

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS MEETING

February 17, 1992

10:00 a.m.

The Westin Canal Place Hotel
100 Rue Iberville
The Terrace Room
New Orleans, Louisiana 70130

Board Members Present:

George W. Wittgraf, Chairman
Howard H. Dana, Jr.
J. Blakeley Hall
William L. Kirk, Jr.
Jo Betts Love
Penny Pullen (by telephone)
Norman Shumway
Basile E. Uddo
Jeanine E. Wolbeck

Other:

Charles Fax
Special Counsel to the
Board (by telephone)

Staff Present:

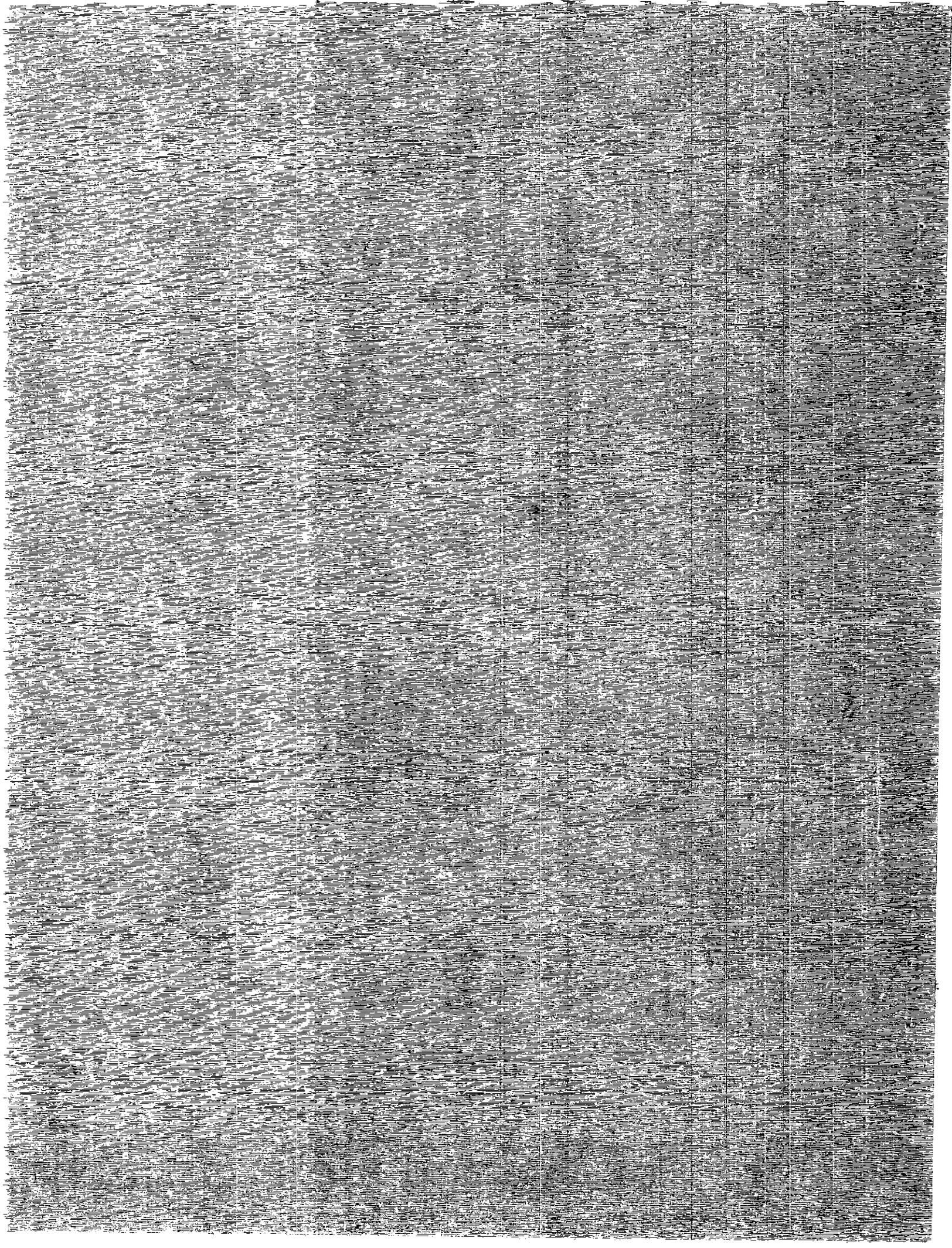
John P. O'Hara, President
Emelia DiSanto, Vice President
Patricia Batie, Secretary
Victor Fortuno, General Counsel
Edouard Quatrevaux, Inspector General
Susan Sparks, Acting Director/MAC
Kenneth Boehm
Christopher Sundseth
Ellen Smead, Director
Office of Field Services
Charles Moses, Deputy Director
Office of Field Services
Kathleen deBettancourt

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P R O C E E D I N G S

1
2 CHAIRMAN WITTGRAF: Good morning, ladies and
3 gentlemen. This regular meeting of the Board of Directors of
4 the Legal Services Corporation will be in order, it now being
5 10:00 a.m. on February 17, 1992, the time and date scheduled,
6 and for which notice was given for our meeting. It's a
7 pleasure for us to be here in New Orleans in the home of
8 Board member Uddo, and it's a pleasure to have the
9 opportunity to make some new friends and acquaintances.

A P P R O V A L O F T H E A G E N D A

10
11 CHAIRMAN WITTGRAF: Let me begin with a bit of
12 formal business, which is the approval of the agenda. We
13 have the agenda before us as presented in the so-called Board
14 meeting book. I would ask or entertain a motion for adoption
15 of the agenda with proposed closed session item 11 deleted
16 there from, in that the materials required for consideration
17 of that item are not available to us at this time. With that
18 exception, then, I'm prepared to entertain a motion.

M O T I O N

19
20 MR. UDDO: So moved.

21 CHAIRMAN WITTGRAF: It's been moved by Mr. Uddo.
22 Is there a second?

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1 MR. SHUMWAY: Second.

2 CHAIRMAN WITTGRAF: It's been seconded by Mr.
3 Shumway.

4 Mr. Kirk?

5 MR. KIRK: I'd like to move to amend the agenda.

6 CHAIRMAN WITTGRAF: Mr. Kirk?

7 MR. KIRK: I would like to -- and this may fall
8 within another area -- I'd like to submit, or discuss the
9 submission of a minority budget request along with a majority
10 budget request. I'd like that to be taken up today.

11 CHAIRMAN WITTGRAF: If you want to make that
12 motion, I'll rule it as out of order in that we will not have
13 given notice to the public, let alone to the members of the
14 Board, that we'll be discussing the budget further. I think
15 it would be appropriate if you want that kind of discussion
16 that it should be on the agenda then for our next regular
17 meeting, and that notice be given, and that we discuss it at
18 that time.

19 MR. KIRK: Wait, wait. Aren't we going to discuss
20 this justification introduction summary draft that was gone
21 over yesterday by the ~~ANA?~~ A + A Committee.

22 CHAIRMAN WITTGRAF: I don't think that the

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1 committee took any formal action. Mr. Dana will report
2 later, but my understanding is that a first draft was
3 distributed to everybody. People gave comments to Chris
4 Sundseth yesterday. He took those into account and
5 distributed another draft today. He's asking that between
6 now and February 28th people give additional comments.

7 If I'm recalling Mr. Dana's comments correctly,
8 what he said was it was difficult to work through a 25 page
9 document in committee fashion. I think the way the document
10 is left, if you've got some particular concerns, they are to
11 be presented to Chris and hopefully incorporated in the
12 message.

13 MR. KIRK: So, nothing is going to be submitted to
14 Congress until after February?

15 CHAIRMAN WITTGRAF: Our hope is that three weeks
16 prior to the scheduled House Appropriations Subcommittee
17 appearance, which is March 25th, I believe, that some three
18 weeks before that it would be possible to give the message to
19 the staff of the appropriations subcommittee so that they
20 could have it and review it prior to the appearance on the
21 25th. We will not be meeting between now and the second of
22 March, so the process as I described is the way it was left.

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M O T I O N

1
2 MR. KIRK: Well, I'm going to move to amend the
3 agenda. If that is denied, then I'm going to ask to bring it
4 up during Mr. Dana's committee report. At any rate, I will
5 move to amend the agenda to be able to have permission for
6 those minority members that voted against or wished they had
7 been here to vote against the budget to present an alternate
8 budget.

9 CHAIRMAN WITTGRAF: I'll rule the motion out of
10 order.

M O T I O N

11
12 MR. KIRK: All right, sir. My next motion is that
13 we add to the agenda a discussion of the possibility of
14 canceling the March and May meetings.

15 CHAIRMAN WITTGRAF: Okay.

16 MR. SHUMWAY: I'll second.

17 CHAIRMAN WITTGRAF: And that would be the agenda
18 item that would come between 16 and 17 on the published
19 agenda. Those who are in favor of the addition to the agenda
20 as proposed by Mr. Kirk and seconded by Mr. Shumway will
21 signify by saying aye.

22 (A chorus of ayes.)

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1 CHAIRMAN WITTGRAF: Those who are opposed, nay.

2 (A chorus of nays.)

3 MR. KIRK: Call for vote.

4 CHAIRMAN WITTGRAF: The nays appear to have it. A
5 roll call vote has been called.

6 MR. KIRK: All I want to do is discuss it.

7 CHAIRMAN WITTGRAF: Mr. Kirk, did you wish to speak
8 further to your motion?

9 MR. KIRK: Yes, sir.

10 CHAIRMAN WITTGRAF: Mr. Kirk?

11 MR. KIRK: Thank you, Mr. Chairman. What I'm
12 asking is the opportunity to discuss whether we really need
13 to continue monthly meetings unless there's something that
14 really is pushing, pressing, for us to do and perhaps try to
15 save the Corporation some money -- its efforts to put more
16 money into the field and better use its funds. I hope you
17 support me on this.

18 CHAIRMAN WITTGRAF: Further discussion?

19 (No response.)

20 CHAIRMAN WITTGRAF: Ms. Pullen, are you able to
21 hear the discussion?

22 MS. PULLEN: Barely.

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1 CHAIRMAN WITTGRAF: We'll all try to speak directly
2 into our microphones to facilitate that. Further discussion?

3 MR. KIRK: Do you understand the motion?

4 MS. PULLEN: Are you asking me?

5 MR. KIRK: Ms. Pullen, do you understand the
6 motion?

7 MS. PULLEN: I would like it restated, please.

8 CHAIRMAN WITTGRAF: Mr. Kirk?

9 MR. KIRK: The motion is that we add to the agenda
10 the question of discussing the possible elimination of the
11 March and May meetings of the Board of Directors.

12 MS. PULLEN: I understand that very well. Thank
13 you.

14 CHAIRMAN WITTGRAF: Further discussion on the
15 motion?

16 (No response.)

17 CHAIRMAN WITTGRAF: Those who are in favor of the
18 motion will signify by saying aye or nay as the rule is
19 called.

20 Mr. Dana?

21 MR. DANA: Nay.

22 CHAIRMAN WITTGRAF: Mr. Hall?

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1 MR. HALL: No.

2 CHAIRMAN WITTGRAF: Mr. Kirk?

3 MR. KIRK: Yes.

4 CHAIRMAN WITTGRAF: Ms. Love?

5 MS. LOVE: No.

6 CHAIRMAN WITTGRAF: Mr. Molinari?

7 (No response.)

8 CHAIRMAN WITTGRAF: Ms. Pullen?

9 MS. PULLEN: Yes.

10 CHAIRMAN WITTGRAF: Mr. Rath?

11 (No response.)

12 CHAIRMAN WITTGRAF: Mr. Shumway?

13 MR. SHUMWAY: Aye.

14 CHAIRMAN WITTGRAF: Mr. Uddo?

15 MR. UDDO: No.

16 CHAIRMAN WITTGRAF: Mr. Wittgraf votes no.

17 Ms. Wolbeck?

18 MS. WOLBECK: Yes.

19 CHAIRMAN WITTGRAF: The Chair's calculation is that
20 the vote fails by a vote of four ayes, five nays. We're back
21 on the motion for the adoption of the agenda as proposed with
22 the exception of the elimination of item no. 11. Is there

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1 further discussion?

2 (No response.)

3 CHAIRMAN WITTGRAF: Hearing none, those who are in
4 favor of adoption of the agenda exclusive of item 11 will
5 signify by saying aye.

6 (A chorus of ayes.)

7 CHAIRMAN WITTGRAF: Those who are opposed, nay.

8 (Mr. Kirk votes nay.)

9 CHAIRMAN WITTGRAF: The ayes appear to have it.
10 The ayes do have it. The agenda, exclusive of item no. 11,
11 is adopted as presented.

12 At this time, the Chair is pleased to recognize and
13 call upon a former member of the Board of the Legal Services
14 Corporation, Mr. Tom Smegal of San Francisco, practicing
15 attorney there, served on the Board for some five years,
16 overlapping in his service, I think, with Mr. Hall and Mr.
17 Uddo. Mr. Smegal is now a member of the American Bar
18 Association's Standing Committee on Legal Aid and Indigent
19 Defendants, usually referred to as SCLAID. If Mr. Smegal
20 will come forward, it's my understanding that he in turn will
21 introduce us to --or introduce to us the president of the
22 American Bar Association. Mr. Smegal?

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1 MR. SMEGAL: Thank you, Mr. Chairman. You might
2 say initially that my service on the Legal Service
3 Corporation Board at the nomination of President Reagan, and
4 during his second term and the first year of President Bush's
5 administration, was without a doubt the most significant
6 activity in my professional career.

7 The responsibilities you have as a Board to the
8 delivery of legal services to the indigent through this
9 program are absolutely critical to what I consider to be our
10 democratic society. It was a great pleasure and honor for me
11 to serve. I compliment you all on the way you are proceeding
12 with carrying out that mandate.

13 I have the pleasure today of introducing to you the
14 president of the American Bar Association, a former dean of
15 the Law School of Florida State University, currently a
16 partner in Steel, Hector and Davis in Miami, Florida.

17 Our current ABA president has as the theme of his
18 administration "The Access to Justice." He has an ambitious
19 schedule which would increase substantially by the year 2000
20 the amount of legal services available across the spectrum of
21 our society.

22 He's extraordinarily dedicated to the innovation of

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1 pro bono delivery of legal services. Most recently, just
2 last Friday, he debated David Beckwith, Vice President
3 Quayle's press secretary, with respect to the ABA's position
4 on access to justice. Our president feels very strongly
5 about several of the issues that you have before you. I'm
6 confident that the American Bar Association will lobby
7 vociferously for your budget, for a budget mark substantially
8 in line with the needs of the indigent of this country.

9 Our president is very much in favor of an
10 independent corporation and reauthorization that will not
11 unduly restrict the ability of legal services lawyers to
12 represent their clients. It is certainly a great honor and
13 pleasure for me to introduce to you Sandy D'Alemberte, the
14 president of the American Bar Association.

15 CHAIRMAN WITTGRAF: Mr. President?

16 PRESENTATION OF SANDY D'ALEMBERTE

17 MR. D'ALEMBERTE: Mr. Chairman, members, thank you
18 so much for letting me come and visit with you. I really
19 wanted to take a bit of your time, if I may, to do three
20 things.

21 One, to sketch out briefly something of our long-
22 term interest in the whole subject of the delivery of legal

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1 services. Then I'd like to talk a bit about where our
2 committee has come out on the funding question.

3 Finally, I'd like to brief you a little bit on
4 something that's new this year in our process, the
5 implementation of a confirmation review process which was
6 initiated back in 1989, but will first be put in place this
7 year. I thought I'd really like to come and describe that
8 process to you.

9 First of all, just briefly, the history of the
10 American Bar Association's interest in this subject area goes
11 back a long way and involves some fairly distinguished names.
12 I think it was in 1920 that Charles Evans Hughes urged that
13 we organize a committee to deal with legal aid and indigent
14 defendants. That great gentleman went on to be the first
15 chair of that committee beginning in 1920.

16 The history of ABA's interest in that subject
17 continued really with great strength throughout the years,
18 but it was, I think in 1965, Tom, that Lewis Powell, then
19 president of the ABA, urged that the ABA join in supporting a
20 federally-funded legal services program.

21 It was at Justice Powell's urging that the ABA
22 committed itself to the path of supporting a federally-funded

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1 program. As you may remember, that whole question was very
2 much in debate before Powell stepped into the question. He
3 convinced the American Bar that the correct path was to be in
4 support of this program.

5 Again, since that time, I'm going to say that the
6 support of the ABA for legal services has simply grown. One
7 of the things that startled me when I became president was to
8 look over the survey of state and local bar leaders to ask
9 them what interest we should take, and in particular what
10 interest should we take in Congress looking at legislative
11 initiatives.

12 For at least the last three years, I haven't looked
13 back beyond those surveys, but at least for the last three
14 years, the answer is we ought to be concerned with the
15 support for legal services to the poor. That's so far in
16 first place there's almost no second place interest. It's
17 just simply overwhelming interest on the part of state and
18 local bar leaders. So, to the extent that we serve our
19 constituency, it's very clear to me that our constituency is
20 taking a very detailed interest in legal services programs.

21 With that sketchy background, I wanted to say that
22 I'm really proud to be heir to that rich history of

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1 involvement of the ABA. I hope you know that my interest in
2 this subject is long term and sincere.

3 Quickly, if I may, on the issue of funding. First
4 of all, I wanted to react with applause for the position I
5 understand that this Board has taken on increased funding for
6 the Legal Services Corporation. We're all aware of the kind
7 of erosion of resources that have occurred over the last
8 decade or so. I've seen that very clearly by going around
9 and visiting the legal services offices. There's no doubt in
10 my mind that it's true.

11 If you go back and ask the legal services office
12 anywhere, in my home state -- and I've traveled other
13 places -- you begin to see the real impact of having what
14 amounts to, I guess, approximately a 40 percent downturn in
15 the resources available to these programs. What that results
16 in, quite obviously, is people not having their cases
17 handled, offices being closed, and so forth.

18 I went to a legal services program most recently in
19 Indianapolis. I've been to those offices throughout the
20 country. It's clear to me that when you compare the size of
21 the office, the size of the staff from 1991 to 1980, it's
22 fairly traumatic. This Indianapolis office serves 50-

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1 something southern Indiana counties. It had, in 1980, 11
2 offices. It now has five. In 1980 it had 180 staff. It now
3 has 80 lawyers and staff.

4 There are a whole category of cases they're simply
5 not handling. They're turning them away. It's not that they
6 have fewer poor people in those counties today; it's that
7 they are simply very strapped for resources. As I go around
8 to these offices, I'm convinced that people are really
9 dedicated. I think that they're trying hard.

10 I don't see any of the problems that I hear stories
11 about. I know that there were at the very beginning of legal
12 services operations some stories about great abuses. I
13 served on a bar association Board of Governors back when the
14 program was first started. We were very suspicious in the
15 bar about legal services programs. I believe in Florida we
16 could identify some difficulties that those programs had
17 starting out.

18 But at least today, my observation is that
19 everywhere I go I see very well-managed programs. They are
20 usually managed under the direction of a board which is a
21 very competent board. If I had to go anyplace in the
22 country, and say I wanted a quick way to find out who the

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1 best lawyers in the community are, I'd go and find out who is
2 serving on the legal services board. It would be a pretty
3 good running start at locating those lawyers.

4 But I think about the board in Orlando. If you
5 begin to look at the Orange County board, you find people who
6 are former presidents of the bar, people who have been
7 distinguished trial lawyers. You simply will find the great
8 lawyers serving on these boards. As I look at them, I find
9 them operating in a very fine competent honorable manner. I
10 don't hear any verified stories, current stories of great
11 abuses by those boards. I think they deserve the resources
12 to let them function properly.

13 As I understand the funding question -- and I've
14 not yet officially responded, I guess, Tom, to your
15 committee's recommendation -- but from the present funding
16 level of \$350 million, I understand your recommendation is at
17 \$525 million.

18
19 The SCLAID Committee has made a recommendation that
20 we testify in support of a funding level of \$570 million,
21 which would be pegged at halfway between present level of
22 funding and the minimum goal of having two lawyers per 10,000

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1 poor people in the population. As I understand it, Tom, that
2 was the rationale.

3 So, as you will hear shortly about the quality of
4 this committee, it's very likely that I would accept that
5 recommendation and authorize testimony at that level.

6 I'd now like to go to the third point. That is just
7 to describe to you, if I could, the process which was begun
8 in 1989, the ABA. If I can just back this up for a moment, I
9 think it's fairly well known that in the area of appointments
10 to the federal judiciary, that the American Bar Association
11 has a screening process which has been in place for some
12 time.

13 I think it's fair to say that there have been
14 people from time to time who have been critical of it. But
15 my personal view is that it's operated over a period of time
16 with great integrity.

17 The people who have chaired that committee have
18 been really splendid lawyers. Howard, most recently one from
19 your state, now a lawyer from California, is chairing that
20 committee. They have, over the years, developed some
21 procedures for screening of federal judicial nominees which
22 we intend to use for screening of the nominees to this board.

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Now this came about because in 1989, two years ago, when I guess -- Tom, you were on the board at that time. I'm not sure how many of the present board were actually on the board, but two years ago, there was Basile and -- two of you on the board at that time.

The ABA House of Delegates considered a resolution from the Standing Committee on Legal Aid and Indigent Defendants. It was cosponsored by the Los Angeles County Bar Association. It went to the House of Delegates and recommended that we do a review of all nominees.

They set forth five principles that ought to be considered. If you looked at these principles, I think you would find them very much in line with the legislation which creates Legal Services Corporation, these principles, fairly simple and fairly obvious to you all.

But to repeat them here it would be that all persons considered for nomination be free of any conflict of interest; second, that they each demonstrate a high order of commitment to the continued existence and the effective operation of the Legal Services Corporation; third, that they're committed to the freedom of the Legal Services

1 Corporation from political control; fourth, that potential
2 Board members provide assurance that they understand and are
3 fully committed to the role of legal services attorneys and
4 support the underlying principle of the Legal Services
5 Corporation Act and agree that it's in the national interest
6 that the poor have full access under law to comprehensive and
7 effective legal services; and finally, the Board of
8 Governors, as finally constituted, is adequately
9 representative of the organized bar, legal education, legal
10 services attorneys, the clients to be served, and
11 organizations involved in the development of legal assistance
12 to the poor.

13 So, the screening process would operate with
14 looking at those principles. The screening will actually be
15 conducted under the leadership of this committee, the
16 committee I described earlier, the SCLAID Committee, which I
17 say has a long history and began back under Salzman and
18 Shoes. That committee now has as its Chair Dennis Archer.
19 Dennis is a former justice of the Supreme Court of Michigan.

20
21 On that committee are Kim Taylor, who formerly was
22 a public defender in Washington and is now, I believe, on the

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1 Stanford faculty; Cabbage Snow from Macon, Georgia, who has
2 been actually very active in Georgia legal services early on,
3 a long-term interest; Paul Brashour, who most recently
4 was the chair of the 60,000 member section of litigation for
5 the ABA, again has had considerable interest; David Cullin,
6 who is a corporate lawyer, a secretary of General Motors
7 Corporation; and Lori Zeland, who has been working in this
8 area for some time, who is practicing in Los Angeles but who
9 has had a long term interest in Legal Services.

10 There are three other members of the committee who
11 will not be involved in the screening process because we want
12 to worry about our own possible conflict of interest. They
13 are John Asher, who many of you know as a very distinguished
14 confident director of the Legal Services program in Denver.
15 I've visited that program from time to time. John is really
16 an excellent leader. But because he tends to be served by
17 the Corporation in a rather direct manner, he felt he should
18 not serve in the screening process.

19 Tom Smegal, who is also on the committee, because
20 he, I believe, was on the list for reappointment. At one
21 point he was considered for reappointment to the Board and
22 thought it was not a good idea that Tom serve.

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1 Finally, Norm Johnson from Utah, who again, I
2 think, was on the list for possible appointment. Just to
3 make sure there are no problems there, I understand the
4 committee is developing a Chinese wall to seal them off from
5 the process of appointment.

6 If I can just describe briefly what that process
7 is. Then, one of the reasons I wanted to describe it to you
8 was to get from you either now or later any suggestions
9 you've got for improving that process to make sure that from
10 the very beginning we're going about it in a fair and
11 impartial way. The kind of process that we are proud of with
12 the federal judiciary we want to be proud of this process as
13 well.

14 The things we've done, first of all, as I've
15 already said, we've gone to the people who served in our
16 federal judicial screening process, the staff and members of
17 that committee, and asked them to hold a training session for
18 our committee members -- that has now been done. It was
19 done, I believe, back in December. At that time, as they
20 went through the screening process, it was the members of the
21 federal judiciary screening committee that began to look
22 around and said, Tom, you probably shouldn't serve. So, they

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1 again began to develop their procedures.

2 They will now operate by assigning one, or maybe
3 two, members of this committee to each of the nominees. The
4 screening process would then take place through a series of
5 interviews. The person assigned from the SCLAID committee
6 will probably ask to chat with you. We may, in fact, if you
7 have a meeting sometime between the announced confirmation
8 hearings and there's available opportunity, we may try to
9 schedule a meeting alongside of your meeting so there would
10 be an opportunity for these committee members to visit with
11 you.

12 These are quite informal, but if they follow the
13 pattern of the federal judicial process, they may actually
14 want to do it a couple of times. They would also make phone
15 calls to colleagues in the same way that any of us would make
16 phone calls to check out job applicants, law firms or
17 businesses. There's a fairly rigorous procedure used in the
18 federal judicial process to make sure that the right
19 questions are asked and that they keep good track of what
20 they learn.

21 One of the tricky questions, of course, are these
22 confidential interviews. There will be some people who may

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1 want to let their views be known publicly. There are other
2 people who will not. At some point, before issuing a report
3 or having any discussion before the committee, the person
4 assigned to conduct the review would come back to nominees
5 and at least give them an opportunity, if they wish to do so,
6 to comment on anything that was developed in the process of
7 the interview.

8 That pretty well describes -- then the full
9 committee would vote; that is, other than the people who had
10 been walled off from the process. They would make a
11 recommendation to the president's office for whether we would
12 testify in favor or against the nominees. There may be other
13 details still to be worked out by the committee. That's what
14 I know of today.

15 I thought it was useful to come and describe that
16 to you because you may have some thoughts from your own
17 experience that might inform this process for us. We will
18 begin this process as soon as we know the hearings are
19 scheduled.

20 I have not received any direct word from the Senate
21 about the scheduling of those hearings. I was told one time
22 earlier that it might be in March or April. I'm not sure

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1 whether those dates still hold. I have no late information
2 on that.

3 Mr. Chairman, that's pretty much what I wanted to
4 come say. I would appreciate now, or at any later time, any
5 suggestions that any members of the Board may have to help us
6 do that, go through that process in the most elegant way we
7 can.

8 CHAIRMAN WITTGRAF: Thank you, Mr. President. I
9 had a chance to sit in on the last SCLAID meeting two weeks
10 ago yesterday, I think it was, in Dallas during the ABA's
11 mid-winter meeting. Judge Archer, as he was presiding over
12 that committee meeting, raised this subject and asked for my
13 comments at that time.

14 We're 11 different individuals as you're well
15 aware, and I can't speak for the 11 of us, necessarily. What
16 I suggested to Judge Archer was would he ask the question of
17 our coming to a place to be interviewed. I suggested that
18 because of our schedules, it probably made a lot more sense
19 for the members of the committee who were going to
20 participate in this process to come to a location where we
21 were having a meeting.

22 I told him that we have attempted for the year to

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1 project what our meeting schedule will be. Either Judge
2 Archer or a member of the staff of SCLAID would have to do
3 nothing but contact the Corporation's office, and
4 particularly Pat Batie, to learn those dates. There might be
5 meetings in Washington or there might be meetings in other
6 parts of the country, much as this is.

7 He had raised the question of a questionnaire, a
8 written questionnaire. I had indicated, I think, during our
9 discussion that I thought it was unlikely that most of the
10 members of our Board, the nominees, would want to fill out a
11 written questionnaire.

12 But I thought that most of us would have no
13 aversion to visiting with someone who had questions for us,
14 be those individuals from SCLAID or from any other
15 organization.

16 I think over the course of the last two years or so
17 most of us have had many occasions to visit with different
18 people who have had views, or questions about our views. I
19 would say that most of us will cooperate as much as we
20 possible can. When that effort begins, it would probably be
21 easiest to hook up in the city and on the date when we're
22 having a regularly scheduled Board meeting.

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1 We, like you, have no particular insight into when
2 or even if the confirmation process is going to go forward.
3 I guess the SCLAID committee won't get too concerned until it
4 happens, and we probably won't either. It may be that some
5 other members of the Board would like to respond.

6 Mr. Shumway?

7 MR. SHUMWAY: I just wonder about the extent of
8 your endorsements. There are three members of this Board who
9 are not lawyers. Would you undertake to make recommendations
10 on them as well?

11 MR. D'ALEMBERTE: We would; yes, sir.

12 MR. SHUMWAY: You would. Would your
13 recommendations be made only in the context of scheduled
14 Senate hearings, or do you intend to prepare some judgment
15 independent of that?

16 MR. D'ALEMBERTE: Well, as I understand what
17 Chairman Archer proposes, it's that he would have some
18 recommendations that would come to me. I would not be
19 involved, happily, with the investigator's stage.

20 Having been on nominating commissions before, I
21 understand what kind of burden that is. But those
22 recommendations would come to me prior to the time of the

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1 hearings. Our testimony then would be based on that
2 recommendation.

3 MR. SHUMWAY: So, if hearings are not scheduled,
4 then your recommendation would not be going anywhere?

5 MR. D'ALEMBERTE: No.

6 MR. SHUMWAY: It would not be a matter of public
7 record, I take it?

8 MR. D'ALEMBERTE: At this stage, my understanding
9 about what they've planned is that they don't plan to begin
10 the investigation until the hearings are scheduled. Now,
11 that may change, but that's my present information.

12 MR. SHUMWAY: I realize that much of what we do is
13 of great interest to the organized bar, and for a good
14 reason. But it seems to me that your review of each of us
15 would be weighted quite heavily on the juristic side, if you
16 will, whereas we are appointed by the president.

17 Perhaps I'm trying to steer this away from my own
18 situation. But some of the appointments may have more
19 political reasons than juristic reasons.

20 Would a distinction like that miss your attention,
21 or do you intend to look at it from a broad perspective that
22 would include various motivations for our being here?

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1 MR. D'ALEMBERTE: Well, as I understand the
2 criteria that we're looking at, no one is handicapped by
3 having had a political career. Indeed, I certainly wouldn't
4 take that position. But some commitment to the idea of
5 political independence of the Board is what we think is an
6 important principle that underlies the operation of this
7 Board.

8 So, I guess my answer would be that history
9 certainly shouldn't be disqualified. But the five principles
10 I mentioned include some commitment to the political
11 independence of the Board.

12 MR. SHUMWAY: Well, speaking some what personally,
13 I found that political history can either be overwhelmingly
14 positive or overwhelmingly negative, depending upon the
15 approach one takes to it.

16 MR. D'ALEMBERTE: Sure. We ought not be in the
17 position of having interest much in the politics except as
18 that politics begins to bear on the delivery of legal
19 services. One of the principles laid out in that 1989
20 resolution suggests that there be a full commitment to full
21 access. I think the committee will care about that.

22 MR. SHUMWAY: Thank you, Mr. Chairman.

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1 CHAIRMAN WITTGRAF: Further comments, questions?
2 Mr. Kirk?

3 MR. KIRK: Thank you, Mr. Chairman. I want to
4 thank you for being here. I do appreciate it.

5 MR. D'ALEMBERTE: Mr. Kirk and I have been trying
6 to get together for three or four months at least, and we
7 both theoretically live in Florida, although I suspect that
8 neither of our families believe that these days.

9 MR. KIRK: It should be known that we really
10 haven't been able to find the time this trip to have the
11 conversation that we talked about.

12 You know, one of the concerns that I have
13 personally is, I'm a member of the ABA and have been from day
14 one. I strongly support a lot of its programs but certainly
15 not all. My view of full access comes from a little
16 different position. It really can at times be highly
17 critical of the ABA.

18 I see many of our problems, lack of access to the
19 poor, as not being something to be solved by continuing to
20 pour more tax money into it, but maybe a fundamental change
21 in the legal system, and something that at times I'm highly
22 critical of the ABA for not taking a lead.

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1 MR. D'ALEMBERTE: Describe it to me a little bit
2 better, what you're thinking about.

3 MR. KIRK: Well, I'm saying that we're concerned
4 about the poor not having access to the courts. I think we
5 have a legal system where the middle class almost is out of
6 reach financially for really the legal needs that they have.

7
8 I'm concerned about so much of what we do, and ways
9 that we need to take a big look at how we're doing this and
10 what we can do from a fundamental point of view.

11 I've got to tell you, if I had some solutions to
12 it, I'd probably -- you guys wouldn't need to be in business.
13 But I think that a lot needs to be done. What's done on
14 alternative dispute resolution, a lot more should be done.
15 But when I take a contrary position, I may be stepping on
16 some toes at the ABA.

17 I really think we can continue to ask for more and
18 more money, and I don't think that that's going to be the
19 ultimate solution to the problem. Although I do support
20 increased funding for legal services, it may be from a more
21 conservative financial point of view.

22 I would look to the ABA and local bars and lawyers

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1 themselves really as being people that ought to be helping to
2 solve this problem as opposed to other areas.

3 MR. D'ALEMBERTE: Bud, let me say, first of all, I
4 agree with you in terms of access. I think increasingly
5 legal services are not available to middle class as well as
6 to the poor. It seems to me that the poor ought to be the
7 starting place because it seems to me that the needs are
8 greater and the impact of the legal system is so great there.

9 I also agree very much on alternative dispute
10 resolution. I chaired the first ABA committee and alternate
11 dispute resolution back in 1977. I've been working in that
12 field for some time. I think we've seen really rather great
13 strides take place with rather modish resources.

14 In Florida, we've done quite a number of things.
15 Not all of them have served to reduce the cost of legal
16 services, unhappily, but I think an alternative dispute
17 resolution offers us a great opportunity, one that is fully
18 embraced by the ABA. Indeed, this may illustrate an area
19 where a relatively modest amount of money invested in
20 alternative dispute resolution now might save money and
21 provide less expensive alternatives in the long run.

22 Two points: one, if you're here in Washington

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1 sometime, you may want to go by and see the local courthouse.
2 It's a federal courthouse, but it's for D.C. They handle
3 small claims and domestic relations cases. There is a
4 courthouse of many doors functioning within that federal
5 courthouse. It was put there by an ABA grant. I don't know
6 the exact amount of money, probably \$300,000 we spent on that
7 grant to get that started. The grant money is long since run
8 out. Yet, that's operating now and expanding all the time
9 because it's a less expensive and more acceptable form of
10 resolving disputes.

11 I agree with you completely. We've never funded
12 the Dispute Resolution Act of 1980 to put on the books. It
13 would have taken \$45 million over a five year period to fund
14 that, modest money. That's the whole country to provide
15 these modest grants to get started. I think with the small
16 resources we could begin to do a lot of those things.

17 But let me make this point. That is, I accept very
18 much the idea that Justice Earl Johnson who had quite a
19 history in working with you and has been a scholar in this
20 area, an idea that he advanced to me. That is that the road
21 to access is a multilane road. You really need to think
22 about each of those lanes. Dispute resolutions will get you

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1 so far, and we ought to really occupy that lane.

2 Lawyer pro bono services, we've been having that
3 debate in Florida about what is the appropriate way for
4 lawyers to provide pro bono services. It seems to me that we
5 ought to have comprehensive programs that really draw down on
6 that. But what we finally have to do is to make sure that we
7 go as far as we ought to, appropriate in this mix, in funding
8 legal services programs. I don't see how your arguments with
9 the old minimum of two lawyers per 10,000. As I look at the
10 nature of the legal services, I'm not for a moment saying
11 that all problems ought to be handled by lawyers. But that
12 minimum level strikes me as -- I haven't seen anybody advance
13 another way of thinking about the federally funded component
14 of it.

15 Now, there are other funding mechanisms, as you
16 know. We do some of it in Florida by filing these. In
17 Florida, I'm proud to say we began the IOLTA program which is
18 now spread to every state except Indiana. If we did not have
19 that in place today, legal services programs would be
20 devastated.

21 The worry I have is because of upcoming technology.
22 There's a great chance that it will not be in place five or

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1 ten years from now. If we didn't step in now to move up
2 these funding matters, what we will do is we really will
3 devastate these programs. So, as you think through the
4 thing, I really push in Earl Johnson's idea of these many
5 lanes. We really ought to be working in each of these areas
6 if we care about access.

7 Then, finally, and this is a long-winded answer, I
8 am really struck by Earl Johnson's comparatives, which I must
9 say shock me a bit. When he can look around at all the
10 countries of western Europe and conclude, finally, that of
11 all industrialized nations, no country except South Africa
12 does as poor a job of providing access to justice as does the
13 United States. Canada does better. England does better.
14 Italy does better. Switzerland does better.

15 Everybody else does better. All industrialized
16 nations outside of the former Communist Bloc do better than
17 we do in providing access to justice. We ought to learn
18 something by that. Why is it that we're out there. It's the
19 same thing he said about health care systems. But access to
20 justice, why is it that we're there? We simply have not
21 funded it the way other countries have.

22 MR. KIRK: Again, I don't want to just debate the

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1 issues. To me, one of the issues is that they do it with a
2 lot less lawyers than we do.

3 MR. D'ALEMBERTE: That's true. Not a lot less
4 lawyers in serving the poor. They have fewer lawyers in the
5 system, but not serving the poor.

6 MR. KIRK: But if I take a position that's contrary
7 to the ABA, which probably would cost lawyers jobs, than I
8 have a concern that that would be held against me or -- in a
9 way, the ABA is not in business to take jobs away from
10 lawyers.

11 MR. D'ALEMBERTE: Dispute resolution. With that
12 whole movement, the idea is that not only does that not need
13 to be done by lawyers, our experience is it takes longer to
14 train lawyers as mediators than it takes to train nonlawyers.
15 You have to train lawyers out of the adversarial mode to get
16 them to be a mediator. It's really sort of interesting. You
17 can't train lawyers as easily.

18 I'm always surprised when essentially the kind of
19 trade association kind of thing gets put on the table. isn't
20 this the same bar that is allowed fairly open access so that
21 we now have this large percentage of the world's lawyers?
22 This is not the kind of activity of a trade association.

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1 This has been an open profession. I think we're open to
2 ideas.

3 I don't think there's any stake that the ABA has in
4 trying to preserve lawyer's jobs someplace. I think we've
5 had a commitment since 1920 to seeing that the poor of this
6 country had access to justice. I don't think anybody can
7 look at the data that's done nationwide or state by state and
8 claim that it's true, that we've achieved what we've each
9 pledged when we end the Pledge of Allegiance. Those last
10 words we ought to choke on them. We don't live up to that
11 pledge. That's not just lawyers who take that pledge; all
12 citizens take it.

13 We're not talking about a lot of money to even get
14 up to the level of two lawyers per 10,000. I think when you
15 and I have that lengthy discussion, I want to know what
16 standard you'd propose other than the two lawyers per 10,000
17 because I think that's what you've got to put on the table to
18 begin to talk about a rational funding scheme.

19 But I do agree with you it shouldn't be just done
20 with money. It ought to be done in each of these lanes; pro
21 bono, alternative dispute resolution mechanisms, simplified
22 legal process, delawyerizing things. I'll go down each of

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1 those lanes with you, but you've got to go down with me in
2 the funding lane to the level that will accomplish the job.

3 MR. KIRK: I don't disagree on the funding. I
4 wonder when and where we can do it and where we take the
5 money from next.

6 CHAIRMAN WITTGRAF: Further comments, particularly
7 regarding the matter of SCLAID and its interest in our
8 nominations? Mr. Dana?

9 MR. DANA: Not on that subject. All I wanted to
10 say is thanks for coming to talk to us.

11 CHAIRMAN WITTGRAF: Further discussion? Questions
12 or comments?

13 (No response.)

14 CHAIRMAN WITTGRAF: Thank you, Mr. President.

15 MR. D'ALEMBERTE: Thank you very much. I really
16 appreciate you all giving me the time. If you do have other
17 suggestions about our process, if you think of things we
18 ought to be doing to make our operation fairer, we sure would
19 like to hear from you.

20 CHAIRMAN WITTGRAF: We hope that you and Mr. Kirk
21 will have an opportunity to get together at your leisure.

22 MR. D'ALEMBERTE: We'll look for it. We really

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1 have been trying, so we'll try again.

2 CHAIRMAN WITTGRAF: Thank you both.

3 At this time, it's my pleasure to recognize another
4 former member, one of the original members of the Board of
5 Directors of the Legal Services Corporation, a native New
6 Orleanean, Judge Ortigue. Judge, would you come forward,
7 please? When you come before us, Judge, it's hard to say
8 how it might play out. So, you're doing this at your own
9 risk, but we're delighted to have you.

10 PRESENTATION OF JUDGE REVIUS ORTIGUE

11 JUDGE ORTIGUE: I have no problems. I've been
12 involved in risky businesses almost all of my life. So, it's
13 no problem. I really want to congratulate you for some of
14 the bold steps that you've taken recently. I had not seen
15 bold steps such as is taken by the Board after I left the
16 Board.

17 I might say for those in the audience who may not
18 know about my service, I was on the first Board, as you
19 mentioned. Then, after the four-year appointment by
20 President Ford, President Carter saw fit to reappointment for
21 another four years. So I served eight years on the Legal
22 Services Board. Roger Crampton was our first chairman.

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1 Then, subsequently, Ms. Clinton was our second chairperson.

2 Then, of course, Bill McCalpin also served as chairperson.

3 I also congratulate you for taking the time to come
4 to New Orleans. I noticed your schedule; you're visiting
5 around the country. To me, that's very important. We did
6 most of our service in Washington, D.C., did not meet as
7 often as you're meeting. But it tells me that there is a
8 tremendous interest in what you're doing, and that's
9 important.

10 I don't get into quarrels with people about their
11 philosophies about legal services. I feel strongly about
12 legal services for the poor. I agree that while we may have
13 too many lawyers in our major metropolitan areas, we don't
14 have enough lawyers in the boondocks, in the communities
15 where lawyers ought to be of great service.

16 I also want to congratulate persons who have taken
17 time to sit from across the country. I met some of them last
18 night. I'm indeed pleased that the clients continue to
19 follow the effort of this Board.

20 I'm particularly pleased that Ms. Braxton, Ms.
21 Lynette Braxton who is the chairperson of the Louisiana
22 Clients Council, is present here today. I'm also pleased to

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1 see my good friend Harrison McIver who is the chief executive
2 of the Project Director's Association. He has seen fit to
3 come down and observe what you're doing.

4 Perhaps I ought to begin at the beginning by saying
5 my interests go back to 1964 when two of the great proponents
6 for legal services presented papers in Washington, D.C., at a
7 conference that was called by Louis Powell to merely discuss
8 the subject.

9 That was, of course, Jean and Edgar Kahn, who many
10 of us think of as the grandparents of legal services for the
11 poor in this country -- if not the grandparents, certainly
12 some paternal or maternal relationship to legal services
13 because they were such strong advocates, which was my great
14 dismay, of course, too -- some of you may know that Jean
15 passed not too long ago.

16 I want to congratulate you also because you were
17 bold enough, brave enough to say that the benchmark ought to
18 be \$525 million. Certainly we ought to be moving in the
19 direction of two lawyers for every 10,000 poor people in this
20 nation. We ought to be moving in the direction toward
21 improving legal services delivery in this nation. I agree
22 that certainly we ought to, in that process, consider the

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1 delivery of legal services to all of the people who need
2 legal services.

3 I've been reminding people as they talk about
4 changes and new conditions in this country that legal
5 services is a matter of neglect by many of the people who
6 espouse legal services. That cuts across the entire
7 spectrum. Most often people think of legal services for the
8 poor as legal services for black people, Afro-
9 Americans. That, of course, is farthest from the truth.

10 If every black person in this country was poor, we
11 would still have more people of other persuasions, other
12 races than that number. Conservatively, there are 35 million
13 people below the poverty level in this country. It's obvious
14 that certainly black people do not constitute a majority of
15 them.

16 But concern for those things that affect the lives
17 of the poor ought to be your concerns. It's obvious that you
18 can't reach all of those concerns. You can't participate at
19 that level, but I would urge you to do what you can.

20 Last night a member of the staff, as a matter of
21 fact, your president, commented about the beauty of the
22 Mississippi as we looked out there last night. I thought to

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1 myself of a speech I made not long ago in which I pointed out
2 that it's unfortunate that the Mississippi is the conduit for
3 poisons and petrochemicals from across this land, and
4 particularly the corridor that runs throughout Louisiana.
5 Nobody seems to be doing very much about it. As a matter of
6 fact, there have been two communities located on this river
7 that brought suit to preserve the status of the petrochemical
8 companies that were pumping poisons and toxins into the
9 river, contrary to any of the laws and the standards of the
10 State of Louisiana as well as the United States. They
11 brought suit to preserve that because they need the jobs.

12 Now, I was in Toronto this summer and they were
13 talking about the number of invitations that Canada has
14 received to move its garbage down into the United States
15 because police jurors and aldermen felt the need to be
16 supportive of landfills in their areas with the garbage from
17 Canada and refuse from Canada.

18 I said to myself how is this going to play out with
19 poor people who can't move away from these landfills and
20 these garbage dumps. How does it play out in Louisiana as we
21 continue to see petrochemical companies all along this mighty
22 corridor of industry pumping its toxins and its wastes into

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1 the Mississippi River?

2 I would suggest to you that while you can't attack
3 all of these things -- as a matter of fact, you can't attack
4 many of them -- I would respectfully suggest to you that even
5 if you did all of the things that you propose to do, even if
6 you aren't successful in securing \$525 million for your
7 programs, that there would still be a need for programs not
8 just for the poor, but for people who are adversely affected
9 by a system that permits the injustices and the indecencies
10 and the insensitivity that many people participate in.

11 Then, I would hope that as you insist on the \$525
12 mark, that you would also say to the president of the
13 American Bar Association and the president of the National
14 Bar Association, president of National League Aid and
15 Defender, all of those persons, we are seeking these
16 additional funds and we believe that we need additional
17 lawyers, but we are going to demand that you provide quality
18 legal services.

19 Frequently I see in my court, and I've been
20 fortunate to be chief judge of my court, I see poor legal
21 representation. I would hope that that would be one of your
22 great objectives. You have every right to demand it if

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1 you're paying the bill.

2 Finally, let me say that as I travel about the
3 country, I'm convinced that you are improving the life
4 circumstances of persons in terms of their strong belief in
5 this system of which they are a part.

6 I see nonlawyers representing poor people in
7 courts, and we permit that here in Louisiana; that is,
8 assisting them in representing themselves. We urge them to
9 assist these poverty groups in developing simple pleadings
10 and divorce actions and adoptions and alimony situations. We
11 find that that increases the number of persons who can be
12 represented by the legal services lawyer.

13 We have paralegals who are skilled, as skilled as
14 lawyers, in drawing petitions in alimony situations in our
15 courts. These individuals go into court here and represent
16 themselves. We've had that type of cooperation from the bar.

17
18 Obviously, not for one moment will I approve of
19 nonlawyers going into court in complicated situations or in
20 strictly legal matters. But for the bar association to be
21 sympathetic to the need to have nonlawyers assist poor people
22 is a great step in what I think is the right direction.

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1 I remember the time when I was on the Legal
2 Services Corporation Board we tried to get the Louisiana
3 State Bar Association to accept \$25,000 to initiate programs
4 to assist poor people. Its Board refused. Today they will
5 allocate those. They plan to allocate over a million dollars
6 from the IOLTA money to assist with legal services for the
7 poor, for its pro bono program. So I'm very proud that we've
8 come that far.

9 So, when Rutger Clemens asked me to say to you
10 welcome to Louisiana and to say that we are moving in
11 Louisiana, I am indeed proud and happy to report to you that
12 attitudes are changing and people are understanding. Unless
13 and until the poor of this nation feel that they have a stake
14 in this nation, our nation will find itself in a type of
15 turmoil that does not lend for great progress. We are the
16 leader of the world. But in order for us to maintain that
17 leadership, we need every brain available to us. We need
18 every educated person. We can create.

19 It's been my pleasure to lecture at the University
20 of the West Indies Law Center. When I think of the so-called
21 Third World nation like Barbados with 85 percent literacy, or
22 St. Martins little Dutch island nation, little Dutch-French

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1 island nation with 95 percent literacy, and I think of my
2 America with 55 percent literacy, I have to wonder when are
3 we going to realize that all of God's children must enjoy the
4 benefits of this wonderful country.

5 So I say to you thanks very much for allowing me to
6 address you. I follow what you do and I praise you for your
7 every effort, because no matter what you do, as long as you
8 do it in the interest of improving the plight of poor people,
9 you do it for all of us and for our nation. Thank you very
10 much.

11 CHAIRMAN WITTGRAF: Thank you, Judge. Any
12 comments?

13 (No response.)

14 CHAIRMAN WITTGRAF: We sincerely appreciate you
15 joining us last night and taking time to be with us today.
16 We hope that by our agenda running a little bit late, we
17 haven't delayed any justice in any of your courts.

18 JUDGE ORTIGUE: Today happens to be a holiday for
19 us. Thank you very much. I appreciate it.

20 CHAIRMAN WITTGRAF: Thank you, Judge.

21 APPROVAL OF THE MINUTES

22 CHAIRMAN WITTGRAF: At this time, we'll turn to the

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1 next item on our agenda, that's number 3, the approval of the
2 minutes of our meeting of January 13, 1992. Everyone should
3 have before him or her the draft minutes. I'm prepared to
4 accept a motion that the draft minutes be approved as
5 presented.

6 MR. UDDO: Mr. Chairman?

7 CHAIRMAN WITTGRAF: Mr. Uddo?

8 MR. UDDO: I have a correction on page 9 of the
9 minutes, the second paragraph refers to two sections of the
10 FY93 budget from which I recused myself from the vote. I
11 think they are incorrect. It should be Roman number IB(1)
12 and (3) and Roman number IIIA. I think those are the
13 specific lines that I recused myself from.

14 CHAIRMAN WITTGRAF: The second paragraph, third
15 line, what's there should be expanded to show Roman number I
16 and B and then the number (1) and the number (3) and then
17 Roman number III followed by an A.

18 MR. UDDO: Right.

19 CHAIRMAN WITTGRAF: Unless there's objection, that
20 change will be added.

21 M O T I O N

22 MR. UDDO: I move the approval of the minutes.

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1 MR. HALL: Second.

2 CHAIRMAN WITTGRAF: The adoption of the minutes as
3 presented and as corrected has been moved by Mr. Uddo,
4 seconded by Mr. Hall. Is there further discussion?

5 (No response.)

6 CHAIRMAN WITTGRAF: Hearing none, those who are in
7 favor of the adoption of the minutes as presented and as
8 corrected will signify by saying aye.

9 (A chorus of ayes.)

10 CHAIRMAN WITTGRAF: Those who are opposed, nay.

11 (No response.)

12 CHAIRMAN WITTGRAF: The ayes appear to have it.
13 The ayes do have it. The minutes are approved.

14 REPORT OF THE CHAIRMAN AND OTHER MEMBERS

15 CHAIRMAN WITTGRAF: Next, we'll turn to agenda item
16 4, any reports from the chairman or from the members of the
17 Board. I would say very briefly, as I indicated when
18 President D'Alemberte was speaking, I had the opportunity to
19 attend the SCLAID meeting of the ABA two weeks ago in Dallas.
20 We had the discussion, I indicated, regarding the review of
21 the screening process.

22 In addition to my being at the ABA mid-year meeting

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1 or mid-winter meeting, Mr. Dana was there attending the IOLTA
2 committee meeting of the ABA. Mr. Kirk was there appearing
3 on a panel before the National Conference of Bar Presidents
4 and participating in a breakout group or a seminar following
5 that. I'd call on either Mr. Dana or Mr. Kirk if they have
6 any comments about their participation in the ABA's mid-
7 winter meeting.

8 Mr. Dana, is there anything you'd like to add?

9 MR. DANA: Only that Mr. Kirk had the top billing
10 and did a wonderful job, confounded everyone who expected him
11 to say something outrageous and he didn't.

12 CHAIRMAN WITTGRAF: Mr. Kirk, I guess is now
13 following up his ADR discussion with President D'Alemberte.
14 So he won't have anything to say.

15 Do other members of the Board have anything, any
16 comments, any observations they'd like to share with us?

17 (No response.)

18 REPORT OF THE PRESIDENT

19 CHAIRMAN WITTGRAF: Hearing none, we'll turn to
20 agenda item 5, the President's Report. Mr. President?

21 MR. O'HARA: Thank you, Mr. Chairman. While I'm
22 beginning, would Vic, Mr. Fortunio, and Mr. Boehm and Mr.

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1 Sundseth join me at the table here? While they're getting
2 seated, I would comment to the Board that before you you will
3 find a copy of the Corporation's most recent newsletter.
4 It's another reflection of some fine work done by the
5 corporate staff and some contributions again from the field
6 as we continue our operation of being open and being
7 receptive from the field on subjects that they feel are
8 important.

9 The first item I'd like to discuss this morning is
10 a visit that I made to TRLA following the January Board
11 meeting. I was accompanied on that visit by Mr. Fortuno and
12 by an attorney from the general counsel's office. We visited
13 at length with the executive director David Hall and his
14 staff talking to them individually and then in a group.

15 We also visited one of the projects that they have
16 known as the Colonia where the migrants live. We had some
17 discussion with some clients. It was very informative. I
18 think for our junior attorney it was an eye opener.

19 We also resolved a problem with the TRLA program,
20 I'm happy to report to the Board. If Vic would just address
21 what we did resolve -- I have to say that a lot of the credit
22 for resolution of this problem goes to Vic and his handling

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1 of matters for the general counsel's office for the
2 Corporation.

3 Vic?

4 MR. FORTUNO: Thank you very much. I will provide
5 a more detailed report as part of my litigation report later
6 on in closed session. But suffice it to say that in
7 connection with the litigation that's come to be known as the
8 Convoy case down in the southern district of Texas, President
9 O'Hara and I and others did meet. We were joined by the
10 judge who is going to be presiding or would have been
11 presiding over this case.

12 I think we've arrived at a settlement orally; that
13 is, we've settled on specific terms. We're in the process
14 now of reducing all of that to writing and ensuring that the
15 necessary I's are dotted and the T's are crossed. I don't
16 anticipate any significant problems at all. I think it is an
17 agreement that everyone is happy with. I think all the major
18 points have been agreed to. I think it's only the small
19 points that need to be ironed out.

20 We don't anticipate any problems in doing that. I
21 hope to be able to report at the next meeting that, in fact,
22 the agreement has been signed and the case has been dismissed

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1 with prejudice.

2 MR. O'HARA: Thanks, Vic.

3 The second item on my agenda is we also resolved
4 the problem with the Multnomah. Vic will discuss that in his
5 discussion of the cases that you have.

6 The third item I'd like to discuss is the veteran's
7 project where we are receiving the money from the Court of
8 Veterans Appeals. Ken and Chris have been our leaders in
9 negotiating with the court and handling the arrangements
10 leading up the signing of the memorandum of understanding on
11 Friday.

12 Ken, do you want to add anything to that?

13 MR. BOEHM: No, except to say that all along it's
14 been a challenge. This is money that's not Legal Service
15 Corporation appropriation funds. It's Court of Veteran's
16 Appeals, \$950,000, to help them deal with their pro se
17 problems. Two-thirds of the veterans and their families
18 before that court have no representation whatsoever. It's
19 been a challenge. But as Jack mentioned, the memorandum of
20 understanding with the court has been signed.

21 Chris and I have both had extensive meetings with
22 the principal veterans groups involved including our grantee,

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1 the National Veterans Legal Services Program, Disabled
2 American Veterans and Paralyzed Veterans of America. These
3 are the principal players.

4 There is still something of a challenge because the
5 court and the folks who drafted the legislation didn't
6 dictate how we were to get all the parties together working
7 as one, but we've made a lot of progress. Maybe that's best
8 indicated by the fact that just a week ago, the veterans
9 groups had all gotten together on their own initiative to see
10 if they could further work out their own concerns. I
11 wouldn't say differences but to get a good working unit
12 together to do what needs to be done.

13 So, we are on schedule. The Hill has been
14 notified. We had meetings with the Senate and House,
15 veterans committee staffers in Jack's office. We've had
16 meetings with the judges in Jack's conference room, and we've
17 had meetings with all of the veterans groups. As was
18 mentioned, there was successful negotiations with the court
19 per memorandum of understanding. So, we're on track.

20 A side benefit, if I could just throw it in, is
21 that to the extent we're successful in taking on this
22 challenge, I think that will further lead to our own

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1 credibility with Congress, because Congress knew in giving
2 this to us they were giving us a problem. We're making some
3 good steps towards resolving it. The Hill is being kept
4 apprised of each step. So, I think that's a fringe benefit.

5 MR. O'HARA: Following the last Board meeting, I
6 also met with the executive director of the Los Angeles
7 Foundation Legal Aid Program, then spent three-and-a-half
8 hours in an open session with this staff, including his
9 attorneys. I thought it was very productive. They got to
10 talk to me and ask me questions to which I responded to the
11 best of my ability. I think we developed a dialogue at each
12 program that we've gone to. We did the same thing in TRLA.

13 I also met with the executive director of the San
14 Diego legal aid program and his staff, not for as long, but
15 we did have some very good meetings. I met with the Board of
16 Directors, with several of them, and with the president of
17 the San Diego Bar Association. It was a very productive
18 meeting. On Wednesday of this week, I will keynote a
19 luncheon being given in Los Angeles to honor an attorney, Ron
20 Olson, who is a past president of the Los Angeles program and
21 a man who has had a distinguished career and has been very
22 active in legal aid programs. I'm deeply honored to be given

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1 this opportunity. I'm looking forward to it.

2 On next Monday and Tuesday, several of the staff
3 and myself will be meeting with the native American groups in
4 Phoenix, Arizona. We are sponsoring this program and
5 contributing to the costs which these native American leaders
6 would have incurred. The Corporation has funds to do this.
7 We have an agenda. I expect that the staff and myself will
8 meet them on an as-needed basis to get this program going.

9 In early March, I and staff will be meeting with
10 members of the state support groups in our continuing effort
11 to reach out to all of the groups who are working in the
12 legal aid programs.

13 I'd like to comment briefly on reorganization which
14 was touched on yesterday. The Office of Policy Development
15 and Communications, as was indicated, has been abolished and
16 personnel have been transferred to the executive office and
17 to the Office of Field Services in a continuing follow up of
18 the reorganization which we had started last year. We have
19 made some moves with the hope of consolidating and improving
20 the efficiency and the economy of headquarters operations.

21 In discussion with David Richardson, we reached
22 agreement and promoted a staff person, Walter Babash, to

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1 deputy director of the Office of Financial Administrative
2 Services to lend support to David's operation. We've also
3 transferred to that office the archives, the law library, the
4 central records, printing, and reprographics, which is
5 currently being consolidated under the leadership of Walter.
6 I would expect to have Walter before the Board sometime in
7 the next few months to explain what has happened and to
8 discuss with you the economies that he has accomplished as a
9 result of this move.

10 We are also examining our equipment in view of the
11 upcoming move to our new headquarters, with the notion of
12 looking at it to see whether it would be more cost effective
13 to dispose of this equipment or to move it. We have some
14 printing equipment which is ancient, to be kind, which
15 frequently has a lot of down time. We are incurring costs to
16 repair it. To move it to the new location is going to
17 require the renting of equipment, such as a crane, to lift it
18 from the street to the 10th floor of the building. It will
19 require the removal of a window.

20 I've just decided that we need -- and Walter Babash
21 is doing this -- to examine whether or not this is
22 economically feasible, whether we should replace this

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1 equipment, considering the costs that we are incurring in
2 repair of it, and also considering the fact that newer
3 equipment, which is on the market, could save us as much as
4 \$10,000 worth of production in one annual report.

5 We will build in all of these factors and I will
6 consult with the Board before we make a move on this. But it
7 is something that we're working on.

8 Competition, Cathy has already reported and the
9 committee has acted on that.

10 Yesterday, in a discussion with a Board member,
11 Blakeley Hall expressed an interest in doing a hearing on an
12 alternative dispute resolution in Texas, since the Board will
13 be having a meeting there on May 5th and 6th. The Texas
14 young lawyers will have a meeting on the 7th, which is
15 Wednesday. The pro bono group will meet on Thursday and
16 Friday. I know that a lot of Board members will be there.

17 If it's agreeable to the Board -- I've discussed
18 this with the chairman after talking to Mr. Hall last night -
19 - Tuesday would be a good day to do this hearing, since many
20 of the people who probably would testify will be in Texas for
21 the meetings on Wednesday, Thursday, and Friday. We could
22 arrange to have this hearing on Tuesday, if that's agreeable

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1 with the Board.

2 MR. UDDO: Mr. President, you said May?

3 MR. O'HARA: I'm sorry, April, April 5th and 6th.
4 I believe the 7th is Tuesday, which would be the day. We
5 will have the staff get busy on getting a site and getting
6 out the proper notification to the field and whatever else is
7 required.

8 At this time, I'd like to excuse the staff members
9 at the table and ask that Susan Sparks take the hot seat.
10 Susan is deputy director of the Office of Monitoring,
11 Auditing and Compliance. In continuing the practice of
12 keeping the Board fully informed on what we're doing, Susan
13 will give us an overview of the programs which are currently
14 under her supervision.

15 Susan?

16 MS. SPARKS: Thank you, Mr. O'Hara. Good morning.
17 For the record, my name is Susan Sparks, and I am currently
18 serving as the acting director of the Office of Monitoring,
19 Audit and Compliance. I've been with the Corporation for
20 about eight years. I have a background in public
21 administration which includes a Masters degree and three
22 years of course work in public administration on a Ph.D.

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1 The purpose of my discussion today is to highlight
2 for you some things we've learned about our programs and to
3 talk with you about some of the work we're doing in MAC. To
4 help illustrate the points of my discussion, I've passed
5 out -- I believe Pat Batie shared with you these pie charts,
6 if you'd like to follow along with me.

7 The first pie chart represents the composition of
8 our monitoring teams. As you can see, our monitoring teams
9 are composed of attorneys, accountants, and management
10 specialists. Each team member, prior to an on-site review,
11 is assigned particular areas to review on site.

12 That leads us to the next pie chart which
13 identifies those areas that we've reviewed during monitoring
14 visits to basic field grantees during the last several years.
15 For example, we have reviewed governance, meaning we assess
16 the effectiveness of our program's Boards of Directors in
17 establishing broad policies for our programs to guide their
18 programs operations.

19 We also review legal management systems, meaning we
20 review case supervision, case reviews, tickler systems, file
21 maintenance procedures, to ensure that the grantee has placed
22 systems in the program that promote effective and high

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1 quality legal assistance.

2 Our teams also review case work priorities. We do
3 this to ensure that the program, in deciding the cases that
4 they wish to handle, do those cases correspond to the most
5 pressing needs identified by the client community through the
6 programs priority setting process.

7 Finally, an example is each monitoring teach
8 reviews fiscal management systems. They do this to ensure
9 that the program has systems in place that promote
10 accountability of our funds. The team also reviews the
11 program's internal controls to see that management provides
12 appropriate oversight over expenditures and that appropriate
13 checks and balances are in place.

14 The third pie chart identifies violations and
15 deficiencies that we have addressed in corrective action
16 notices, violations and deficiencies that we've asked our
17 programs to correct. We provide our programs about 45 to 60
18 days to take corrective action. Over the last several years,
19 about 180 programs have been asked to fix things through
20 formal corrective action notices.

21 As you can see, the majority of the deficiencies
22 and violations noted fall in areas that we believe affect the

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1 quality and efficiency of client service, areas such as
2 casework priorities, client grievance procedures, PAI
3 delivery systems and legal work management systems.

4 Since we initiated the corrective action process
5 about three, maybe four, years ago, we have found that most
6 programs will generally respond to our request to take
7 corrective action. Oftentimes, they do this during the
8 monitoring visit. When our teams provide them with
9 recommendations and findings and feedback, corrective action
10 will be taken on site.

11 Other times, after we've provided a draft
12 monitoring report, programs will identify to us the
13 corrective action they have taken to address our concerns.
14 It is only in those instances after these two processes that
15 we don't have an indication that a matter has been corrected
16 will we send out a formal corrective action notice to ask the
17 program to address our concern.

18 We have identified a number of improvements made by
19 our programs. As a result, we are seeing fewer and fewer
20 violations and deficiencies in certain areas. For example,
21 we note that more and more programs are formalizing their
22 case review systems. They have put more systems in place to

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1 manage their cases more effectively. This allows them to
2 deal with high case loads when that occurs and also helps
3 them respond more effectively to staff turnover.

4 We have noted that more and more of our programs
5 have governing bodies who are independent of program
6 management. We see increased bar involvement in the
7 appointment process, and we also see governing bodies taking
8 seriously the evaluations of an executive director's
9 performance on a regular basis.

10 We also recognize that programs, in response to our
11 concerns, are more careful to obtain input from clients
12 themselves on what cases the programs should be handling and
13 what cases the program shouldn't be handling.

14 We've also been pleased at seeing more internal
15 controls placed on client trust funds. While concerns remain
16 in this area, particularly where client trust funds are kept
17 in branch offices, where there are fewer internal controls
18 that exist, we do note that more and more of our programs are
19 returning unclaimed funds to the state and are making more of
20 a documented effort to locate clients to return the funds to
21 them.

22 Despite these improvements, we continue to note

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1 areas that require our scrutiny and areas that require our
2 on-site presence. This will result in the reallocation, if
3 you will, of our workloads for our team as we expand our
4 review over the next year or so and to certain areas.

5 For example, we plan to expand our review of
6 quality, of the case loads and the casework undertaken by our
7 program. You may remember Emelia DiSanto's comments on
8 quality in St. Louis. We will continue, as Emelia laid out
9 in St. Louis, our review of legal work management systems.

10 But we're also going to undertake efforts to review
11 quality more closely. We're going to increase the number of
12 interviews we conduct with judges and private attorneys in
13 the area. We will assess their perceptions of the programs
14 strengths and weaknesses.

15 We also plan to review larger samples of program's
16 legal work, and we will discuss in more detail in our
17 monitoring reports the casework undertaken by our programs.
18 We will continue to assess in more detail the responsiveness
19 of the programs to the needs identified by the client
20 community. This is going to involve a thorough assessment of
21 access. As we recognize, existing resources will become more
22 limited as IOLTA funds will decline. We will work with

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1 programs and assess how programs target those resources more
2 effectively in helping clients get access to the program.

3 Finally, in the area of quality, we are going to
4 ask more questions of our programs, on how they measure
5 quality themselves, how do they measure their own
6 productivity. For example, at the present time, many of our
7 programs do have the capability to produce standard legal
8 documents on computers. But reliable data on attorney staff
9 hours is rarely available. Reliable case tracking systems
10 are rarely available.

11 We will ask our programs how are you measuring your
12 productivity, and how are you assessing the quality and
13 effectiveness of your legal work without the benefit of such
14 data and what tools are available to you at the present time
15 that help you assess these components of your program.

16 In addition to quality, we're going to expand our
17 scope into resource allocation systems. Basically, we ask
18 the question of where is the LSC money being spent and how
19 are you spending LSC funds. With the lack of timekeeping, we
20 must rely on allocation systems.

21 While we will continue to review the activities
22 funded with LSC funds and those funded with non-LSC funds,

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1 we'll begin to ask more questions regarding the effectiveness
2 of budget planning, of budget oversight processes.

3 As resources continue to be limited, programs will
4 continue to face difficult decisions which require Board
5 involvement, systematic planning and reliable data. We will
6 review whether these factors are in place, particularly in
7 those programs now running deficits and particularly in those
8 programs who are finding the need to restrict intake and to
9 close intake to new clients.

10 Finally, we plan to expand our review of
11 accomplishments and innovations in our programs. Each
12 monitoring report will contain a discussion of a program's
13 accomplishments. As we identify innovations that work, we'll
14 pass along those tips. We'll pass them along across the hall
15 to our Division of Technical Assistance as well so the word
16 can get out on successful strategies and that model systems
17 can be duplicated.

18 I'd like to stop at this point and answer any
19 questions you may have.

20 CHAIRMAN WITTGRAF: Mr. Kirk?

21 MR. KIRK: Ms. Sparks, if you do all these new
22 things you're talking about doing, aren't you just going to

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1 tick the field off more?

2 MS. SPARKS: I don't think so. I don't think we're
3 ticking the field off now.

4 MR. KIRK: Well, I keep hearing all these stories
5 about how bad MAC is, and what have you. I haven't heard any
6 recent verifications, but I mean, I really am concerned about
7 working with the field and making sure that -- I'm not
8 concerned about them just being angry for the sake of being
9 angry. I mean, I want to make sure that we're getting what
10 we want out of this increased review. Do you think that's
11 going to happen?

12 MS. SPARKS: I think there are areas that we have
13 concerns in, and we need more facts. I think an increased
14 review is necessary so that we can have the facts to
15 determine whether our programs are providing quality legal
16 assistance. That's our mission. That's our statutory
17 responsibility.

18 Monitoring is not a happy experience, but I think
19 our programs understand it. I'm hoping that my remarks today
20 will serve notice to the field of areas that we will review.
21 I think they understand the areas we review. No surprises is
22 usually good.

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1 MR. KIRK: May I follow up, Mr. Chairman?

2 CHAIRMAN WITTGRAF: Mr. Kirk?

3 MR. KIRK: Thank you, sir.

4 You kind of shook your head when I was talking
5 about all the horror stories I was hearing. Do I take it you
6 think there has been some repair done with the field and MAC?

7 MS. SPARKS: I think so. I think there's been
8 repairs for the last three years. So, horror stories that
9 I'm aware of date back five and six years. I think there is
10 a perpetuation of those for a number of reasons.

11 I guess for me I want competent monitoring. I
12 believe in high quality monitoring. I believe in independent
13 consultants who demonstrate competence and who demonstrate
14 objectivity and independence.

15 We want a monitoring program that runs in that way.
16 Should a field program identify any concern that raises a
17 question as to any of those factors, that's my responsibility
18 to make sure that that's fixed and that that monitor is not
19 used, or we change monitoring.

20 MR. KIRK: One more, Mr. Chairman?

21 CHAIRMAN WITTGRAF: Mr. Kirk?

22 MR. KIRK: You mentioned timekeeping. Do you

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1 foresee a timekeeping system that would not be oppressive to
2 the field? But can one nonoppressive system be adopted for
3 the field that might increase the efficiency or improve the
4 efficiency of your teams and maybe save us some money and
5 save some time in the field and all?

6 MS. SPARKS: Yes. We've done some work three or
7 four years ago in coming up with a timekeeping possibility.
8 I think the task force that was put together had those
9 concerns in mind.

10 I do believe that the Corporation can develop a
11 timekeeping proposal that will require more work on the
12 programs. That's the case. It will require more work on
13 their part, but it will also provide them with reliable data
14 that I believe they need to manage their programs more
15 effectively. It will certainly help our monitoring be more
16 effective.

17 MR. KIRK: Thank you, Mr. Chairman.

18 MR. O'HARA: Can I respond?

19 CHAIRMAN WITTGRAF: Mr. O'Hara?

20 MR. O'HARA: Thank you, Mr. Chairman.

21 Mr. Kirk, I would like to respond in part to one of
22 your questions to Ms. Sparks. It relates to the "horror

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1 stories." Since I came into this position, I have made a
2 request that every letter that comes to the Corporation which
3 is in the form of a complaint or alleging something against
4 the Corporation, or a staff, or a consultant, or anyone else,
5 be brought to my attention, every one.

6 I have seen one complaint on a monitoring trip
7 since September. I read the letter. The letter was almost
8 to the point of being obscene. I reviewed the monitoring
9 report. My conclusion was that the monitoring report had a
10 lot of good things to say about this particular program. It
11 had a few negative things to say which was said, I thought,
12 in a professional way. But the overwhelming portion of the
13 report was very favorable.

14 So I wrote a letter to this executive director and
15 said I'm concerned about your comments in here because I've
16 read the report. I don't see this report as being derogatory
17 in any sense about the program; in fact, it's commendatory in
18 a lot of ways. I expressed my desire to meet with this
19 individual. I also sent copies to every member of the Board
20 so they would know exactly where I was coming from on this.
21 As of Friday when we left the office, I have not received a
22 response from anybody connected with the program.

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1 The monitoring people have a statutory obligation
2 to do what they do. We're doing it in a different way than
3 it was done three years or four years ago. I don't know when
4 all of this started. I'm not really concerned too much about
5 the history, except that I'd like to write a new history. I
6 think that's what we're doing.

7 The monitors have been instructed when they're out
8 in the programs to talk to the programs about things they
9 find. The overwhelming number of letters I receive have
10 indicated to me that this monitoring experience was very
11 pleasant. We found the monitors to be very professional. We
12 found them to be very helpful. They alerted us to some thing
13 that were going on in other programs that we did not know
14 about.

15 So I have to conclude at this point that although
16 there may be a time and there may be a monitoring trip when
17 something will happen, that the desire that I have expressed
18 to them, that the monitors do their job but be helpful where
19 they can, is the way that we're going. I would hope that
20 nothing has changed from what I've said.

21 I think it's best expressed this way. When I was a
22 very young Marine waiting to make a move, somebody would say

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1 we're going at 0530 tomorrow morning and someone would say
2 no, we're going at 0630. It was an expression that went
3 around the corps. Bunk Scoop is at it again. There's always
4 one guy that knows but doesn't know.

5 So I have to listen to the staff. I have to listen
6 to the program. I have to evaluate. Right now my evaluation
7 is similar to what the executive director of TRLA said to me
8 and repeated by the San Diego executive director which is,
9 "Gee, you're not anything like what we were told." I want
10 that to get out to the field. I'm not what anybody says.
11 I'm what I am. I'm going to do the best job I can. I think
12 the monitoring people will do the same thing.

13 CHAIRMAN WITTGRAF: Thank you, Mr. President.

14 Further discussion? Mr. Dana?

15 MR. DANA: Susan, hi. A couple of questions on
16 your handout. Am I correct that there are typically five
17 members of a monitoring team or does that vary?

18 MS. SPARKS: It's between four and five.

19 MR. DANA: So this would indicate that there are
20 typically at least two attorneys on every monitoring team?

21 MS. SPARKS: Yes.

22 MR. DANA: On page 2, I think this is very helpful.

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1 How were you able to allocate the -- is this an allocation of
2 time?

3 MS. SPARKS: It's an allocation of assignments. We
4 basically looked at the proportion of the team's workload on
5 a given work plan. In a given work plan, we will have a
6 number of questions that will be reviewed, and we looked at
7 the entire work plan. It came up proportions assigned to
8 each team member.

9 MR. DANA: They do not use timekeeping to allocate
10 their days.

11 MS. SPARKS: Our monitoring teams?

12 MR. DANA: Yes.

13 MS. SPARKS: No.

14 MR. DANA: At the present time, where in this pie
15 chart are you analyzing the quality of the legal work
16 provided by our grantees? Under what piece of the pie would
17 we find quality?

18 MS. SPARKS: I think you'd find it under a number
19 of pieces of pie. Quality of legal work would come under PAI
20 delivery. For example, does a program provide appropriate
21 oversight to referrals that it makes to private attorneys?
22 There you would see components of quality.

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1 You'd see it under priorities. Is a program
2 accepting cases that are the cases that respond to the needs
3 identified by the client community through the priority-
4 setting process? Is the program responsive to the clients
5 and the community?

6 You also see quality under legal work systems.
7 There you would have -- we do reviews in case sampling in our
8 monitoring reviews. As I noted earlier, we're going to
9 increase the number of cases we review. We'd also look at
10 how a case progresses from intake to closure to see
11 components of quality.

12 Does that answer your questions?

13 MR. DANA: Yes. Thank you.

14 CHAIRMAN WITTGRAF: Further discussion?

15 (No response.)

16 CHAIRMAN WITTGRAF: I had one request for the
17 president in this context. We got into some discussion of
18 timekeeping. As I think we all know, there's been a line
19 item in our funding for several years for timekeeping. In
20 fact, the request we've made to Congress for fiscal year 1993
21 includes additional money for timekeeping. Some of us were
22 wrestling with wording yesterday to the so-called budget

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1 message to go with timekeeping. We were concerned about the
2 wording.

3 I think whether or not we get that \$500,000 for
4 additional assistance to grantees in the area of timekeeping,
5 that we'd need, Mr. President, with yours and the staff's
6 assistance to begin looking at what's done now, what isn't
7 done now, what the GAO study, which I think may have been in
8 response to some of the proposals that Ms. Sparks referred to
9 that were developed several years ago, what guidance is
10 there.

11 With or without the half million dollars, we're in
12 a position, perhaps using just the \$300,000 if need be, to
13 assist all grantees with timekeeping efforts, at least those
14 who don't have them already. I think we need to move forward
15 in that direction. It's also, as we know, an issue that will
16 come up in the context of the reauthorization debate, if that
17 debate goes forward this year. We may be able to give some
18 guidance in that debate based upon what experience we find
19 the grantees have had and what, if any, assistance and
20 leadership we think we can give to the grantees or to the
21 grantees who haven't moved already.

22 So, I would ask you with the staff, Mr. President,

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1 to begin to move in the area of timekeeping, to understand
2 what's being done, what's not being done, what the GAO
3 concerns are, so that we can move forward more or less on
4 October 1, if not sooner.

5 Mr. Dana?

6 MR. DANA: Mr. Chairman, I'd just like to comment
7 on your comment. I think the GAO study of timekeeping really
8 was a reaction to the last time this Corporation got quite
9 aggressive in this area. It is a textbook example of what
10 happens when people move precipitously in an area where there
11 hasn't been careful planning.

12 I think what that report indicated was that we
13 should study what we're proposing. We should test it rather
14 than jump into an area and mandate something before we know
15 what we are doing. For some reason, this Corporation has not
16 done that. We have not proceeded to pretest or carry out the
17 recommendations of the General Accounting Office in this
18 area.

19 If the chairman was recommending that we do that so
20 that we would be in a position to make an informed
21 recommendation starting in October, I would endorse that. I
22 think the GAO study would provide staff and the Board

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1 guidance as to the kinds of things that we should study
2 before we endeavor to mandate a program nationwide, if that's
3 what we end up doing.

4 CHAIRMAN WITTGRAF: Just to elaborate upon my
5 thoughts, what they're worth to the president, Ms. Sparks,
6 and others, I'm skeptical about mandating a unilateral
7 system. Ms. Sparks' comments, I think, perhaps assumed some
8 commonality in systems, and I guess I can see some common
9 requirements or some common components of systems.

10 But I guess from my limited experiences, I've seen
11 the very different nature of programs from East River Legal
12 Services in Sioux Falls, South Dakota, to the Los Angeles
13 Legal Aid Foundation or Chicago or any of the other big
14 cities.

15 I am skeptical about mandating a complete system
16 for all grantees. My concern in asking the president to move
17 forward is knowing how difficult and how time consuming it's
18 been for us to move forward in the area of comparative
19 demonstration projects to see what, if any, valued
20 competition might be. I'm assuming it's going to be a
21 comparable gestation period in the area of timekeeping.

22 I'm only encouraging us to begin as soon as

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1 possible so that with or without additional funds we'll be
2 prepared to do what we can. That may be with some
3 reauthorization language to guide us as well.

4 Further discussion? Questions for either the
5 president or Ms. Sparks?

6 (No response.)

7 MS. SPARKS: Thank you.

8 CHAIRMAN WITTGRAF: Thank you, Ms. Sparks.

9 Mr. President, did you have anything further?

10 MR. O'HARA: No. The only other comment I had was
11 that during this month we also celebrated black history month
12 by devoting one day and a luncheon to the subject in the
13 Corporation. It went off very well. We had 100 percent
14 attendance at the function. That would conclude my report
15 for this month.

16 CHAIRMAN WITTGRAF: Thank you, Mr. President.
17 Questions or comments for Mr. O'Hara? Mr. Dana?

18 MR. DANA: I would have one. I want to commend you
19 and the staff for the tone that you're setting. I think it
20 reflects well on the Corporation and will and has produced
21 fruits. I think you're moving in exactly the right
22 direction.

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1 MR. O'HARA: Thank you, Mr. Dana.

2 CHAIRMAN WITTGRAF: Other discussions, questions,
3 or comments for Mr. O'Hara?

4 (No response.)

5 CHAIRMAN WITTGRAF: Hearing none, we will move to
6 agenda item no. 6, the inspector general's report. Mr.
7 Quatrevaux?

8 REPORT OF THE INSPECTOR GENERAL

9 MR. QUATREVAUX: Thank you, Mr. Chairman. Not
10 wishing to subject the Board to the comments I've made
11 previously in two committee meetings --

12 CHAIRMAN WITTGRAF: Is the overhead projector ready
13 or not? (Laughter)

14 MR. QUATREVAUX: Susan is the only one who brought
15 slides today.

16 I'll limit my comments unless you request otherwise
17 to just one item. That is the inspector general information
18 program which is designed to acquaint all concerned with just
19 what the inspector general function is and how it operates.

20 We completed a series of small group sessions,
21 about nine I believe, with the LSC Corporation staff. The
22 feedback we've gotten is that it was appreciated and cleared

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1 up a lot of misunderstanding about the functions of the
2 office.

3 As you know, I also spoke to the SCLAID meeting in
4 Dallas. Both you and Mr. Dana were present there. Given
5 your comment, I may suggest I have decided that a viewgraph
6 is not a particularly effective presentation technique with
7 these groups. So we are refining that as well.

8 That's all I have.

9 CHAIRMAN WITTGRAF: Questions or comments for Mr.
10 Quatrevaux?

11 (No response.)

12 CHAIRMAN WITTGRAF: Thank you, Mr. Quatrevaux.
13 We'll look forward to seeing you soon in executive session.

14 CONSULTATION WITH BOARD'S COUNSEL, THE GENERAL COUNSEL AND
15 THE INSPECTOR GENERAL REGARDING MANAGEMENT'S REVISED DRAFT
16 RESPONSE TO THE INSPECTOR GENERAL'S SEMIANNUAL REPORTS

17 CHAIRMAN WITTGRAF: Now we will turn to agenda item
18 7, that being the draft response to the prior inspector
19 general's semiannual reports. At this time, I'll ask Mr.
20 Naughton and Ms. DiSanto to come forward to the witness
21 table. Is Mr. Fax with us, Ms. DiSanto?

22 MS. DiSANTO: I do not believe Mr. Fax is going to

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1 be with us since I spoke to him earlier and I'm going to
2 report his comments to you from our brief conversation.

3 CHAIRMAN WITTGRAF: Well, it may be that Mr. Kirk
4 would like to make a few comments first, in that while this
5 report is a separate agenda item, the report was considered
6 by the Office of Inspector General Oversight Committee
7 yesterday in its meeting. Mr. Kirk?

8 MR. KIRK: Thank you. Just historically what
9 occurred is that the inspector general and I went to meet
10 with members of the appropriate committee, Senate committee,
11 and were told that our responses in the past have been
12 inadequate to the inspector general's reports. As you
13 probably know, the inspector general's reports were rather --
14 they weren't always timely. We just forwarded them on with
15 out comment. They gave us some examples and indicated that
16 we probably should respond with comment.

17 We determined that probably our use of the
18 inspector general's office had not been proper in the past or
19 certainly in line with what was expected from the Senate
20 staffers. Mr. Quatrevaux and I came back, reported to the
21 committee that we really wanted to get off on the right foot
22 with these new staffers and that we would respond. What we

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1 have now produced is, I think, a very well done response. I
2 think it addresses all the issues, admits our difficulties in
3 the past, and I think sends us off into a new era with better
4 understanding of the IG's position.

5 I think after we hear comments from Ms. DiSanto and
6 Mr. Naughton I'm going to certainly just move very quickly
7 for adoption by the Board of that response.

8 CHAIRMAN WITTGRAF: Ms. DiSanto, why don't you go
9 ahead and introduce yourself and let Mr. Naughton introduce
10 himself for the record. Then, make what comments you think
11 are appropriate.

12 MS. DiSANTO: Good morning, barely here. My name
13 is Emelia DiSanto and I'm the acting vice president of the
14 Legal Services Corporation. I'm accompanied by Mr. Naughton,
15 who is a consultant.

16 Mr. Naughton, perhaps you want to tell the Board a
17 little bit about your background for a moment.

18 MR. NAUGHTON: Yes. I've been an attorney for many
19 years. I'm admitted to practice in Iowa and the District of
20 Columbia. I also have a certificate as a certified public
21 accountant in Virginia. I was counsel for House Government
22 Operations subcommittee for some 28 years, had the same

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1 chairman during all 28 years, former Representative L. H.
2 Fountain of North Carolina.

3 The last few years I was on the Hill, I devoted
4 almost all of my time to working on the IG legislation.
5 After leaving the Hill, I did some pro bono work on the 1988
6 amendments and various other questions coming up on the
7 inspector general offices. So I guess that gives you a bit
8 of my background. Since leaving the Hill also, I've done
9 consulting assignments for quite a number of different
10 federal agencies, often involving matters with the inspector
11 generals offices.

12 MS. DiSANTO: Just turning now for a moment to the
13 draft report, which is the Board of Directors management
14 report to the Congress on the semiannual report submitted by
15 the former inspector general, this report takes about a two
16 year period. So it goes from the period of September 30,
17 1989, to September 30, 1991. In fact, it responds to all
18 four semiannual reports that were provided to the Board and
19 subsequently provided to members of Congress from the former
20 inspector general of the Corporation.

21 This document takes up certain substantive areas
22 and certain comments that were made in the semiannual reports

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1 and attempts to provide a comment on behalf of the Board of
2 Directors to the Congress with regard to what was said by the
3 former inspector general about various operations and
4 activities of the Board and of the Corporation itself, as
5 well as of the Corporation grantees.

6 I have had an opportunity this morning also to
7 speak with Mr. Charles Fax, who has also had an opportunity
8 to review this particular document. There is one change that
9 has been recommended by Mr. Fax which takes place on page 13.

10 Specifically, Mr. Fax has recommended that as a
11 comment with regard to the question of the legality of the
12 recess appointments of the LSC Board of Directors, that that
13 matter more or less be addressed in noting that the matter as
14 a question is subject a litigation at this particular point
15 in time.

16 However, it is LSC's position, as well as the
17 Department of Justice's position, who has intervened in that
18 particular litigation, that the Legal Services Corporation
19 Board of Directors is properly constituted as recess
20 appointees.

21 In fact, that, basically, sentence or two is going
22 to be just recrafted a bit and be placed as part of the

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1 comment in response to the overall area of instability of LSC
2 leadership. That is the only substantive change that has
3 been set forth.

4 CHAIRMAN WITTGRAF: Mr. Fax, Ms. DiSanto has just
5 shared with us your suggestion regarding the legal status of
6 us, the recess appointees, on page 13 of the draft of the
7 management report. I think she summarized that to us.
8 Unless there's objection, I'm sure we'll incorporate your
9 thoughts into the report. Was there anything else regarding
10 the report that you wanted to discuss with us?

11 MR. FAX: No. I thought it was fine.

12 CHAIRMAN WITTGRAF: Further questions or comments
13 either for Ms. DiSanto or Mr. Naughton or for Mr. Fax?

14 MR. DANA: Mr. Chairman?

15 CHAIRMAN WITTGRAF: Mr. Dana?

16 MR. DANA: I have a question as to what footnote 29
17 means, again on page 13.

18 MR. NAUGHTON: The inspector general, for example,
19 by statute, has subpoena authority. He has certain powers
20 that are set out in the act itself, which the Corporation
21 probably would not have the authority to delegate to the
22 inspector general. In other words, this was in connection

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1 with the express concern by Mr. Wilkinson that he could not
2 conduct audits because the Board had not given him authority
3 to conduct audits.

4 It is simply pointing out that there is a great
5 deal of authority in the inspector general act, some of
6 which, for example subpoena authority, the Board probably
7 would not be in a position to delegate if it desired to do
8 so.

9 MR. DANA: The idea is that these sources of power
10 are accumulative and not conflicting?

11 MR. NAUGHTON: Yes.

12 CHAIRMAN WITTGRAF: Further questions for Ms.
13 DiSanto, Mr. Naughton, or Mr. Fax?

14 (No response.)

15 CHAIRMAN WITTGRAF: Further discussion?

16 (No response.)

17 CHAIRMAN WITTGRAF: Hearing none, the Chair is
18 prepared to entertain a motion that the draft management
19 report with the changes discussed be adopted and be sent
20 forward to the Senate and House Oversight Committees.

21 MR. KIRK: Mr. Chairman?

22 CHAIRMAN WITTGRAF: Mr. Kirk?

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MR. KIRK: I would so move.

CHAIRMAN WITTGRAF: Is there a second?

MR. HALL: Second.

CHAIRMAN WITTGRAF: The motion has been made by Mr. Kirk, seconded by Mr. Hall. Is there further discussion?

(No response.)

CHAIRMAN WITTGRAF: Hearing none, those who are in favor of the motion as presented will signify by saying aye.

(A chorus of ayes.)

CHAIRMAN WITTGRAF: Those who are opposed, nay?

(No response.)

CHAIRMAN WITTGRAF: The ayes appear to have it. The ayes do have it. The motion is adopted.

Mr. Fax?

MR. FAX: Yes.

CHAIRMAN WITTGRAF: Thank you. Good-bye.

MR. FAX: Mr. Wittgraf?

CHAIRMAN WITTGRAF: Mr. Fax? I believe we can let you go on and continue with the celebration of president's day.

MR. FAX: Actually, it's my son's birthday.

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1 CHAIRMAN WITTGRAF: That, too, then.

2 MR. FAX: Thank you.

3 CHAIRMAN WITTGRAF: Thank you. Good-bye.

4 Mr. President?

5 MR. O'HARA: Thank you, Mr. Chairman. I would like
6 to make a correction and extend an apology at this time in
7 introducing the acting director of our Monitoring, Auditing
8 and Compliance Division. I referred to her as deputy
9 director. I would like the record to reflect that she
10 actually is the acting director of that organization. I
11 apologize to Ms. Sparks for that faux pas. Thank you.

12 CHAIRMAN WITTGRAF: Thank you, Mr. President.

13 MS. PULLEN: Mr. Chairman?

14 CHAIRMAN WITTGRAF: Ms. Pullen?

15 MS. PULLEN: It is my desire to participate in the
16 further business of the Board but not in the briefing
17 sections. I would appreciate your having someone call me
18 back the next time that there is a vote pending.

19 CHAIRMAN WITTGRAF: Certainly. We'll have to
20 assume any vote other than to open or close sessions we
21 should call you and give you the opportunity. We will
22 attempt at our very best to do that.

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1 MS. PULLEN: I understand that this is a very
2 difficult situation, but I can't handle it any other way. I
3 very much appreciate your indulgence.

4 MR. KIRK: Mr. Chairman?

5 CHAIRMAN WITTGRAF: Mr. Kirk?

6 MR. KIRK: I didn't realize she was being called on
7 this particular one. It looks to me like it will be after
8 the closed session before any more votes come up. I have
9 volunteered to be the liaison for that for Ms. Pullen.

10 CHAIRMAN WITTGRAF: Did you want the record to
11 show, Ms. Pullen, that you supported the adoption of the
12 management report in response to the inspector general's
13 semiannual reports?

14 MS. PULLEN: Along with the other I voted by voice
15 vote, yes.

16 CHAIRMAN WITTGRAF: Okay. The record will reflect
17 that. Thank you.

18 MS. PULLEN: I'm going to ring off now, then, if
19 that's all right.

20 CHAIRMAN WITTGRAF: Yes, thank you.

21 Ms. DiSanto, did you or Mr. Naughton have anything
22 else?

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1 MS. DiSANTO: I think at this point in time I'd
2 only want to make the statement that I've received a few
3 comments from members of the Board. If you have any
4 additional comments or changes that you would like
5 incorporated into what will be a final draft that will be
6 provided to you and then necessary cover letters and things
7 will be prepared, then for the chairman of the oversight
8 committee's signature?

9 CHAIRMAN WITTGRAF: Yes.

10 MS. DiSANTO: Yes? Thank you.

11 CHAIRMAN WITTGRAF: I'd like to keep Mr. Kirk on
12 the hook, but we're giving him the net of Board approval so
13 that he's not out there alone.

14 MR. KIRK: I'm not real sure about this. Somehow
15 the chairman ought to sign.

16 CHAIRMAN WITTGRAF: Further questions or comments?
17 Anything for either Ms. DiSanto or Mr. Naughton?

18 (No response.)

19 CHAIRMAN WITTGRAF: Thank you.

20 At this time, the Chair is prepared to entertain a
21 motion to proceed, consistent with notice given previously,
22 to the executive or closed session of today's meeting.

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MR. KIRK: So moved.

MR. HALL: Second.

CHAIRMAN WITTGRAF: It's been moved by Mr. Kirk, seconded by Mr. Hall. Is there a discussion?

(No response.)

CHAIRMAN WITTGRAF: Hearing none, those in favor of the motion will signify by saying aye.

(A chorus of ayes.)

CHAIRMAN WITTGRAF: Those who are opposed, nay.

(No response.)

CHAIRMAN WITTGRAF: The ayes appear to have it. The ayes do have it. We will proceed to closed session. As we proceed to closed session, let me ask the members of the Board if this is the time that you all would like for a personal convenience break or a checkout break, in that lunch will be served in the context of our closed session meeting. It is approximately five after 12:00. We will take an approximate 10 minute personal convenience break.

(Whereupon, at 12:00 p.m., the open session was adjourned to proceed to executive session.)

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(1:17 p.m.)

1
2 CHAIRMAN WITTGRAF: The meeting of the Board will
3 resume in open session. The doors have been opened and the
4 public has been alerted that our closed session has been
5 completed. We're prepared to return to the agenda, and
6 specifically to agenda item 12, consideration of the
7 Operations and Regulations Committee report, Mr. Shumway.

8 Before Mr. Shumway begins with agenda item 12, let
9 me just note for the attention of the Board and our friends
10 who are with us, that in addition to the listed agenda items
11 that two legal services workers from this area of the
12 country, Larry Pichon, the staff director from Southwest
13 Louisiana Legal Services in and about Lake Charles,
14 Louisiana, would like to make a few remarks to us. Also,
15 Lynette Braxton, state president of the Louisiana Clients
16 Council would like to make a few remarks to us.

17 So, as we proceed, keep in mind the requests of
18 these individuals to visit with us so that we will be able to
19 give them our attention as well for a few minutes this
20 afternoon before we dissipate, as Mr. Dana would say.

21 Mr. Shumway?

22 REPORT OF THE OPERATIONS AND REGULATIONS COMMITTEE

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1 MR. SHUMWAY: Thank you, Mr. Chairman. The
2 Operations and Regulations Committee met in two sessions. We
3 began our meeting yesterday afternoon, took no action, came
4 to no conclusion. We continued our meeting this morning, and
5 we did take action this morning. The action is represented
6 by a handwritten memo that I think most Board members have.
7 If you don't have, we can certainly get one to you.

8 But we asked Kathy DeBettencourt to prepare this
9 overnight, to put before us some choices that we need to make
10 that would allow staff to embark upon setting up a
11 demonstration project. We essentially adopted the entire
12 memo. It's cast as though they might be offered to us in the
13 alternative, but that was not the case.

14 The first question was: What do we want to test,
15 for two answers there. One was whether competition by
16 another provider in the same service area will tend to
17 improve the performance of each. Second was whether a
18 competition for a performance bonus will tend to improve the
19 performance of each program competing. We essentially
20 adopted both of those directions, indicating that we would
21 like to test in both areas.

22 Then, below that, Kathy's memo spelled out three

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1 options. The first one was competition in an unserved area,
2 two continuous programs each service the area. Winner takes
3 service area, two year assessment period. Kathy pointed out
4 in that regard that they have only been able to identify one
5 such area. But it is an unserved area, and it would be
6 appropriate for us to perhaps pursue that option there.

7 Second was the situation where two programs agree
8 to compete in an overlapping or same service area or bonus to
9 winner. The third option was similar programs competing
10 against each other for a one-time performance bonus.

11 With reference to options one and three, Kathy felt
12 that they could put together a request for proposal within
13 the next three weeks so that by the time we next meet we will
14 have before s what it is or how they intend to flush out
15 those two options. Option number 2 may take a little longer
16 period of time. Nevertheless, we endorsed all three options.
17 So eventually we will have an RFP dealing with option number
18 2 as well.

19 The proposal which I've been reading from was
20 adopted unanimously by those present on the committee this
21 morning. I think it was our feeling that while it may not be
22 perfect, at least it does move us from the position of just

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1 rhetoric in debate to some degree of action. I think that's
2 a welcomed development.

3 CHAIRMAN WITTGRAF: Thank you, Mr. Chairman. Am I
4 correct in my assumption that no Board action is necessary at
5 this time, that you're awaiting the draft RFPs or request for
6 proposals, and that you may then want to bring those to the
7 Board as a whole, but at this time no action is required?

8 MR. SHUMWAY: That would be my recommendation.

9 CHAIRMAN WITTGRAF: Questions or comments for Mr.
10 Shumway?

11 (No response.)

12 CHAIRMAN WITTGRAF: Thank you, Mr. Shumway.

13 We'll move, then, to agenda item 13, Consideration
14 of the Audit and Appropriations Committee. Mr. Dana?

15 REPORT OF THE AUDIT AND APPROPRIATIONS COMMITTEE

16 MR. DANA: Thank you, Mr. Chairman. In the green
17 book that was distributed prior to the meeting, you will see
18 on page 9 the budget and expense through December 19, if you
19 see what I mean, 1991. Item 4, we devoted some time to
20 consideration of written rationale supporting the fiscal year
21 1993 appropriation request. That is a document typically
22 prepared without Board input. But because much of what we

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1 are proposing is different than in prior years, we asked for
2 an opportunity to have some input. As a consequence, the
3 report has gone through several drafts. Many of the people
4 involved in the process have made suggestions to the staff,
5 and they are reflected in the current draft, a copy of which
6 I don't seem to have handy, but I think it's been distributed
7 around.

8 I would urge members of the Board and other
9 interested observers who have that draft to send their
10 comments to Chris Sundseth. Ultimately, it will be the
11 Corporation's management that drafts the rationale that
12 accompanies our budget request. I think that that is the
13 most expedient way to proceed.

14 Item 5 on the agenda relates to the Micronesian
15 problem which we've discussed before.

16 CHAIRMAN WITTGRAF: Excuse me just a minute, Mr.
17 Dana. Ms. Pullen, are you on the phone?

18 MS. PULLEN: Yes, I am.

19 CHAIRMAN WITTGRAF: Are you able to hear the
20 discussion?

21 MS. PULLEN: Somewhat.

22 CHAIRMAN WITTGRAF: I'll ask all of the Board

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1 members to make a special effort to speak directly into the
2 microphones near to them. Mr. Dana?

3 MR. DANA: Can you hear me, Penny?

4 MS. PULLEN: Oh, I sure can, Howard.

5 MR. DANA: Thanks. The item 5 on the agenda is the
6 Micronesian Legal Services Corporation issue. That, in your
7 Board book at 21, are two letters that the Corporation has
8 sent to Congress explaining the problem to Congress. We have
9 asked our staff to propose a solution for our consideration,
10 assuming Congress doesn't come up with a solution with all of
11 its undertakings.

12 Item 6, consideration of the Audit and
13 Appropriations Committee guidelines, as members of the Board
14 may remember, the Audit and Appropriations Committee, since
15 1980, has operated under guidelines, first adopted by the
16 Board in 1980 and then revised in 1985. They are somewhat
17 outmoded and inconsistent with the current practice.

18 Management and the committee have worked together
19 to come up with a set of guidelines which are more
20 appropriate for the current operation. Those have been
21 adopted unanimously by the committee. Since the committee's
22 adoption, there have been concerns raised, one having to do

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1 with the Freedom of Information Act or the Sunshine Act.
2 What we've asked is that staff, particularly the general
3 counsel, and the IG might wish to focus their attention in
4 the near term on those proposed guidelines, give us the
5 benefit of their thoughts.

6 While it is my recommendation, it is that we will
7 not bring those guidelines to you for ratification at this
8 time until we have factored those additional comments in.
9 So, I would encourage all members of the Board to read them.
10 They appear in the Board or committee book at page 31. If
11 you have any questions, I'd be happy to answer them or David
12 Richardson or Jack O'Hara, both of whom have been helpful in
13 formulating those guidelines. I'm sure we can answer your
14 questions. If you have any concerns about it, let us know
15 because these guidelines are the way we propose to provide
16 oversight and guidance in this area to our management.

17 Following that, there is a memo dated February 14,
18 1992, from David Richardson to me and the committee proposing
19 to formally change our budget and to eliminate in a fiscal
20 sense the Office of Policy Development, moving the dollars to
21 various homes and also to move the archives and central
22 filing systems from one department to another.

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1 That explanation is set forth in that memo which
2 has ben distributed to all of you. It is the committee's
3 unanimous recommendation that our budget be amended in
4 accordance with David's memo of February 14 to me.

5 MR. KIRK: I didn't see a copy of that memo. Was
6 it given to me and I just lost it?

7 CHAIRMAN WITTGRAF: Mr. Dana, is it my
8 understanding that that's the committee's recommendation that
9 the budgetary changes to reflect the organizational changes
10 be adopted by the Board based upon adoption by the committee?

11 MR. DANA: That is correct.

12 CHAIRMAN WITTGRAF: I will take that recommendation
13 from the committee, then, as a motion to the Board made and
14 seconded. Do you have further comment regarding that matter?

15 MR. DANA: I do not.

16 CHAIRMAN WITTGRAF: Discussion? Mr. Kirk?

17 MR. KIRK: Mr. Chairman, thank you. Mr. Dana,
18 we're voting on an approval of merely the February 14 memo
19 from Richardson to you?

20 MR. DANA: We're approving the change in our budget
21 which is our charge to the management as set forth in that
22 memo.

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1 CHAIRMAN WITTGRAF: Mr. Dana, let me raise one
2 other question while Mr. Kirk is collecting his thoughts.
3 Was this matter made a matter of notice prior to the meeting
4 of your committee or in the absence of notice, or do we need
5 to have your committee act at a later date and then, assuming
6 affirmative action, bring that to the Board. Do we have a
7 notice problem here?

8 MR. DANA: Perhaps. We could well have a notice
9 problem. Maybe David Richardson could come to my aid.

10 CHAIRMAN WITTGRAF: Mr. Kirk, did you want to
11 inquire further while Mr. Richardson is coming forward?

12 MR. KIRK: I think you've got the question on the
13 floor, so I'm just going to wait until that gets covered.

14 CHAIRMAN WITTGRAF: Fine, thank you.

15 MR. RICHARDSON: I'm sorry. Since I've just come
16 into the room, if the question --

17 MR. DANA: The issue is because the proposed
18 revision of the COB was not a matter of public notice, were
19 we precluded yesterday from acting on your recommendation to
20 us of February 14?

21 MR. RICHARDSON: In speaking with Mr. Fortuno last
22 night, I felt that we could do it under the provisions that

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1 we were considering the budget and expenses through December.
2 He tells me that it was not explicit enough that we could
3 actually do that. He has actually suggested at this point
4 that we delay the recommendation of the committee and
5 actually make it at the next Board meeting.

6 MR. DANA: Then, Mr. Chairman, with that added
7 guidance, I withdraw the committee's recommendation. We will
8 deal with both the guidelines and any suggestions for
9 improvement of them, as well as this first recommendation,
10 for an amendment to the COB at our meeting in, I guess,
11 March.

12 CHAIRMAN WITTGRAF: Thank you, Mr. Dana. Did you
13 want to inquire further, Mr. Kirk, on that matter?

14 MR. KIRK: Not on that matter.

15 CHAIRMAN WITTGRAF: Further report from the
16 Committee on Audit and Appropriations?

17 MR. DANA: That concludes our report.

18 CHAIRMAN WITTGRAF: Mr. Kirk?

19 MR. KIRK: Thank you, Mr. Chairman. Mr.
20 Richardson, before you came in it was announced that the 22
21 page draft dated February 17, 1992, I'm going to call it the
22 budget justification but that may not be the proper word.

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1 CHAIRMAN WITTGRAF: Budget message is usually the
2 terminology, Mr. Kirk.

3 MR. KIRK: I guess I won't use budget
4 justification. The budget message is customarily just done
5 by staff, with no vote of approval by the Board, and
6 submitted to Congress. For how long has that been the
7 procedure?

8 MR. RICHARDSON: I came to the Corporation in March
9 of 1987. This is the first budget message that has come
10 before a committee and reviewed. In every case since March
11 of 1987, it's always been a staff prepared document.

12 CHAIRMAN WITTGRAF: Mr. Kirk?

13 MR. KIRK: Thank you, Mr. Chairman. Have they
14 always been as extensive as this one?

15 MR. RICHARDSON: Yes, sir, they have, and some have
16 been longer.

17 MR. KIRK: Mr. Chairman?

18 CHAIRMAN WITTGRAF: Mr. Kirk, certainly.

19 MR. KIRK: Thank you. How much input to you
20 customarily have from the Board in making this budget
21 message?

22 MR. RICHARDSON: In the past, there has been no

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1 guidance.

2 MR. KIRK: Mr. Chairman?

3 CHAIRMAN WITTGRAF: Mr. Kirk?

4 MR. KIRK: Mr. Richardson, if I come up and ask you
5 to add some things to this to clarify it, would those just be
6 considered by you and decided whether they are relevant and
7 then just be submitted?

8 CHAIRMAN WITTGRAF: Mr. Kirk, I think to be fair to
9 Mr. Richardson, Mr. Sundseth who is also at the table now
10 with Mr. Richardson really has been assigned the burden of
11 crafting this message by Mr. O'Hara. It may be that in
12 fairness to Mr. Richardson, you want to direct your inquiries
13 to Mr. Sundseth instead.

14 MR. KIRK: Well, I'd like to do it historically.

15 CHAIRMAN WITTGRAF: Certainly.

16 MR. RICHARDSON: Chris has been involved in writing
17 this particular message for the last few years also. But to
18 get to your question as far as if you want to comment in this
19 comment, the process has been in the past if somebody did
20 want to incorporate a message into it, certainly Chris could
21 speak if there's been other Board members involved. It's
22 reviewed by the president, vice president, within the

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1 Corporation and trying to take in the concerns of the Board
2 members themselves.

3 I will mention, and I have a little bit of
4 knowledge, I think, of what you're getting to with the 50
5 percent increase, going from a \$350 million appropriation
6 request up to a \$525 million request.

7 In the past, the staff has helped with a decent, a
8 totally separate document that went to Congress. I think Mr.
9 Uddo is aware that Ms. Bernstein, a former Board member --
10 that's the only case that I've seen where a Board member has
11 been involved with the staff extensively in developing a
12 document that went up to both the House and Senate.

13 CHAIRMAN WITTGRAF: When was that, Mr. Richardson,
14 if I might inquire?

15 MR. RICHARDSON: Almost every year Ms. Bernstein
16 was on the Board.

17 MR. SUNDSETH: 1987 was the last year.

18 MR. RICHARDSON: That's correct.

19 CHAIRMAN WITTGRAF: Which years are we talking
20 about?

21 MR. RICHARDSON: You're talking about I think it
22 was 1984, 1985, 1986, and 1987.

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1 CHAIRMAN WITTGRAF: Was that a singular act? Mr.
2 Uddo?

3 MR. UDDO: Maybe I can help clarify something
4 because I was going to mention this to Bud when he brought
5 this up again. Leanne routinely submitted minority proposal
6 budgets which generally were just her own budgets. I mean,
7 she referred to them as minority proposals but as I recall I
8 think she was the only one who supported them. I don't
9 think, Bud, that you need to discuss a minority budget.

10 I think any member of the Board or any couple of
11 members of the Board can say we don't agree with what the
12 Board has passed. This is our view of what the budget should
13 be. The Board can't deny you the right to do that. As I
14 say, Leanne used to do it routinely. She would accompany the
15 budget with her own explanation of why she thought it should
16 be that. She did it every year that I was on the Board with
17 her.

18 CHAIRMAN WITTGRAF: Mr. Kirk?

19 MR. KIRK: I guess I'm confused on how there could
20 be something that's so insignificant that I could just do it
21 and that my motion to add it to the agenda be ruled out of
22 order for lack of notice.

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1 MR. UDDO: Well, I'll give you my answer to it. My
2 answer to --

3 MR. KIRK: Well, I think I address it to the
4 chairman.

5 CHAIRMAN WITTGRAF: Mr. Kirk, as I understood your
6 motion this morning it was to reconsider the budget.

7 MR. KIRK: No, sir, to present an alternate budget.

8 CHAIRMAN WITTGRAF: In my judgment, that is one in
9 the same thing. That is reconsideration of the budget.

10 MR. KIRK: No, sir. That is not what I intended.
11 I wish you had asked me because I did not mean to reconsider
12 it.

13 CHAIRMAN WITTGRAF: I take those two things to be
14 two ways of saying the same thing. I don't think, regardless
15 of what your perspective happens to be, that we can get into
16 that discussion without notice. That's why I ruled the way I
17 did. Not only the courtesy of notice to your fellow Board
18 members but the legality of notice as required to all people
19 affected by this action of this federal or quasifederal
20 entity.

21 MR. KIRK: Mr. Chairman?

22 CHAIRMAN WITTGRAF: Mr. Kirk?

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1 MR. KIRK: Thank you, Mr. Chairman. Mr. Chairman,
2 so that there won't be any doubt what I was intending, and I
3 wish I had had the opportunity to clarify this earlier, what
4 I was looking to do is to offer alternate budget much as the
5 way singlehandedly some lady did up through 1987 and
6 something that apparently can be just done by request and add
7 it to it.

8 I certainly, rather than go behind my fellow Board
9 members' back, was trying to present my intent to do that to
10 the Board members and to let them share in it and perhaps
11 join with me in it. That is what I was ruled out of order
12 for trying to present.

13 Excuse me, Mr. Chairman. I cannot see how that
14 would in any way be considered a reconsideration of the
15 budget because I think it's been adopted, and the majority
16 has supported it. All I was trying to do was that. That's
17 my explanation.

18 MR. UDDO: Mr. Chairman?

19 CHAIRMAN WITTGRAF: Mr. Uddo?

20 MR. UDDO: Then I would just suggest, Bud, that you
21 prepare your minority budget and circulate it to other
22 members of the Board that might want to join you in that

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1 presentation.

2 MR. KIRK: Well, I think that -- excuse me. Mr.
3 Chairman?

4 CHAIRMAN WITTGRAF: No. I think what Mr. Uddo has
5 said makes good sense. There's apparently a precedent of
6 which I wasn't particularly aware for that effort. I would
7 only, for what it's worth, share with you one further
8 thought. That is, we are a body of 11. We sometimes
9 disagree by votes of 6 to 5, 7 to 4, 8 to 3, 9 to 2, whatever
10 it happens to be.

11 I urge you to consider seriously the consequences
12 of beginning on a minority report precedent. I think, taking
13 the most recent example that comes to my mind, the efforts
14 that we made in July of last year regarding our thoughts on
15 reauthorization issues, a number of different issues, 15 or
16 16, as I recall. We voted through 15 or 16 proposals, some
17 unanimously, some by split votes, and those votes went
18 forward as such.

19 None of us, as I recall, hurried either in written
20 or verbal form to share a minority report with the Congress.
21 I think that speaks to the credibility of our efforts as a
22 Board.

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1 To take a more extreme example, but I think one
2 that is perhaps still relevant, if we select a president or
3 an inspector general, as we've been called upon to do several
4 times in the last few years, and we have a difference of
5 opinion, as has been the case, the people who were in the
6 minority again did not hurry out to the Congress or any other
7 community, either in written form or in oral form and suggest
8 that they really favored somebody else other than the person
9 who was selected by a divided vote.

10 So, clearly, as Mr. Uddo stated, any one of us has
11 the right, whether it's in the budgetary area, whether it's
12 in the reauthorization area, whether it's in the personnel
13 area, to go forward with a minority statement or a so-called
14 minority report. But I think it's something that needs to be
15 considered very carefully.

16 I think it undercuts our action as a Board. Our
17 actions are based on a majority vote, just as the actions of
18 any kind of policymaking body that includes three or more
19 members. I think it's a precedent that would not serve us
20 well in the long run. Thank you.

21 MR. KIRK: Mr. Chairman?

22 CHAIRMAN WITTGRAF: Mr. Kirk?

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1 MR. KIRK: The unilateral discussion that is taking
2 place right now by you is the very issue --

3 CHAIRMAN WITTGRAF: I stated my comments.

4 MR. KIRK: Excuse me, sir.

5 CHAIRMAN WITTGRAF: I tried not to interrupt you.

6 Go ahead.

7 MR. KIRK: The unilateral statement of your
8 position just then was the type of discussion that I was
9 trying to get on the record and put on the agenda this
10 morning that was ruled out of order. These are the things
11 that I had hoped to be able to discuss. But in view of the
12 fact that they're out of order, I don't think that I'm going
13 to get into that.

14 But I want to assure you that my purpose is not to
15 sabotage the Corporation and sabotage its money; it is the
16 sincere thought of some of us on the board that the chances
17 of getting increased funding might be better if we didn't go
18 for such an outlandish budget, and what we consider might not
19 be accepted at this period of time. I would acknowledge
20 other views.

21 But I don't want to get into that because I know
22 it's out of order. But that was the type o thing that I

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1 wanted to address. Knowing what the procedure is and taking
2 due consideration of the comments that you made to me
3 earlier, at the meeting I will try to discuss it with my
4 fellow Board members privately, even though we couldn't do it
5 publicly, and perhaps give some consideration to that.

6 CHAIRMAN WITTGRAF: Mr. Kirk, let me just say that
7 any one of the Board members is able to make a statement on
8 virtually any subject at any time in the context of the Board
9 meeting.

10 My understanding of your motion this morning had
11 not to do with someone making a statement, but rather had to
12 do with the proposal that the Board would consider action.
13 That, I believed then to be, and still believe now to be, out
14 of order.

15 But if you construed my ruling as an effort to
16 muzzle you, that was a misconception. If it was a
17 misconception based upon what I said, I regret that. But I
18 certainly wasn't attempting to muzzle you, and I certainly
19 would not attempt at any time to muzzle anyone.

20 I do stand by my other comments. You characterized
21 that as a unilateral discussion. I guess anytime I make a
22 statement that's necessarily a unilateral discussion, just as

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1 anytime you make a statement, that's a unilateral discussion.
2 I see those as somewhat inconsistent terms. But I was giving
3 you the benefit of my thoughts for what they're worth.

4 MR. KIRK: Mr. Chairman?

5 CHAIRMAN WITTGRAF: Mr. Kirk?

6 MR. KIRK: I'm not expressing myself very well,
7 obviously, but what I'm trying to tell you is that what I
8 asked to do this morning was to consider an alternate or
9 minority position on a budget. I was hoping that that
10 consideration could be brought before this Board and the pros
11 and cons of whether the Board wanted to officially endorse or
12 adopt or allow such a thing would be considered. It was
13 exactly what you're talking about, the consideration of my
14 fellow Board members, that I was trying to have an
15 opportunity to discuss.

16 It is out of order. I accept that. You have
17 expressed your views on the fact that it should not have been
18 voted on had it had been brought up. I have heard that. I
19 know now that I have the right to go ahead and do it
20 unilaterally with other people if we would like, and I will
21 proceed on those lines.

22 CHAIRMAN WITTGRAF: Further discussion?

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1 (No response.)

2 CHAIRMAN WITTGRAF: I made the point, I think, this
3 morning that I would reiterate now, and that is that as I
4 understood the guidance of Mr. Richardson yesterday, the
5 House Appropriations subcommittee that deals with our budget,
6 before which a presentation is to be made by me and Mr.
7 O'Hara on March 25, should be preceded with approximately
8 three weeks, or for three weeks by the presentation of the
9 so-called budget message.

10 With that in mind, the discussion yesterday with
11 Mr. Sundseth was that any of us who had further suggestions
12 regarding the draft document that he's been working on and
13 circulating should get those to him by Friday, February 28,
14 so that he's then in a position, under the supervision of the
15 president, to deliver the message -- and with Mr.
16 Richardson -- to deliver the message to the House
17 Appropriation subcommittee staff by Monday, March 2.

18 MR. DANA: Mr. Chairman?

19 CHAIRMAN WITTGRAF: Mr. Dana?

20 MR. DANA: Could I urge those comments and
21 suggestions to get there as soon as possible? While the 28th
22 is the deadline, it would be nice when people have comments

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1 that they send them along as quickly as possible.

2 CHAIRMAN WITTGRAF: Further discussion regarding
3 the report of the Audit and Appropriations Committee? Mr.
4 President, Mr. O'Hara?

5 MR. O'HARA: Mr. Chairman, purpose of inquiry with
6 regard to the discussion that just took place. Am I correct
7 in assuming that when the document, which now has the draft
8 17 February 19-2 on it, is prepared by the staff that any
9 document that's submitted by any member of the Board will be
10 attached to this document and forwarded to the appropriate
11 committees?

12 MR. DANA: No.

13 MR. O'HARA: What will be done with it?

14 CHAIRMAN WITTGRAF: Let's turn first to Mr.
15 Richardson. Mr. Kirk, the distinction as I see it, is not
16 between discussion and discussion; it's between discussion
17 and Board action. We can discuss anything anybody wants. I
18 don't think that the Board can act in a given area without
19 notice, though. So we'll talk about whatever anybody wants.

20
21 I was going to ask Mr. Richardson to the end of the
22 question raised by Mr. O'Hara. What was the precedent, if

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1 you will, established regarding Ms. Bernstein and the
2 submission of her four minority reports to the Congress in
3 the years you mentioned?

4 MR. RICHARDSON: It was two separate and distinct
5 documents that went up at different times. They were not
6 attached together at all.

7 So, to answer your question, we would prepare the
8 document, for instance, that we've been working on with Mr.
9 Dana and the other members of the Board, and submit it to
10 both House and Senate, to the appropriations. If there's a
11 decent or an alternate budget, that would be prepared and
12 sent up a different day.

13 CHAIRMAN WITTGRAF: I would assume then, Mr.
14 President, that that is the answer to your question.

15 MR. O'HARA: Well it answers my question, yes. I
16 raised the question only because I've seen many documents
17 come to the Hill when I was in that area which contained
18 views of differing members of bodies. I wanted to make sure
19 that the Corporation understood that, that that is a practice
20 that is generally accepted in Congress.

21 CHAIRMAN WITTGRAF: Mr. Uddo?

22 MR. UDDO: I would just say, Mr. O'Hara, and, Dave,

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1 correct me if I'm wrong, I think the documents went clearly
2 designated as the Board's budget or the Board's position and
3 a minority report. I mean, I don't think there was any
4 confusion that there were two equally weighty positions being
5 sent to Congress.

6 One was the Corporation's position adopted through
7 the Board and one was a dissenting Board member's position.
8 So, I think that that was always clearly designated and the
9 appropriate committees understood that they were getting a
10 Board's position and a dissenting position.

11 Correct me if I'm wrong, didn't Tom at one time
12 send a separate budget for a higher amount? Tom Smegal at
13 one time sent one for a higher amount?

14 MR. SUNDSETH: Tom Smegal, yes, he did.

15 MR. UDDO: So they all went designated as personal
16 opinions that dissented from the majority view of the Board.
17 So I think that that's got to be preserved that this is the
18 view of the Board and there's some dissent.

19 CHAIRMAN WITTGRAF: Mr. Kirk?

20 MR. KIRK: I just want to assure him it's going to
21 be done that way.

22 MR. UDDO: I was trying to answer Jack's question

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1 of how it should go up. I just think that's the way it has
2 to be.

3 CHAIRMAN WITTGRAF: Further discussion regarding
4 the report of the Audit and Appropriations Committee?

5 (No response.)

6 CHAIRMAN WITTGRAF: Hearing none, and I believe no
7 action having been required as I understood both the
8 discussions, we'll proceed to agenda item 14, consideration
9 of the report of the Office of Inspector General Oversight
10 Committee. Mr. Kirk?

11 REPORT OF OFFICE OF INSPECTOR GENERAL OVERSIGHT COMMITTEE

12 MR. KIRK: Thank you, Mr. Chairman.

13 MS. PULLEN: Mr. Chairman?

14 CHAIRMAN WITTGRAF: Ms. Pullen?

15 MS. PULLEN: Since no vote was taken on that
16 matter, though I certainly was fascinated with the
17 discussion, if you could call it that, I would like to be
18 excused for a time until there is a time when my vote is
19 needed.

20 MR. KIRK: Mr. Chairman?

21 CHAIRMAN WITTGRAF: Mr. Kirk would like to speak to
22 you, Ms. Pullen. Mr. Kirk?

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1 MR. KIRK: Thank you, Mr. Chairman. I wonder if
2 you, Mr. Chairman, would tell us if you intend to take any
3 votes or maybe Mr. Hall could tell us if any votes are
4 intended to be taken under item 15.

5 CHAIRMAN WITTGRAF: Let's try this, Mr. Kirk. Will
6 any votes be taken that you contemplate regarding item 14?

7 MR. KIRK: I was going to handle that, and the
8 answer is no.

9 CHAIRMAN WITTGRAF: Will any votes be taken that
10 you contemplate, Mr. Hall, in connection with agenda item 15?

11 MR. HALL: No, sir.

12 CHAIRMAN WITTGRAF: Mr. Uddo?

13 MR. UDDO: No.

14 CHAIRMAN WITTGRAF: None as to item 16. Ms.
15 Pullen, it appears that we do not at this time -- things
16 always can change, but we do not at this time contemplate any
17 votes being taken between now and the vote to adjourn the
18 meeting. Would you like to be contacted for the vote to
19 adjourn?

20 MS. PULLEN: Only if there seems to be a
21 controversy generated by the discussion at that time, Mr.
22 Chairman, assuming that you permit discussion of that matter.

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1 (Laughter)

2 CHAIRMAN WITTGRAF: We'll leave that to Mr. Kirk to
3 judge. It will be up to Mr. Kirk to decide whether or not
4 that requires your vote.

5 MR. KIRK: I'm sure it will be out of order if
6 there is. (Laughter)

7 CHAIRMAN WITTGRAF: Thank you, Ms. Pullen.

8 MS. PULLEN: Thank you so much, Mr. Chairman. I
9 look forward to seeing you another time.

10 CHAIRMAN WITTGRAF: Thank you, Mr. Kirk. You may
11 want to consider a modification of the regulations by which
12 we're governed allowing for proxy ballots so that it will be
13 easier to proceed. Mr. Kirk, number 14.

14 MR. KIRK: I hope you don't think that anyone could
15 ever presume to vote for Ms. Pullen.

16 I have no further report. I think everything was
17 made by the inspector general. Our committee has nothing to
18 report.

19 CHAIRMAN WITTGRAF: Thank you, Mr. Kirk.

20 At this time, the Chair turns to Mr. Hall for any
21 report of the Provisions for the Delivery of Legal Services
22 Committee. Mr. Hall?

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1 REPORT OF THE PROVISION FOR THE DELIVERY OF
2 LEGAL SERVICES COMMITTEE

3 MR. HALL: Thank you, Mr. Chairman. As you all
4 know, we did not hold a provisions committee meeting this
5 time around. The staff has informed me, however, that they
6 continue to work on the matters that we've discussed before;
7 unsolicited grants, attorney recruitment, retention, and some
8 interstate subgrants. They've made a report to me on the
9 progress that they've had in compiling some materials for us.

10
11 I understand that they've made an analysis of all
12 the unsolicited grants that have been made since 1987. That
13 is in draft form, not complete yet. That will include, of
14 course, the recipients name, the year that the grant was
15 made, the grant period, the amount, the type -- unsolicited,
16 emergency, training grant and so forth. It will tell the
17 purpose of the grant and give the rationale of the grant as
18 well. That will be an item for discussion in March.

19 As well, they've prepared a draft, solicitation for
20 funds, for meritorious proposals. I've not seen that, but I
21 understand it will be provided to all the committee members
22 and Board members as well before March. That will be

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1 discussed there. As well, they've done quite a bit on the
2 attorney recruitment and retention programs by meeting and
3 talking to different individuals who have experience in this
4 area. I understand that they have prepared and will provide
5 us with information that regards this area, the mechanisms
6 including law and repayment assistance, fellowships, some
7 internships, and so forth. That will be a topic of
8 discussion next time around as well.

9 I understand also that they have made significant
10 progress in drafting a proposed Corporation policy concerning
11 the making of interstate subgrants. That should be available
12 for the March meeting as well.

13 As you heard earlier, the committee, as well, will
14 look at alternate dispute resolutions. I don't know a lot
15 about it at this time, but Chris Sundseth has given me a
16 memorandum on it and is going to provide some more
17 documentations on that. So we'll be getting into that. That
18 concludes my report.

19 CHAIRMAN WITTGRAF: Thank you, Mr. Hall. Questions
20 or comments for Mr. Hall?

21 (No response.)

22 CHAIRMAN WITTGRAF: Hearing none, the Chair calls

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1 upon Mr. Uddo for the report of the Special Reauthorization
2 Committee. Mr. Uddo?

3 REPORT OF THE SPECIAL REAUTHORIZATION COMMITTEE

4 MR. UDDO: Mr. Chairman, our committee met
5 primarily to review two agenda items. One was comments from
6 the inspector general with respect to the various
7 reauthorization proposals, particularly the one that's passed
8 the House committee under his authority to comment on pending
9 legislation.

10 We received his comments. He gave us some
11 extensive written reports, which the committee is going to
12 review in an effort to make some determination in the near
13 future as to whether or not the committee will recommend the
14 Board do anything with respect to those comments.

15 The second agenda item was an update on the
16 reauthorization process and some additional information on
17 what was actually adopted by the committee compared to the
18 original Frank bill, McCollum-Stenholm proposal, and the
19 Board's recommendation, so that the committee can begin to
20 get reoriented to figure out exactly what's in the current
21 version of the legislation, so that we can again in the
22 future decide whether we want to make any additional

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1 statements to the House or perhaps wait until the matter gets
2 to the Senate side with respect to our support or disapproval
3 of anything that may exist in the legislation as it makes it
4 way to the Senate.

5 So we took no action. We received those two
6 reports. We contemplate meeting again after we've had a
7 chance as individual committee members to digest that
8 information.

9 CHAIRMAN WITTGRAF: Thank you, Mr. Uddo. Any
10 questions or comments for Mr. Uddo?

11 (No response.)

12 OTHER BUSINESS

13 CHAIRMAN WITTGRAF: Before I turn to Mr. Pichon and
14 Ms. Braxton, is there other business to come before the
15 Board?

16 MR. UDDO: Mr. Chairman?

17 CHAIRMAN WITTGRAF: Mr. Uddo?

18 MR. UDDO: I have one thing that I'd like to
19 suggest that you might want to consider. I think we may have
20 discussed it briefly yesterday. The FY 93 budget
21 contemplates that some formal timekeeping is going to be
22 implemented. I think that since we've had money in the

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1 budget for a number of years to study timekeeping that it
2 might be --

3 CHAIRMAN WITTGRAF: I believe we just did this this
4 morning, Mr. Uddo. You must have been gone. I asked the
5 president to prepare a timekeeping proposal.

6 MR. UDDO: I must have been gone. I didn't know
7 that you did that. I'm sorry.

8 CHAIRMAN WITTGRAF: That's fine. In connection
9 with Ms. Sparks' report regarding the MAC division of the
10 Corporation, we talked about timekeeping and had some
11 discussion with the president. I believe by the next Board
12 meeting there will be some information before us regarding
13 the status of timekeeping as it exists in the field and
14 thoughts regarding how the Corporation might be able to
15 assist other programs in moving in that direction.

16 MR. UDDO: That was going to be my suggestion.

17 CHAIRMAN WITTGRAF: As Mr. Kirk would affirm, I am
18 sure, great minds think along the same lines here.

19 Further business to come before the Board?

20 (No response.)

21 CHAIRMAN WITTGRAF: At this time, the Chair would
22 ask Larry Pichon and Lynette Braxton to come forward if they

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1 would. Mr. Pichon, I'd ask each of you to introduce
2 yourselves. Am I correct in my understanding that you have
3 distributed a one page piece of paper across the top of which
4 you've written "Lake Charles Legal Assistance Area"?

5 MR. PICHON: That's correct, Your Honor. I'm
6 sorry, I'm used to being in court.

7 CHAIRMAN WITTGRAF: That's all right. I haven't
8 been addressed that way ever probably, and probably never
9 will be. That's all right.

10 Mr. Pichon, would you please identify yourself and
11 your agency for the record?

12 PRESENTATION OF LARRY PICHON

13 MR. PICHON: I am Larry Pichon. I am a staff
14 attorney with Southwest Louisiana Legal Services Society,
15 Inc., in Lake Charles, Louisiana.

16 I started with the program in January of 1989.
17 When I started with the program, I was already licensed to
18 practice law. I started at a salary of \$18,700. Now, after
19 having been there three years, I'm making \$25,000. We
20 recently did a salary comparability study, which support has
21 a copy of, and the only program -- this is for starting
22 salaries, except for support enforcement which gives what

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1 their increases are -- the only place that's making less
2 money starting than what I'm making now is the public
3 defender's office, which is making \$24,000.

4 The 14th Judicial District Court pays their law
5 clerks \$25,022.40, \$22.40 more than what I'm making now, and
6 they don't even have to be licensed. Support enforcement,
7 which is with the Department of Health and Human Services
8 here in the State of Louisiana, pays a starting attorney with
9 0 to 2 years experience \$28,800. An attorney in my position
10 would be making \$35,400.

11 We are currently in our office paying starting
12 attorneys \$20,000. We hired an attorney in August of 1991.
13 She left in October of 1991 because she was offered to make
14 \$32,000 with a private law firm. You all have in you all's
15 budget for 1992 in the line with the law clinics attorney
16 recruitment. How can we recruit and keep good attorneys if
17 we cannot pay competitive salaries?

18 The only solution to this is more funding, which I
19 am pleased to see that this Board and the Corporation is
20 headed in the right direction.

21 Most days I'm at the office before 8:30. A lot of
22 days I don't get to take a lunch. We have a humongous case

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1 load. A lot of times I have to go up on nights and weekends
2 just to try to stay caught up. This, on top of the poor
3 salaries, makes it virtually impossible for us to keep good
4 attorneys when any offer comes along, because almost any
5 offer is going to be a better offer.

6 I'm glad that you've given me an opportunity to
7 speak with you today because I want you to keep what I said
8 in mind when you are setting the appropriation amount which
9 you are requesting from Congress. The legal services staff
10 attorney is the heart or the blood of the Legal Services
11 Corporation in that we are the ones that deliver or are
12 trying to deliver quality legal services to the poor of
13 Louisiana and this country.

14 Without the staff attorneys and the other legal
15 staff, such as paralegals, there would be no legal services
16 being provided to the poor, which is what the Legal Services
17 Corporation is all about.

18 I'd also like to make one comment as far as
19 timekeeping. I do not know exactly what kind of, or how
20 stringent timekeeping measurements the Corporation has in
21 mind, but I would like them to take this into mind when
22 considering it.

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1 Most of the time I'm not working on one case at a
2 time. I may be working on one case and a client calls in
3 wanting to know what's going on on their case. So you pull
4 their file and you see well, I need to do this so you go on
5 and do it then.

6 Keeping that in mind, it may possibly, depending on
7 how stringent timekeeping they want, it may be hard to try to
8 keep up with the timekeeping.

9 In my experience, I have found, shockingly
10 actually, that how much of a difference just having an
11 attorney makes. I recently tried to assist a man and proper
12 person of getting a car back which a judge wrongfully gave to
13 his wife. The judge would not do it ex parte order.
14 Instead, he wanted to have a hearing on the matter. Well,
15 the man came back to me and his case had been turned into
16 something that fit within our priorities. So when I got
17 involved, the judge immediately gave the man his car back.
18 This is not the only incident of this. There is numerous
19 occasions where it is amazing what difference just having an
20 attorney makes. Without the staff attorneys, these people
21 will not get the representation that they Legal Services
22 Corporation is intended to deliver.

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1 Now I'll be glad to answer any questions anyone
2 has.

3 CHAIRMAN WITTGRAF: Thank you very much, Mr.
4 Pichon. Before we open it up, why don't I let Ms. Braxton
5 share her thoughts with us. Ms. Braxton, please identify
6 yourself for the record, if you will.

7 PRESENTATION OF LYNETTE BRAXTON

8 MS. BRAXTON: Good afternoon. My name is Lynette
9 Braxton. I'm the state president of the client's council. I
10 have been the president for the past two years. Also, I'm a
11 member of the Southwest Louisiana Client's Council.

12 Today with me is Mr. Lonnie Smith, the executive
13 director of the Southwest Louisiana Legal Services; Ms. Edith
14 Syman, who is a client Board member and also the local
15 client's council president. Also with us is Ms. Elma Pete,
16 who is a Board member of the Southwest Louisiana Client's
17 Council and the vice president. We also have Ms. Annie
18 Smart, who is our Louisiana Client's Council coordinator with
19 us today.

20 I would like to first say thank you to this Board
21 for allowing me this opportunity to address you and ask a few
22 questions. As I said, I've been in the position for two

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1 years, so a lot of this stuff is very new to me. I want to
2 ask a lot of questions.

3 First, we, the Louisiana Client's Council
4 representatives, are here today to observe and learn more
5 about the procedures in which this Board discusses,
6 deliberates, and decides on proposed rules, regulations and
7 fundings that affect the entire nation of eligible clients
8 and client representatives under this Board's jurisdiction
9 and leadership.

10 Ladies and gentlemen, I don't know where the
11 client's council is on your agenda for improvement and
12 upgrading accessibility to training, but I ask you to please
13 consider what has been said by Judge Ortigue about justice in
14 training for the clients and also by Mr. Kirk about the
15 increases of funds. Don't forget we're out there fighting in
16 the trenches of bureaucracy and red tape.

17 We, the client's council, can't help educate,
18 train, and notify the public of the laws promulgated with the
19 confidence and responsibility that we ourselves expect to
20 give to the public if we're not giving the proper and
21 sufficient amount of funds to do the job correctly.

22 Our mission, as client's council in this state, is

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1 to monitor the procedures of the legal services to make sure
2 that they are providing the best professional legal
3 representation and assistance to the client community. Also,
4 our mission is to promote education information and to assist
5 clients in becoming more self-sufficient; most importantly,
6 to help our clients to obtain new productive lives so that
7 they can stop the vicious pendulum of poverty.

8 We are attempting to meet the challenge of
9 providing this education in resources and one-on-one
10 consideration and assistance. Our clients are not just a
11 file number; they are real people with real problems. We
12 want to help, but we can't do it without the financial
13 support.

14 Now, getting to my question: How is funding
15 allocated to the client's councils across this nation from
16 this Board? Secondly, if and does this Board decide what can
17 and will be specified to go towards the client's councils
18 across the nation?

19 I would like to thank you for this opportunity to
20 present my statement and my questions, and also to invite you
21 -- during May the 22nd through the 24th, the Louisiana
22 Client's Council will have their annual convention. Our

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1 theme is "Client's Council and Legal Service: Promoting the
2 Cause of Justice for the Poor." We look forward to seeing
3 you. Thank you.

4 CHAIRMAN WITTGRAF: Thank you, Ms. Braxton. At
5 this time, I'll open up the discussion to our Board members
6 either for any comments they have or any questions they'd
7 like to raise.

8 Mr. Dana?

9 MR. DANA: Responding to your questions first, and
10 I must say I think I have to make sure I'm correct, I think
11 that in our existing budget that the job of funding client's
12 councils is a local matter. Am I correct? I think that's
13 correct.

14 In our proposed budget, we are recommending that
15 Congress authorize funding of client's councils or a client
16 outreach on a state-by-state basis through the state
17 support center.

18 So, if this were to come about, each state support
19 center would have a sum of money to promote the functions
20 that you're working on. But at the present time, I do not
21 think the Corporation does anything to either mandate or
22 direct funds to the client council effort. That's a matter

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1 for local boards. I believe that's correct. If I'm wrong,
2 I'd be happy to be corrected. I'm getting a nod.

3 MS. BRAXTON: Thank you.

4 CHAIRMAN WITTGRAF: Did you want to ask anything
5 further, Ms. Braxton, in light of Mr. Dana's comments?

6 MS. BRAXTON: No.

7 CHAIRMAN WITTGRAF: Ms. Braxton, could you just
8 state for the record a little bit more information about the
9 meeting in May that you described, exactly when it is and
10 where it is?

11 MS. BRAXTON: Okay. It will be held May the 22nd,
12 23rd, and 24th here in New Orleans at the Comfort Inn. We
13 will be addressing several topics on social security, SSI,
14 the new law ADA, housing, unemployment, and things that
15 matter to the client community.

16 CHAIRMAN WITTGRAF: Mr. Kirk?

17 MR. KIRK: Thank you. I wanted to thank both of
18 you and especially our conversations out in the hall about
19 the salaries and what have you. Do you know what local
20 lawyers are starting at in the Lake Charles area, private
21 practitioners?

22 MR. PICHON: Well, I would say it would be around

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1 the \$32,000 because the new attorney we had hired was right
2 out of law school. Well, she was admitted to practice but
3 with no experience. She went with a private firm for
4 \$32,000.

5 But not even taking that into consideration, the
6 lowest amount that starting salaries, we are behind \$4,000
7 with the public defender's office. The highest is \$8,800
8 with support enforcement. Right now, if a position would be
9 available and I would be able to take the position, I would
10 jump with support enforcement over \$10,000.

11 CHAIRMAN WITTGRAF: Mr. Kirk?

12 MR. KIRK: Thank you, Mr. Chairman. I presume
13 that your benefits are probably certainly no more than and
14 probably less than the competing people on this list.

15 MR. PICHON: The only benefits that our office pays
16 -- well, we have vacation and sick leave. It's kind of
17 standard on that. They pay for our insurance but not for
18 the dependents. NOLAC right now is in a position that they
19 can pay for their dependent coverage which makes working at
20 NOLAC a little better than working at one of the other legal
21 services programs.

22 Plus, they are able to pay a little higher starting

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1 salary than the rest of the state because if you see the
2 second part of the paper, it's the average starting salaries
3 among the legal services in the state.

4 CHAIRMAN WITTGRAF: By NOLAC, you're referring to -

5 -

6 MR. PICHON: New Orleans Legal Assistance
7 Corporation.

8 CHAIRMAN WITTGRAF: Mr. Kirk?

9 MR. KIRK: You're from Lake Charles; right?

10 MR. PICHON: That is correct.

11 MR. KIRK: That's all I have, Mr. Chairman. Thank
12 you.

13 CHAIRMAN WITTGRAF: Further discussion? Mr. Dana?

14 MR. DANA: As a matter of interest, what is the
15 highest paid lawyer? Do you know the highest paid lawyer in
16 your program?

17 MR. PICHON: That would be me, other than the
18 director, and I have been there three years.

19 MR. DANA: So you're the most senior?

20 MR. PICHON: I would say, yes.

21 MR. UDDO: Mr. Chairman?

22 CHAIRMAN WITTGRAF: Mr. Uddo?

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1 MR. UDDO: Larry, how much does your program get
2 from the IOLTA fund?

3 MR. PICHON: The IOLTA fund, we got this year
4 \$20,000. It went up from \$15,000 which went up from \$10,000.
5 Mr. Ortigue pointed out that they are supposed to be giving
6 out a million. Well, when they gave out the \$800,000 that
7 they allotted, only approximately 18 percent went to Legal
8 Services Corporations. That's across the whole state.

9 CHAIRMAN WITTGRAF: Where did the other 82 percent
10 go so far as you know, Mr. Pichon?

11 MR. PICHON: The largest percentage, which there is
12 a lot of editorials going on, went to the Louisiana State Bar
13 Association's Alcohol and Drug Addiction Committee. If I'm
14 not mistaken, it was over \$100,000 to them.

15 MR. UDDO: I think it was \$150,000.

16 CHAIRMAN WITTGRAF: Is that an accurate reflection
17 of local needs, Mr. Uddo? (Laughter)

18 MR. UDDO: Probably underestimated. It's a problem
19 and I raised it because there is a problem. I think the
20 IOLTA funds are not going in large enough percentage to the
21 legal services programs. It's caused quite a stir in the
22 community.

1 MR. PICHON: Fifty thousand of it went to public
2 defender programs which the people -- I'm also on the State
3 Bar's Legal Services Committee. We, as a committee, feel
4 like that is the state's responsibility and not the IOLTA's
5 responsibility to support the public defender programs.

6 CHAIRMAN WITTGRAF: Mr. Dana?

7 MR. DANA: The American Bar Association agrees with
8 you and has adopted a policy a year ago to support you on
9 that. So, that policy statement is available. I can get you
10 a copy if that would be of any assistance.

11 I think it goes without saying then that all of us
12 are proud of you and proud of the thousands of people like
13 you who are working in this country for not enough and doing
14 a wonderful job. MR. PICHON: Thank you.

15 MR. DANA: We're trying and hopefully we'll
16 succeed.

17 CHAIRMAN WITTGRAF: Ms. Braxton?

18 MS. BRAXTON: May I just add one thing?

19 CHAIRMAN WITTGRAF: Yes, ma'am.

20 MS. BRAXTON: The Louisiana Client's Council will
21 also be applying for that IOLTA. We're in the process of
22 getting it together.

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1 MR. UDDO: Good luck.

2 MS. BRAXTON: Thank you.

3 CHAIRMAN WITTGRAF: We do appreciate both of you
4 taking the time to be here. I think both of you were with us
5 yesterday and have been with us today. It's our privilege to
6 have had you here. We've been fortunate in the last six
7 months to have been able to spend some time in Jackson,
8 Mississippi, and in Portland, Maine, and to hear remarks
9 similar to those that you've made this afternoon.

10 I'd like to think that while we may have some
11 disagreements among us as to the proposed increased level of
12 funding, that the proposal that we've made is based in part
13 upon the concerns that you all have raised, both additional
14 funds for client training and the support of state client's
15 councils as well as, of course, just additional funds for
16 basic field program grant recipients.

17 We're not going to presume to say how additional
18 funds would be spent, but we trust that if and when the funds
19 become available, that a portion of them will see their way
20 to the salaries of the staff attorneys and the paralegals and
21 the support staff.

22 MS. SMART: My name is Annie Smart. My question I

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1 need to ask: The last meetings I met you where we had Board
2 training was done by video.

3 CHAIRMAN WITTGRAF: Yes, ma'am.

4 MS. SMART: You cannot get complete training by
5 video. It has to be one on one when you train a client about
6 being on the Board, how to do accounting, how to do set
7 asides and all those kind of things. You can't do that by
8 video. We do our own training here in Louisiana. I don't
9 know what the others do.

10 If you do your own training -- I put together in
11 1985 an accounting book that clients will learn how to be on
12 the Board, know what you're talking about when you're talking
13 about line items and all these things. If you can't do it
14 and train each other, it's just not effective. So, I'm
15 asking this Board whoever thought of that idea --

16 CHAIRMAN WITTGRAF: Thank you, Ms. Smart. I think
17 we understood your point. Hearing no further discussion,
18 unless there's other business to come before the Board, the
19 Chair is prepared to entertain a motion to adjourn.

20 M O T I O N

21 MR. UDDO: So moved.

22 MS. LOVE: Second.

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1 CHAIRMAN WITTGRAF: It's been moved by Mr. Uddo,
2 seconded by Ms. Love. Those who are in favor will signify by
3 saying aye.

4 (A chorus of ayes.)

5 CHAIRMAN WITTGRAF: Those opposed, nay.

6 (No response.)

7 CHAIRMAN WITTGRAF: The ayes appear to have it.
8 The ayes do have it. The meeting is adjourned.

9 (Whereupon, at 2:24 p.m., the meeting was
10 adjourned.)

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