about this year’s budget process and emphasized that the ABA will have a balanced budget in the coming year. He said that the financial health of the association is such that it can consider extending the current three-year dues cycle to a fourth year without increasing dues. Treasurer Robinson also observed that his experience serving on the boards of numerous ABA entities in his role as Treasurer has shown him how crucial it is to keep the association financially sound to
support the work of its volunteers, which is invaluable but is not reflected on any balance sheet.

Presentation by Vice-President of the American Bar Endowment

Roderick B. Mathews of Virginia, Vice-President of the American Bar Endowment (ABE), announced that the ABE was providing annual grants to the Fund for Justice and Education (FJE) and the American Bar Foundation (ABF) of $3.75 million each. Sheila Slocum Hollis of Washington, D.C., Chair of the Council of the FJE, and David K. Y. Tang of Washington, President of the ABF Board of Directors, accepted the grants and provided a summary of their entities’ projects. Mr. Mathews encouraged members of the House to support the work of the Endowment by purchasing insurance from the ABE and its for-profit subsidiary, American Bar Insurance (ABI).

Statement by the Executive Director

Executive Director Henry F. White, Jr., referred the House to his written report and thanked ABA leadership for their support over the last two years. He noted that he continues to marvel at the tremendous ABA staff who have great experience and competence. He noted that in order to facilitate more interaction and communication among staff, an intranet has been established. He said that the ABA continues to develop its existing website, and is also beta-testing a community website that will be directed first at law students.

Executive Director White said that 2008-09 will be the year of communications, where the ABA will focus on communicating ABA developments to its members and the nation. He also noted that a new budgeting process was implemented and has been successful but remains a work in progress. Executive Director White said the ABA has examined and revised its human resources policies to ensure compliance with developments in employment law, and an association-wide compensation study was completed and is being implemented.

Finally, Executive Director White talked about membership. He asked each member of the House to encourage membership at every opportunity, noting that slightly less than one-third of America’s lawyers are members of the ABA. He offered several talking points for use in making the case for ABA membership. First, he asserted that the ABA is not in competition with state and local bars, with whom the ABA can collaborate and partner. Second, the ABA deals with issues of national significance of importance to all lawyers and serves as a national champion for those issues. Third, the ABA offers networking with colleagues and business referrals. Fourth, the ABA’s role internationally is important, given America’s interconnectedness with the world. Fifth, the ABA is not a liberal or conservative organization. The role of lawyers is sometimes to push the envelope, such as championing the rights of women lawyers and lawyers of color. At other times, we must follow the law despite adversity. Executive Director White asked the House to make the case for membership so that the ABA can reinforce the fact that the ABA touches every single American, in every single day, in every single way.
ABA President Neukom introduced President-Elect H. Thomas Wells, Jr., of Alabama, thanked him for his support throughout the year and recognized his great success as a lawyer and a leader. President-Elect Wells thanked his wife Jan, his family and his law partners for their support, and acknowledged the support and friendship he had received from the current and future officers of the ABA. He also praised President Neukom’s service to the ABA, noting that his work with the rule of law initiative had extended the ABA’s worldwide reach tremendously.

President-Elect Wells spoke about his upcoming term, pledging to focus on the common, core values of the profession - those that resonate whether you are a lawyer on Wall Street or Main Street. He spoke of values that unite us as a profession, inspire us to work together as a profession, and enable us to make a difference as a profession, including: access to justice, independence of the bar and the judiciary, diversity and the rule of law.

President-Elect Wells emphasized the need to stand up and speak out about the need for access to justice. He encouraged House members to attend ABA Day and lobby Congress to continue its support of the Legal Services Corporation. He highlighted a pro bono program for military members that promotes cooperation between military lawyers and those in private practice who volunteer their time for service members.

To promote the independence of the bar and the judiciary, President-Elect Wells called for continued resistance to efforts to erode the attorney-client privilege and the work product doctrine. He also noted that in Spring 2009, there will be a national summit, with retired Supreme Court Justice Sandra Day O’Connor serving as Honorary Chair, on best practices and strategies for promoting fair, impartial and independent state courts. In addition, the ABA will work with the new Presidential administration and Congress to eliminate the partisanship and delay in the confirmation process for federal judges, and will continue to support the ABA’s Standing Committee on the Federal Judiciary that provides peer reviews of federal judicial nominees.

President-Elect Wells said this bar year will also focus on diversity, and will include a 2009 summit on diversity for state and local bar leaders. He spoke of systematic barriers for people of color to entering law school and rising in the ranks of the profession, and how the result is a lack of opportunity for individuals and a lost opportunity for our profession.

The final core value President-Elect Wells discussed is the rule of law, and the special need to promote the rule of law during this election year when we will have a change of Presidential administrations. He said that regardless of which candidates are elected to the Presidency and to Congress, he plans to spend a lot of time in Washington, D.C. with the ABA Governmental Affairs Office advocating the Association’s and legal profession’s common, core values to the new administration and Congress.
**Election of Officers and Members of the Board of Governors**

The Nominating Committee met on Sunday, August 10, 2008. On behalf of the committee, Thomas R. Curtin of New Jersey, Chair of the Steering Committee of the Nominating Committee, reported on the following nominations for the terms indicated:

**Officers of the Association**

President-Elect (2008-2009)
Carolyn B. Lamm of the District of Columbia

Chair of the House of Delegates (2008-2010)
William C. Hubbard of South Carolina

**Members of the Board of Governors (2008-2011)**

District Members

District 1:  Stephen L. Tober of New Hampshire
District 2:  W. Anthony Jenkins of Michigan
District 4:  Robert N. Weiner of the District of Columbia
District 6:  Howard H. Vogel of Tennessee
District 12: Craig A. Orraj of New Mexico

Section Members-at-Large
Lee S. Kolczun of Ohio
Mitchell A. Orpett of Illinois

Minority Member-at-Large
Richard A. Soden of Massachusetts

Woman Member-at-Large
Lauren Stiller Rikleen of Massachusetts

Young Lawyer Member-at-Large
Jonathan W. Wolfe of New Jersey
Law Student Member-at-Large (2008-09 Term)

Caitlin Fitzgerald of Illinois

It was noted that the Association’s Constitution provides that the President-Elect automatically becomes the President at the conclusion of the Annual Meeting and H. Thomas Wells, Jr., of Alabama will assume that office. In addition, The Honorable Bernice B. Donald of Tennessee and Alice E. Richmond of Massachusetts will assume the offices of Secretary and Treasurer, respectively.

Remarks by President-Elect Nominee

President-Elect Nominee Carolyn B. Lamm of Washington, D.C. offered her appreciation for the support of her husband Peter, her supportive family and her law firm. She spoke to the House about what she termed the book of our Association, noting that some pages are written on paper while others are in our memories and in our hearts. She noted that the ABA is celebrating its 130th year and the 100th anniversary of the creation of the model rules of professional conduct. She noted that newer pages reflect the creation of commissions on minorities and women in the profession, as well as the founding of the Legal Services Corporation, the Central and Eastern European Law Initiative, and the Rule of Law Initiative. She recognized the important work of the World Justice Project and President-Elect Wells’ plans to promote access to justice and judicial independence.

President-Elect Nominee Lamm spoke of the pages she will write with us over the coming years. She emphasized the need for a new page on diversity, recognizing the successes of the past in electing women and persons of color to ABA leadership, but noting the need to combat subtle discrimination that continues to impact our profession. She pledged to implement the ideas that come from the 2009 summit on diversity.

She said we must also continue to be strong advocates. President-Elect Nominee Lamm noted that we have advocated effectively on behalf of the Legal Services Corporation, but said we need to increase focus on other areas as well, including access to justice, the rule of law and independence of the judiciary. She said that in order to increase the ABA’s effectiveness with national policymakers, she is assembling a bipartisan group of lawyers to work with the Governmental Affairs Office to develop relationships with the new Presidential administration.

President-Elect Nominee Lamm emphasized the need to write a new page on membership, noting that we must represent more of our profession to be effective advocates on the national level. She will be working with President-Elect Wells and the Chair of the Standing Committee on Membership, Patricia L. Refo of Arizona, to set up twelve task forces that will take a careful look at the membership needs of lawyers from each segment of the profession.
Remarks by the United States Attorney General

The Honorable Michael B. Mukasey, U.S. Attorney General, addressed the House concerning professionalism at the United States Department of Justice (DOJ). He assured the House that professionalism is alive and well at the DOJ, but recognized that the DOJ's reputation has been harmed by actions of some DOJ employees who failed to observe professional standards and violated civil laws that govern the hiring of career employees and summer law interns. He said that the system had failed because although only a few people were directly implicated, the system did not check their behavior. However, Attorney General Mukasey explained, much has changed. He said he has made clear that it is not permitted or acceptable to consider political affiliation in the hiring of employees. He said he is confident that the supervisors working under him know what is lawful and proper, and that they will enforce those standards.

Attorney General Mukasey said that even before reports regarding the wrongdoing were issued, institutional reform had already been implemented, and additional suggestions from the reports were subsequently implemented. For instance, there are new processes in place for hiring immigration judges, members of the board of immigration appeals, honors program candidates and summer law interns. The DOJ also instituted mandatory training for all political appointees regarding merit system principles and prohibited personnel practices, and will be expanding that training to include all DOJ employees. He said that he did not believe that hirees who benefitted from the misconduct should be fired; instead, he prefers to continue to use the existing evaluation process to ensure that they are performing well. In closing, Attorney General Mukasey emphasized that the problem has been remedied and that the DOJ’s 100,000 employees are making changes to ensure that problems do not recur. He recognized the dedicated men and women who serve the DOJ and focus on doing the right thing.

Scope Nominating Committee

Llewelyn G. Pritchard of Washington, Chair of the Committee on Scope and Correlation of Work, nominated Mark D. Agrast of Washington, D.C. and the Honorable Cara Lee T. Neville of Minnesota to be members of its committee for a four-year term and five-year term, respectively. He moved that nominations be closed. The motion was approved. Chair Bellows later moved the election of Mr. Agrast and Judge Neville. The motion was approved.

Delegate-at-Large Election Results

Chair Bellows announced the election of the following members to three-year terms as Delegates-at-Large: Suzanne E. Gilbert of Florida, Christel E. Marquardt of Kansas, Judy Perry Martinez of Louisiana, Pamela J. Roberts of South Carolina, Estelle H. Rogers of Washington, D.C. and Ellen F. Rosenblum of Oregon. She announced that the following members were elected to one-year terms as Delegates-at-Large: C. Elisia Frazier of Florida and the Honorable Leslie B. Miller of Arizona.
Issues of Concern to the Legal Profession Panel Discussion

The House Committee on Issues of Concern to the Legal Profession organized a special presentation entitled “The Use of Subpoenas to Compel Reporters to Disclose Their Sources,” that featured Moderator Connie Schultz, Columnist for The Plain Dealer in Cleveland, Ohio, and Panelists Floyd Abrams, First Amendment Lawyer; Jim Fleissner, Mercer University School of Law; and Geoffrey Stone, University of Chicago Law School. Committee Chair John L. McDonnell, Jr., of California introduced the discussion, noting that there has been continued debate in the United States Congress and elsewhere in the three years since the ABA House passed a recommendation in August 2005 supporting the creation of a national journalist shield law. The panelists discussed Branzburg v. Hayes, 408 U.S. 665 (1972); proposed legislation in Congress concerning a privilege for journalists; the practice of subpoenaing journalists; and when it is appropriate to force a journalist to reveal his or her sources.

Resolution and Impact Review Committee Presentation

L. Jonathan Ross of New Hampshire, vice-chair of the Resolution and Impact Review Committee, reported that the committee has prepared a report on resolutions passed between 2001 and 2006, which members can view on-line to see the impact certain resolutions have had within and beyond the ABA. The website address for the report is: http://www.abanet.org/leadership/rirc.html.

To illustrate the importance of impact of House resolutions, the committee presented to the House reports on resolutions concerning asbestos litigation, children’s rights and model rules on client protection funds. Committee chair C. Elisia Frazier thanked the committee members and staff for their work on the committee, including preparation of the written report.

II. RECOMMENDATIONS VOTED ON BY THE HOUSE

A brief summary of the action taken on recommendations brought before the House follows. The recommendations are categorized by topic areas and the number of the recommendation is noted in brackets.

ABA CONSTITUTION, BYLAWS AND HOUSE RULES OF PROCEDURE

[11-1] Edward Haskins Jacobs of the Virgin Islands moved Report 11-1 amending §1.2 of the Constitution to include the following language as one of the purposes of the Association: “to defend the right to life of all innocent human beings, including all those conceived but not yet born.” James R. Silkenat of New York, Chair of the Standing Committee on Constitution and Bylaws, reported the action of the Standing Committee. W. Scott Welch III of Mississippi moved to postpone indefinitely consideration of the proposal. The House approved the motion to postpone indefinitely.

university level post secondary educational studies and have an interest in the work of the American Bar Association. James R. Silkenat of New York, Chair of the Standing Committee on Constitution and Bylaws, reported the action of the Standing Committee. Maury B. Poscover of Missouri, Daniel W. Van Horn of Tennessee and David M. English of Missouri spoke in support of the recommendation. Ashley A. Ligas of Florida spoke in opposition to the recommendation. The proposal was approved.


ADMINISTRATIVE LAW

[111B] On behalf of the Section of Administrative Law and Regulatory Practice, Judith S. Kaleta of Washington, D.C. moved Report 111B urging Congress, states and territories to prescribe the administrative procedures to be employed by congressionally approved interstate compact agencies, provide for judicial review of such agencies’ actions and specify the standards of judicial review. The recommendation was approved.

ARMED FORCES LAW

[10B] On behalf of the Bar Association of Washington, D.C., Robert L. Weinberg of Virginia moved Report 10B urging Congress to examine the “incident to service” exception to the Federal Tort Claims Act created by the Supreme Court in Feres v. United States, 340 U.S. 135 (1950), provide that only the exceptions specifically provided in the Act limit active duty military members’ access to the courts when they are victims of tortious government conduct, and amend the Act to provide that the exception limiting access for conduct that occurs in combatant activities applies “during time of armed conflict” rather than “during time of war.” William S. Aramony of Virginia spoke in support of the recommendation. The recommendation was approved.

ATTORNEY FEES/COSTS

[177A] On behalf of the Board of Governors, Secretary Lasa-Ferrer moved approval of the continuation of Special Committees and Commissions as listed in the Board of Governors Transmittal Report to the House of Delegates. The list of Special Committees and Commissions was approved.

[400] The House approved by consent Report 400 recommending that certain Association policies that pertain to public issues and are 10 years old or older be archived. Item 20 was removed from the archival list and will remain current policy of the Association.

CRIMINAL JUSTICE

[104A] On behalf of the Criminal Justice Section, Neal R. Sonnett of Florida moved Revised Report 104A urging that Rule 32 of the Federal Rules of Criminal Procedure be amended by the addition of subsections (c)(3) and (c)(4), that would call for availability of information received from parties and non-parties to ensure that both the government and the defense have an opportunity to review information to be considered by the sentencing court in determining the appropriate punishment. The recommendation was approved as revised.

[104B] On behalf of the Criminal Justice Section, Stephen A. Saltzburg of Washington, D.C. moved Report 104B urging federal, state, tribal, local and territorial governments to develop comprehensive plans to ensure that the public is informed about conditions in correctional and detention facilities for adults and juveniles and that there is greater accountability to the public in the operation of those facilities, and adopting the “Key Requirements for the Effective Monitoring of Correctional and Detention Facilities, dated August 2008. Erek L. Barron of Maryland and Mark H. Alcott of New York spoke in support of the recommendation. The recommendation was approved.

[104C] On behalf of the Criminal Justice Section, Stephen A. Saltzburg of Washington, D.C. moved Revised Report 104C urging federal, state, local and territorial governments to enact effective legislation, policies and procedures to ban law enforcement’s use of racial or ethnic characteristics not justified by specific and articulable facts suggesting that an individual may be engaged in criminal behavior. Cynthia E. Hujar Orr of Texas spoke in support of the recommendation. The recommendation was approved as revised.

[104D] On behalf of the Criminal Justice Section, Stephen A. Saltzburg of Washington, D.C. moved Revised Report 104D urging federal, state, local and territorial jurisdictions to recognize that in particular case cross-racial identification may increase the risk of erroneous conviction. Mathias H. Heck, Jr. of Ohio and Robert A. Weeks of California spoke in support of the recommendation. The recommendation was approved as revised.

DOMESTIC VIOLENCE

[109] On behalf of the Commission on Domestic Violence, the Honorable Pamila J. Brown of Maryland moved Report 109 urging federal, state, local, territorial and tribal governments
to adopt legislation and appropriate funding to strengthen protection and assistance for victims of gender-based violence within the United States and abroad and urging Congress to enact and fund the International Violence Against Women Act of 2007 or similar legislation. The recommendation was approved.

**ELECTION LAW**

[119A] On behalf of the Standing Committee on Election Law, John C. Keeney, Jr. of Washington, D.C. moved Report 119A amending the *Election Administration Guidelines and Commentary*, dated August 2008, regarding the administration of the electoral process. The recommendation was approved.

[119B] On behalf of the Standing Committee on Election Law, John C. Keeney, Jr. of Washington, D.C. moved Revised Report 119B urging law firms and other legal employers to allow time spent by lawyers as official poll workers (not poll watchers) to qualify as pro bono, community service or voluntary public service hours and for nonlawyer staff to be allowed paid leave to serve as official poll workers. The recommendation was approved as revised.

**ELECTION PROCESS FOR ABA OFFICERS**


**ENVIRONMENTAL LAW**


**ETHICS AND PROFESSIONAL RESPONSIBILITY**

[114] On behalf of the Standing Committee on Ethics and Professional Responsibility, Steven C. Krane of New York moved Report 114 amending Model Rule of Professional Conduct 1.10 ("Imputation of Conflicts of Interest: General Rule") to permit screening within a law firm to allow other lawyers to undertake representations that would be prohibited to another lawyer in the firm because of a conflict of interest from a prior employment. Lawrence J. Fox of Pennsylvania moved to postpone indefinitely consideration of the proposal. Joanne A. Epps of Pennsylvania spoke in support of the motion to postpone indefinitely. Lucian T. Pera of Tennessee and W. Scott Welch III, of Mississippi spoke in
opposition to the motion to postpone indefinitely. The House approved the motion to postpone indefinitely by a vote of 192 to 191.

FAMILY LAW


GATEKEEPER REGULATION

[300] On behalf of the Task Force on Gatekeeper Regulation and the Profession, Edward J. Krauland of Washington, D.C. moved Report 300 addressing certain proposed legislation and international policy initiatives intended to impose obligations on company formation agents, including lawyers, to undertake extensive due diligence and determine “beneficial owners” when assisting in the formation of non-publicly traded business entities and trusts, and urging Congress to refrain from enacting legislation that would regulate lawyers in the formation of business entities. David M. English of Missouri and Robert A. Stein of Minnesota spoke in support of the recommendation. The recommendation was approved.

HEALTH LAW

[103] On behalf of the Commission on Law and Aging, Joseph D. O’Connor of Indiana moved Revised Report 103 urging federal, state, tribal and territorial legislative bodies, governmental agencies and health care providers to establish and support decision-making protocols to ensure that the wishes of those who have advanced chronic progressive illnesses are appropriately translated into visible and portable medical orders such as “Physicians Orders for Life-Sustaining Treatment” or “POLST” that address higher probability medical contingencies. David M. English of Missouri spoke in support of the recommendation. The recommendation was approved as revised.

[115] On behalf of the Standing Committee on Medical Professional Liability, Janice F. Mulligan of California moved Revised Report 115 urging federal, state and territorial legislative bodies to adopt legislation establishing pilot programs that enable and encourage medical personnel to report hospital events which, if repeated, could threaten patient safety. The recommendation was approved as revised.

[116A] On behalf of the Section of Health Law, Gregory L. Pemberton of Indiana moved Revised Report 116A urging states, territories and tribes to support the removal of legal barriers to the appropriate use by healthcare providers of Expedited Partner Therapy in the treatment of those sexually transmitted diseases, identified in the evidence-based recommendations of the CDC and the policy statements of the American Medical Association. The recommendation was approved as revised.
[116B] On behalf of the Section of Health Law, Howard T. Wall, III of Tennessee moved Revised Report 116B urging states and territories to provide for mutual telemedicine licensure recognition, subject to compliance with applicable fees, discipline and professional standards of each jurisdiction’s medical board. The recommendation was approved as revised.

[117B] On behalf of the Section of Individual Rights and Responsibilities, C. Elisia Frazier of Florida withdrew Report 117B which opposed all federal, state and territorial legislation and policies that interfere with a medical provider’s ability to recommend and provide, with the patient’s informed consent, medical procedures that, in accordance with reasonable medical judgment, best protect the patient’s health.

**INDIVIDUAL RIGHTS AND RESPONSIBILITIES**

[117A] On behalf of the Section of Individual Rights and Responsibilities, C. Elisia Frazier of Florida moved Report 117A urging Congress to support quality and accessible justice by ensuring adequate, stable, long-term funding for tribal justice systems. Mark D. Agrast of Washington, D.C. spoke in support of the recommendation. The recommendation was approved.

**INTERNATIONAL LAW**

[102] On behalf of the Center for Human Rights, Past ABA President Jerome J. Shestack of Pennsylvania, moved Report 102 supporting international adoption as an integral part of a comprehensive child welfare strategy to address the worldwide problem of children without permanent homes and supports policies that make the process of international adoption more timely, less costly and less burdensome, while ensuring that international adoption practices are ethical and legal. It was noted that the Report accompanying the recommendation had been revised. The recommendation was approved.

[108A] On behalf of the Section of International Law, A. Joshua Markus of Florida moved Report 108A urging the United States Government to expand and broaden interaction with the International Criminal Court (“ICC”), including cooperation with the Court’s investigations and proceedings and urging the government to participate in all future sessions of the ICC’s governing body, the Assembly of States Parties and preparations for the Review Conference to be held in 2010. The recommendation was approved.

[108B] On behalf of the Section of International Law, Michael H. Byowitz of New York moved Report 108B supporting the contribution that the negotiated liberalization of international trade in goods and services, through government-to-government trade agreements, makes to the spread of the Rule of Law, both at the state-to-state level and within participants’ domestic legal systems. The recommendation was approved.

**JUDGES/JUDICIARY**

[10A] On behalf of the New York County Lawyers’ Association, Ann B. Lesk of New York moved Revised Report 10A urging all jurisdictions to adopt best practices for use in
proceedings with unrepresented litigants in housing courts. The Honorable Marcy Friedman of New York spoke in support of the recommendation. The recommendation was approved as revised.

[10C] On behalf of the Standing Committee on Judicial Independence, William K Weisenberg of Ohio withdrew Report 10C which urged state, local and territorial bar associations to adopt programs of introductory judicial education to assist lawyers with potential career aspirations of service in the judiciary.

[10D] On behalf of the Missouri Bar Association, Doreen D. Dodson of Missouri moved Report 10D urging state and territorial judiciaries, in cooperation with state, local and specialty bar associations, to undertake assessments of their judicial systems, using as an assessment tool the State Court Assessment Project, developed by the Standing Committee on Judicial Independence. The Honorable Michael A Wolff of Missouri spoke in support of the recommendation. The recommendation was approved.

[110] On behalf of the Judicial Division, the Honorable Charles N. Clevert of Wisconsin moved Report 110 replacing the Judicial Division Standards Relating to Juror Use and Management with the ABA Principles for Juries and Jury Trials, adopted February 2005. The recommendation was approved.

[118] On behalf of the Standing Committee on Federal Judicial Improvements, Thomas Z. Hayward, Jr. of Illinois moved Report 118 encouraging Senators in each state to jointly establish bipartisan commissions to evaluate the qualifications of prospective candidates for nomination to the U.S. district and courts of appeals and to recommend possible nominees whom their Senators might suggest for the President’s consideration. Tom Bolt of the Virgin Islands moved to amend. The amendment was approved. Doreen D. Dodson of Missouri, James F. Williams of Washington and Donald R. Dunner of Washington, D.C. spoke in support. The recommendation was approved as amended.

LEGAL EDUCATION

[101] The House approved by consent Report 101 granting approval, reapproval and extension of the term of approval to several paralegal education programs, and withdrawing the approval of two programs.

[112A] On behalf of the Section of Legal Education and Admissions to the Bar, Jose Garcia-Pedrosa of Florida moved Revised Report 112A adopting the Model Rule for Registration of In-House Counsel, dated August 2008, which provides a mechanism for jurisdictions to identify and monitor in-house counsel who are practicing in the jurisdiction. Paula E. Boggs of Washington moved to amend the recommendation. The amendment was approved. Kenneth E. Young of North Carolina moved to amend the recommendation. The amendment was approved. Daniel A. Schwartz of Connecticut moved to amend the recommendation. Paula E. Boggs of Washington, Esther F. Lardent of Washington, D.C. and Robert N. Weiner of Washington, D.C. spoke in opposition to the amendment. The amendment failed. The recommendation was approved as revised and amended.
[112B] On behalf of the Section of Legal Education and Admissions to the Bar, Sidney S. Eagles, Jr. of North Carolina moved Report 112B concurring in the action of the Council of the Section of Legal Education and Admissions to the Bar in deleting Interpretation 302-7 of the Standards for Approval of Law Schools concerning bar examination preparation courses. The recommendation was approved.

**LITIGATION**

[113B] On behalf of the Section of Litigation, David C. Weiner of Ohio moved Report 113B adopting the black letter of the Standards for Final Pretrial Submissions and Orders, dated August 2008, which are intended to provide guidance on how to move the case forward to trial, but does not impose unnecessary burdens or require pretrial submissions too early in the parties' final pretrial preparation, and to simplify what items should be prepared as the case in the final pretrial stage. The recommendation was approved.

**LONG RANGE PLANNING**

[121] On behalf of the ABA Long Range Planning Committee, Thomas Z. Hayward, Jr. of Illinois moved Revised Report 121 adopting a new mission, goals and objectives of the American Bar Association. Past ABA President Michael S. Greco of Massachusetts moved to amend. Robert A. Stein of Minnesota, Neal R. Sonnett of Florida, Stephen A. Saltzburg of Washington, D.C. and Mark D. Agrast of Washington, D.C. spoke in support of the amendment. Maury B. Poscover of Missouri, Patricia L. Refo of Arizona, I. S. Leevy Johnson of South Carolina, Thomas Z. Hayward, Jr. of Illinois and W. Scott Welch III, of Mississippi spoke in opposition to the amendment. The amendment failed. ABA President William H. Neukom of Washington spoke in support of the recommendation. Harvey B. Rubenstein of Delaware spoke in opposition to the recommendation. Past ABA President Jerome J. Shestack of Pennsylvania moved to amend. The amendment was approved. The Honorable Leslie Miller of Arizona moved to amend. Thomas Z. Hayward, Jr. of Illinois spoke in opposition to the amendment. The amendment failed by a vote of 201 to 214. The recommendation was approved as revised and amended.

**SCIENCE AND TECHNOLOGY LAW**

[100] On behalf of the Section of Science and Technology Law, Bonnie E. Fought of California moved Report 100 urging the U.S. Government to ratify the United Nations Convention on the Use of Electronic Communications in International Contracts. The recommendation was approved.

[301] On behalf of the Section of Science and Technology Law, Ellen J. Flannery of Washington, D.C. moved Report 301 urging state, local and territorial legislatures and regulatory bodies to refrain from requiring private investigator licenses for persons engaged in computer or digital forensic work, including expert testimony; and supporting the development of certification and competency requirements for such forensic activities. The recommendation was approved.
STATE AND LOCAL GOVERNMENT LAW

[111A] The House approved by consent Report 111A adopting the Model Statute on Local Land Use Planning Procedures, dated August 2008, which addresses local land use procedures, incorporates the accumulated legal experience of the last eighty years and provides a uniform and fair method of treating land use applications and urging its enactment by states, territories and local legislative bodies.

SUBSTANCE ABUSE

[105] On behalf of the Standing Committee on Substance Abuse, Edward H. Jurith of Washington, D.C. moved Revised Report 105 urging state, territorial and tribal legislative bodies and appropriate governmental agencies to develop comprehensive strategies to reduce the incidence of prescription drug diversion and abuse including the utilization of Prescription Drug Monitoring Programs, designed with appropriate attention to the authenticity, security, reliability and integrity of patient information obtained. C. Dale McClain of Pennsylvania and ABA Past President David R. Brink of Minnesota spoke in support of the recommendation. Ellen J. Flannery of Washington, D.C., Lucy L. Thomson of Virginia, Estelle H. Rogers of Washington, D.C., Scott F. Partridge of Texas, Howard T. Wall, III of Tennessee, and J. Anthony Vittal of California spoke in opposition to the recommendation. The recommendation failed.

UNIFORM ACT

[113A] On behalf of the Section of Litigation, Lawrence J. Fox of Pennsylvania withdrew Report 113A which sought adoption of the ABA Model Act Governing the Representation of Children in Abuse, Neglect and Dependency Proceedings, dated August 2008, which includes a mandate which requires that a lawyer be appointed for each child who is the subject of a petition in an abuse, neglect, dependency, termination of parental rights or post termination of parental rights proceeding and that, consistent with the ABA Model Rules, the child’s lawyer should form an attorney-client relationship which is fundamentally indistinguishable from the attorney-client relationship in any other situation.

YOUTH AT RISK

[107] On behalf of the Commission on Youth at Risk, Laura V. Farber of California moved Report 107 urging Congress to change laws to broaden federal review of the disproportionate representation of racial and ethnic minority children in the child welfare system and require and fund states to track, report, analyze and take and report on corrective action. The recommendation was approved.

CLOSING BUSINESS

At the conclusion of the meeting of the House on Tuesday, August 12, Chair Bellows spoke of her pride in the House, noting that members’ sacrifice of time away from family and work was essential to all Americans. She also thanked those who served as Chair in years past for their support and guidance.
Chair Bellows offered her thoughts on the role of lawyers to speak up when those who govern us seek to impose restrictions on our freedom. She said that she believes that questioning the abuse of power is the most important work we do as lawyers, and that the House is our national voice. She recognized that there have been times when the House spoke out belatedly, or not at all, such as when African-Americans were forced to create their own bar association because they were not welcome in other bar associations, and when the Americans of Japanese descent were interned in World War II. Chair Bellows emphasized that when American lawyers condemn injustice, we are heard, and that we are also heard when we are silent. She opined that the increasing diversity of the House accounts for the House’s willingness to address more issues more directly than at any time in our past. She encouraged members of the House to be courageous and eloquent, and not be silent.

Chair Bellows called on Kay H. Hodge and representatives of Massachusetts for a report on the 2009 Midyear Meeting, which will be held in Boston.

Passing of Chair’s Gavel

Chair Bellows introduced incoming Chair William C. Hubbard of South Carolina, noting his commitment to professionalism and his past service to the ABA, including chairing the World Justice Project. She called him a lawyer’s lawyer who acts with a measure of fairness that is unfailing.

Incoming Chair Hubbard thanked Bellows for her service as Chair and recognized his wife Kappy and his family for their support. He pledged to work with the House to effectively serve the public and the profession.

Incoming Chair Hubbard recognized Barbara J. Howard of Ohio who moved approval of the host resolution recognizing New York for its hospitality during the 2008 Annual Meeting. The motion was approved. Linda A. Klein of Georgia was then recognized and moved that the House adjourn sine die. The motion was approved.