

LEGAL SERVICES CORPORATION  
BOARD OF DIRECTORS MEETING

OPEN SESSION

July 30, 1990

9:25 a.m.

The Old Colony Inn  
625 First Street  
Ballroom A & B  
Alexandria, VA 22314

Board Members Present:

George W. Wittgraf, Chairman  
John F. Collins  
Howard H. Dana, Jr.  
Luis Guinot, Jr.  
J. Blakeley Hall  
Jo Betts Love  
Guy Vincent Molinari  
Penny L. Pullen  
Xavier Suarez  
Jeanine E. Wolbeck

Staff Present:

Emilia DiSanto, Interim President  
Timothy B. Shea, Vice President & General Counsel  
Maureen R. Bozell, Secretary  
David Wilkinson, Inspector General

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

1  
2 CHAIRMAN WITTGRAF: It is the Chairman's pleasure at  
3 this time to call on Reverend Walls for an invocation on the  
4 occasion of our meeting.

5 Good morning.

6 (The invocation was given.)

7 CHAIRMAN WITTGRAF: Thank you very much, Reverend  
8 Walls.

9 Good morning. At this time, the Chair is prepared  
10 for the board to consider the proposed agenda.

11 Before we specifically consider the proposed agenda,  
12 the Chair wants to make it clear to the members of the board  
13 and of the audience that it is the Chair's intention in light  
14 of his belief that the most important order of business before  
15 the board today is the interviewing of and, hopefully, the  
16 selection of a new president for the Legal Services  
17 Corporation. Four interviews are scheduled slated for up to  
18 90 minutes each beginning at 11:00 a.m.

19 There are a few other matters to be considered,  
20 particularly pertaining to litigation in executive or closed  
21 session. But accordingly, we will be going to executive or  
22 closed session between approximately 10:30 and 10:45 a.m.

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1 regardless of where we happen to be in the agenda.

2 It is not the Chair's expectation that we will  
3 necessarily go through all of the items that appear on the  
4 agenda before we get to closed session. If anyone has any  
5 concern with that, please say so. I have given you the  
6 reasons for my interpretation.

7 Having said that, the Chair is prepared for a motion  
8 for the adoption of the agenda as proposed.

9 M O T I O N

10 MR. GUINOT: I so move.

11 CHAIRMAN WITTGRAF: It has been moved. Is there a  
12 second?

13 MR. HALL: Second.

14 CHAIRMAN WITTGRAF: And seconded. Discussion?

15 (No response.)

16 CHAIRMAN WITTGRAF: Hearing none, those in favor  
17 signify by saying aye.

18 (A chorus of ayes.)

19 CHAIRMAN WITTGRAF: Those opposed, nay.

20 (No response.)

21 CHAIRMAN WITTGRAF: The ayes appear to have it. The  
22 ayes do have it.

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1           Item 2 on the agenda then is the approval of the  
2 minutes of our last board meeting. That meeting having been  
3 held on Monday, June 25, 1990. The proposed minutes have been  
4 sent to the members of the board.

5           Is there a discussion?

6           (No response.)

7           CHAIRMAN WITTGRAF: Is there a motion for the  
8 adoption of the minutes as presented?

9   M O T I O N

10          MS. PULLEN: I so move.

11          CHAIRMAN WITTGRAF: Is there a second?

12          MS. LOVE: Second.

13          CHAIRMAN WITTGRAF: It has been moved and seconded  
14 that the minutes as drafted be adopted. Discussion?

15          (No response.)

16          CHAIRMAN WITTGRAF: Hearing none, those in favor of  
17 the adoption of the minutes as presented, please signify by  
18 saying aye.

19          (A chorus of ayes.)

20          CHAIRMAN WITTGRAF: Those opposed, nay.

21          (No response.)

22          CHAIRMAN WITTGRAF: The ayes appear to have it. The

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1 ayes do have it. The minutes are approved as presented.

2 There are a few things I would like to touch on  
3 briefly as indicated on the agenda. Before I do, in light of  
4 the resignation of former recess appointee board member John  
5 Ehrlenborn from the board and his having been selected as the  
6 vice-chairman of the board at our first organizational meeting  
7 on February 12 of this year. We have an absence in the  
8 position of vice-chairman.

9 At this time, the Chair is prepared to receive  
10 motions for the election of a new vice-chairman of the board.

11 MR. GUINOT: Mr. Chairman?

12 CHAIRMAN WITTGRAF: Mr. Guinot?

13 MR. GUINOT: I move Mr. Guy Molinari for the  
14 position of vice-chairman of the board of directors.

15 CHAIRMAN WITTGRAF: Is there a second to that  
16 nomination?

17 MR. COLLINS: I didn't hear it.

18 MR. GUINOT: Mr. Molinari.

19 MR. COLLINS: Second.

20 CHAIRMAN WITTGRAF: There is a nomination which has  
21 been seconded. Further nominations?

22 (No response.)

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1 CHAIRMAN WITTGRAF: Discussion?

2 (No response.)

3 CHAIRMAN WITTGRAF: Hearing none, those in favor of  
4 the election of board member Guy Molinari as vice-chairman of  
5 the board, please signify by saying aye.

6 (A chorus of ayes.)

7 CHAIRMAN WITTGRAF: Those opposed, nay.

8 (No response.)

9 CHAIRMAN WITTGRAF: The ayes appear to have it. The  
10 ayes do have it.

11 Would that the whole day would move so simply and  
12 smoothly.

13 In terms of the Chairman's remarks, I will try to  
14 move through them very quickly. First, regarding the status  
15 of the ten of us as recessed appointees. It is my  
16 understanding that, first of all, the White House does have a  
17 nominee in mind for the replacement of Mr. Ehrlenborn and that  
18 that nomination is being prepared in such a way that it could  
19 go forward to the Senate from the White House along with the  
20 nomination of the present recessed appointees, the ten of us.

21 It is the Chair's understanding that a couple of the  
22 ten of us do have some materials yet to be completed and

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1 forwarded to the White House to allow for the nominations to  
2 be made to the Senate. I think it had been the hope of those  
3 at the White House that the nominations would be made by early  
4 August at the latest, but that is somewhat tentative in light  
5 of a couple of people still needing to provide further  
6 materials to the White House.

7 Even once the nominations are made, I guess we have  
8 no idea what the Senate might do with them. So, this is a  
9 slow process. But I guess the most specific news is that the  
10 White House does have a replacement for Mr. Ehrlenborn in  
11 mind.

12 The second matter is one that comes to us somewhat  
13 by virtue of the regulations, the bylaws and the regulations  
14 under which we operate as a board and as the Legal Services  
15 Corporation. For a variety of reasons, one of our members was  
16 unable to be with us, Mr. Suarez, during our April, May and  
17 June meetings. Mr. Suarez should be here today. He and Mr.  
18 Molinari should be arriving shortly, as soon as their planes  
19 arrive at National airport.

20 I believe that Mr. Suarez has corresponded with all  
21 of the members of the board in connection with his inability  
22 to be here during the last three months.

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1           Is there any member of the board who has not  
2 received or had an opportunity to review Mr. Suarez's letter?

3           (No response.)

4           CHAIRMAN WITTGRAF: It is the Chair's understanding  
5 that it is not necessary for any specific action to be taken  
6 regarding Mr. Suarez's inability to be with us during the last  
7 three meetings. But simply as I indicated that the bylaws,  
8 which are a part of the regulations, require that fact to be  
9 reported to him and that fact to be brought to our attention.

10           Is there a discussion?

11           (No response.)

12           CHAIRMAN WITTGRAF: Hearing none, the Chair will  
13 assume that no one sees or feels any need to do anything  
14 further in that regard.

15           At this time, the Chair is delighted to call on one  
16 of the other board members, Jo Love, to discuss some  
17 activities that she has had over the last month or so with one  
18 or more client groups.

19           Jo?

20           MS. LOVE: Thank you, Mr. Chair. Ladies and  
21 gentlemen, I am going to go away from this speech.

22           I went to Jonestown, Pennsylvania to the Clients

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1 Council meeting there. It was a delightful trip and rewarding  
2 in my heart to see that people do help themselves.

3 I went to the housing projects. I went to their  
4 meetings. I went to their dinners. I saw the little flower  
5 boxes that the people had built themselves and the flowers and  
6 the gardens. The day care centers. The senior citizens. All  
7 of these people were helping themselves. The whole  
8 Pennsylvania, overall from Pennsylvania, their Clients  
9 Council, had gathered there. Those people had a togetherness  
10 like I have never seen in my life.

11 It was a reward to see the projects with no marks on  
12 the walls, the elderly people working so hard. They had  
13 achieved so many things helping themselves and I really would  
14 recommend that all the board members even down to the  
15 president go out into the little world and maybe when they  
16 come back to the large world they will appreciate the small  
17 world.

18 Thank you very much.

19 CHAIRMAN WITTGRAF: Thank you, Jo. Did anyone have  
20 any questions or comments for Jo regarding her trip?

21 (No response.)

22 CHAIRMAN WITTGRAF: Jo, let me ask you just one

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1 thing. Was there anything in particular that any of the  
2 clients whom you visited, any particular concerns that they  
3 brought to your attention?

4 MS. LOVE: They really needed legal assistance, you  
5 know. It seemed like they were doing a pretty good job on  
6 their own. Just legal assistance. I would hope with them  
7 doing so well that maybe the legal services could kind of step  
8 in even though I was told there wasn't any money, but there is  
9 attorneys.

10 So, they only want a small amount of help. They are  
11 not asking for much.

12 CHAIRMAN WITTGRAF: Further questions, comments?

13 (No response.)

14 MR. HALL: Mr. Chairman?

15 CHAIRMAN WITTGRAF: Mr. Hall?

16 MR. HALL: I wonder if there are any future meetings  
17 or what is in store for the future.

18 MS. LOVE: They in November -- I have been invited  
19 to Atlanta for August. Two visits to Atlanta in August to  
20 different programs. Then they are having a national  
21 convention for the Clients Council, I guess it is, in  
22 Pittsburgh in November, which the board, from what I gathered,

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1 the board members will be invited.

2 So, they are just working hard people in  
3 Pennsylvania and I would recommend that you go out and check  
4 it out and look at some good things that the people are doing  
5 for helping themselves.

6 CHAIRMAN WITTGRAF: When did you say the meeting is?

7 MS. LOVE: In Atlanta.

8 CHAIRMAN WITTGRAF: The national meeting?

9 MS. LOVE: In November. The national meeting of the  
10 Clients Council.

11 CHAIRMAN WITTGRAF: You don't have a -- you don't  
12 remember a specific date?

13 MS. LOVE: No.

14 MR. HALL: This is Thelma Grady?

15 MS. LOVE: Right.

16 MR. HALL: Thelma Grady, Mr. Chairman, leads quite a  
17 bit of this and I understood she was wanting to come on the  
18 program one of these days and speak to us. Does she still  
19 want to do that?

20 MS. LOVE: Right. But she felt like we had a busy  
21 schedule for this meeting, so perhaps maybe she could get in  
22 on the next one.

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1 CHAIRMAN WITTGRAF: Further questions or comments?

2 (No response.)

3 CHAIRMAN WITTGRAF: Thank you, Ms. Love.

4 The last item I wanted to mention has to do with our  
5 next board meeting. You will recall from the schedule that we  
6 projected back in February and March involving the last  
7 Monday, or really the fourth Monday of each month. That would  
8 take us tentatively to August 27th.

9 It is also my hope that we will finally have an  
10 opportunity to have a board meeting in the field and I am  
11 thinking that August may be the best month for that. We will  
12 still be in the transitional period as far as a new president  
13 is concerned and Congress will be in recess. So, even if our  
14 nominations go forward, there will be nothing requiring us to  
15 be here in connection with our nominations or possible  
16 confirmations.

17 Tentatively, I have thought in terms of our going to  
18 Denver for that meeting and I am suggesting Denver for the  
19 reason that not only is it a beautiful city with a little  
20 smog, but that a variety of Legal Services Corporation funded  
21 activities take place in and about the Denver area.

22 The Legal Aid Society of Metropolitan Denver is an

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1 excellent grantee. Also, Colorado Rural Legal Services  
2 serving the rest of the state is headquartered out of Denver.  
3 We also have the Western Regional Training Center located in  
4 Denver, as well as the Indian Law Support Center. Finally, at  
5 the University of Denver we have a law school clinical  
6 program, which is one of the Legal Services Corporation  
7 grantees.

8           So, that we have a variety of things there and it  
9 would be a good opportunity for us as a board to learn first  
10 hand. We will have some board business and tentatively it is  
11 the Chairman's thinking that we should plan to meet on Sunday,  
12 August 26th, and Monday, August 27th, for the purposes of our  
13 board business and for the purposes of visiting some of these  
14 facilities that I have named.

15           Off hand, do any of the board members here foresee  
16 any problems with their schedules for August 26th and August  
17 27th?

18           (No response.)

19           CHAIRMAN WITTGRAF: Hearing none, the Chair  
20 anticipates that with the assistance of the board secretary,  
21 Ms. Bozell, we will move forward on that basis with the board  
22 meeting probably on the afternoon of Sunday, August 26th and

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1 then most of Monday, August 27, devoted to either visiting or  
2 visiting with representatives of the facilities I mentioned.

3 Ms. Bozell, is there anything else we need to be  
4 concerned with at this point regarding that trip?

5 MR. GUINOT: Mr. Chairman?

6 CHAIRMAN WITTGRAF: Mr. Guinot?

7 MR. GUINOT: Has a decision been made on the  
8 location? Will it be in Denver or are we still open to  
9 suggestions of other venues? If it has, I am willing to go on  
10 with it.

11 CHAIRMAN WITTGRAF: The Chair is hopeful that we  
12 will be able to get to other venues, if not late in 1990,  
13 certainly by early 1991. We are not absolutely committed to  
14 Denver, no. But for the reasons I have indicated, all things  
15 being equal, that is my inclination.

16 Did you have --

17 MR. GUINOT: Yes, I do. But I would wait for later  
18 on in the year.

19 CHAIRMAN WITTGRAF: Because Mr. Molinari has only  
20 now arrived he is locked into August 26th and 27th in Denver.  
21 It will be a wonderful respite from the Greater New York City  
22 area I am sure.

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1           The other thing Mr. Molinari missed in his absence  
2 was his promotion, if you will, or his curse, if you will, to  
3 having become the vice-chairman of the board.  
4 Congratulations.

5           MR. MOLINARI: That is unfair. Thank you very much.

6           CHAIRMAN WITTGRAF: At this time, the Chair is  
7 prepared and does recognize the interim president for her  
8 report. Before doing so, however, let me just say very  
9 briefly that as a surprise to her some five weeks ago today,  
10 Emilia DiSanto was given the opportunity to add to her resume  
11 by being the interim president of the Legal Services  
12 Corporation for an indefinite period of time.

13           She also at that time had full responsibilities as  
14 the director of MAC or Monitoring, Audit and Compliance  
15 Division of the Legal Services Corporation. She has for the  
16 past five weeks been working parts of six and seven days a  
17 week and 70 hours or more a week trying to keep both MAC and  
18 the Corporation running.

19           I think to her credit we have had a stable five  
20 weeks since June 25th. And on behalf of the whole board I am  
21 sure, Emilia, let me thank you for the sacrifice that you and  
22 your husband and your dog have made these last five weeks.

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1 Thank you.

2 MS. DiSANTO: Thank you, Mr. Chairman and other  
3 members of the board.

4 Mr. Wittgraf has asked me to briefly describe for  
5 you some of the day-to-day activities that are performed by  
6 the offices that comprise the Legal Services Corporation  
7 headquarters.

8 As you know, the LSC Act establish the Corporation  
9 and sets forth certain provisions relating to the programs,  
10 board of directors, its officers and its employees. Several  
11 offices of the Corporation ensure that these provisions are  
12 carried out.

13 The act also authorizes the Corporation to engage in  
14 certain activities such as entering into grants and contracts  
15 with a provision of legal assistance and overseeing the  
16 expenditure of grant related funds.

17 Specifically, the Corporation headquarters has got  
18 eight offices, each of which includes one or more divisions.  
19 Each office has certain responsibilities with regard to both  
20 Corporation related duties and recipient related duties.

21 LSC's executive office has got primary  
22 responsibility for ensuring that proper support is provided to

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1 the LSC board of directors.

2           The LSC office of Policy Development and  
3 Communication provides support to the board in its development  
4 of policy. OPDC also handles LSC's communications with  
5 Congress, the media and other interested parties. For example,  
6 over the past two months, OPDC has responded to more than 100  
7 requests for information regarding Corporation related  
8 activities.

9           Next there is the office of the General Counsel that  
10 provides advice to all offices within the Corporation.

11           Then there is LSC's office of Financial and  
12 Administrative Services, which houses the Corporation's  
13 comptroller office and provides support to both the  
14 Corporation and its recipients. Currently this office is  
15 preparing computer diskettes that will hopefully simplify and  
16 expedite the funding application process for those recipients  
17 that wish to submit portions of their 1991 applications for  
18 funding on a disk. Again, that will be optional for each  
19 program.

20           LSC's office of Human Resources is responsible for  
21 ensuring that both the Corporation's personnel policies are  
22 carried and that equal employment opportunity laws are

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1 followed by the Corporation as well as its grantees. For  
2 example, over the past year, OHR has reviewed over 180  
3 recipients compliance with the Corporation's equal opportunity  
4 policy statement and complaint procedures.

5           The sixth office is the Office of Field Services  
6 which is primarily responsible for the administration of  
7 grants, contracts and subgrants related to the provision of  
8 legal assistance. In addition, OFS is the division within  
9 the Corporation that provides technical assistance to  
10 recipients.

11           The Office of Monitoring, Audit and Compliance is  
12 responsible for performing monitoring related activities. As  
13 part of this function, MAC reviews recipients compliance with  
14 the law and provides recipients with recommendations as to how  
15 they can fulfill their obligations in a more efficient and  
16 effective manner. In addition, MAC follows up with  
17 recipients to assure that recommendations are, in fact,  
18 implemented after a final monitoring report is issued.

19           The eighth office within the Corporation is the  
20 Office of the Inspector General that is responsible for  
21 conducting independent investigations and audits pursuant to  
22 the Inspector General Act of 1988.

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1           Before I ask Ellen Smead, director of OFS, to  
2 address the board, I want to briefly advise the board  
3 regarding two other matters.

4           First, the Office of Field Services and the Office  
5 of Policy Development and Communications is currently involved  
6 in coordinating a child support conference that is supposed to  
7 take place at the University of Chicago some time in 1990.  
8 The conference will include training sessions in the area of  
9 child support for law school clinic directors. The cost of  
10 the conference is not expected to exceed \$30,000, that is  
11 LSC's support for this particular conference.

12           Second, as many of you know, the American Bar  
13 Association conference is being held in Chicago this week. In  
14 my initial memorandum to you in early June regarding the  
15 proposed monitoring and evaluation standards prepared by  
16 SCLADE, in that regard I plan to attend at a minimum the  
17 SCLADE section of the ABA conference together with the manager  
18 of the Monitoring Division to present comments on the current  
19 draft of the standards.

20           In addition, Mr. Shea, vice-president and general  
21 counsel, plans to attend that same meeting and present  
22 comments during the ABA session relating to IOLTA funds.

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1 I would now like to introduce Ellen Smead, who will  
2 briefly discuss two matters. First the current status of the  
3 declination of representation form. Second, a one time grant  
4 to the Indian Law Support Center for training.

5 Ellen?

6 MS. SMEAD: Good morning.

7 CHAIRMAN WITTGRAF: Good morning.

8 MS. SMEAD: For the record, my name is Ellen Smead,  
9 and I am the director of the Office of Field Services. As  
10 Emilia said, I am going to briefly discuss two points.

11 First is a declination representation report form.  
12 The second is the Indian Law Support Center, because this is a  
13 center which is an example of a successful program receiving a  
14 special grant to train legal services attorneys.

15 With respect to the declination form, effective May  
16 1st LSC implemented a new reporting requirement, the  
17 Declination of Representation Report, also known as DORR.  
18 This reporting requirement was instituted to help assess the  
19 number and types of cases which are not accepted by programs  
20 and to get an indication of client demand for legal services.

21 Since implementing DORR in May on an experimental  
22 basis, LSC has learned from the information provided by 229

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1 programs for May that there are two major reasons for programs  
2 declining cases. Those major reasons are either the cases are  
3 outside of the priorities or the applicants were ineligible  
4 for LSC funded services.

5 As you all know, concerns have been expressed over  
6 the DORR, but it is generally the office's experience that  
7 most programs are not having a major difficulty compiling the  
8 information. In any event, we are continuing to assess the  
9 door and staff is examining general options to improve the  
10 DORR.

11 For example, LSC is considering revising the  
12 software to make it easier to use, summarizing some case type  
13 codes. Third, revising the declination categories. And,  
14 fourth, implementing a different reporting period such as one  
15 month per calendar quarter or two months twice a year. Staff  
16 is also talking to field representatives regarding selection  
17 of sampling periods and techniques already in use to capture  
18 DORR type information.

19 In the interim and as LSC continues to fine tune the  
20 DORR and assess the data it has received from May, June and  
21 July, programs may not submit additional DORR reports until  
22 such further date, which we expect to be in October. At that

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1 time, LSC is confident that all parties' interest will be met.  
2 A memo will be going to the field later this week regarding  
3 this decision.

4 With regard to the Indian Law Support Center, in  
5 July LSC awarded a \$10,000 one time grant to the Indian Law  
6 Support Center. That is a national support center that  
7 provides assistance to Native American issues. The purpose of  
8 the grant is to help support the center's Indian law training  
9 conference scheduled this week in Boulder, Colorado.

10 The reason I am discussing this grant is because the  
11 center has received several grants from LSC in the past to  
12 conduct similar training events. LSC has granted these funds  
13 to the center this year and in the past because the centers  
14 conferences have been and continue to be successful. In 1988,  
15 the center's conference received excellent reviews from its  
16 participants.

17 The center also continues to be regarded by LSC as a  
18 program that complies substantially with the LSC R-2  
19 regulations in providing high quality legal assistance in an  
20 economical, effective and efficient manner.

21 Thank you. That is all, Mr. Chairman.

22 MR. DANA: Mr. Chairman?

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1 CHAIRMAN WITTGRAF: Thank you, Ms. Smead.

2 MR. DANA: How much is the grant?

3 MS. SMEAD: It is \$10,000.

4 MR. DANA: And it is for?

5 MS. SMEAD: It is for training that is being done at  
6 the National Support Center this week, Thursday and Friday of  
7 this week. It will be conducting training for Native American  
8 issues of interest to Native American attorneys.

9 MR. DANA: Are we making a grant for next year or  
10 for this year?

11 MS. SMEAD: It is for this year. We have already  
12 made it.

13 MR. DANA: That is interesting. When did we make  
14 it?

15 MS. SMEAD: We made it at the beginning of -- it was  
16 the end of June, beginning of July. We have been working with  
17 the center since the beginning of June. We have made similar  
18 grants in the past. About every two years we make these  
19 grant. They do training about every two years. It keeps  
20 getting well received. It covers important issues.

21 MR. DANA: Thank you.

22 CHAIRMAN WITTGRAF: That center is one that we will

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1 be visiting next month?

2 MS. SMEAD: Yes.

3 CHAIRMAN WITTGRAF: Thank you. Let me make one more  
4 comment in connection with Ms. DiSanto's report. Mr.  
5 Richardson, the treasurer and comptroller, did contact me on  
6 Friday indicating that he is attempting to project after two-  
7 thirds of the fiscal year what the utilization of the funds by  
8 the divisions of the Corporation has been and what the greater  
9 needs of other divisions might be.

10 He had found that there were some tens of thousands  
11 of dollars extra in some of the divisions and that Monitoring,  
12 Audit and Compliance, Ms. DiSanto's regular place of activity  
13 did need some additional funds so that both Ms. DiSanto and  
14 Ms. Richardson to their credit were concerned with Ms. DiSanto  
15 signing off on a transfer of funds, some \$150 or a \$175,000  
16 and apparent, at least an appearance of a conflict of  
17 interest.

18 I indicated to Mr. Richardson that I thought if that  
19 was his recommendation, that I certainly saw no problem with  
20 it and didn't believe that there was any conflict of interest  
21 even with Ms. DiSanto being the interim president, and urged  
22 him to go ahead.

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1           If anybody has any further concerns in that regard,  
2 he or she might raise them now or can raise them later with  
3 Mr. Richardson.

4           Mr. Dana?

5           MR. DANA: I have no concerns with that particular  
6 transfer. I do have some concerns about the procedure by  
7 which interdepartmental transfers are made.

8           Do we have as a matter of policy any responsibility  
9 for that or is that done unilaterally by staff?

10          MS. DiSANTO: Mr. Dana, if I may, to the best of my  
11 knowledge, typically at the end of a Corporate year inter-  
12 divisional transfers will occur after an assessment is made as  
13 to which divisions are spending at what rate.

14          Typically, to the best of my knowledge, this has  
15 been a matter that has been taken care of within the  
16 Corporation. It has not typically been brought, to the best  
17 of my knowledge, to the board on each occasion that these  
18 transfers have occurred. That is to the best of my knowledge.

19          CHAIRMAN WITTGRAF: Mr. Dana?

20          MR. DANA: Yes. My recollection is foggy on this  
21 subject and we don't have committees that would normally deal  
22 with budgets and changes. But it does seem to me that if that

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1 is the policy, it should not continue to be. And that if, in  
2 fact -- and I think as a matter of control, this board ought  
3 to at least ratify and confirm changes in the budget that we  
4 originally passed. Otherwise, our function is largely -- our  
5 function of initially passing the budget seems to be  
6 superfluous.

7 So, would it be appropriate -- I don't know how to  
8 act on this except I don't like the idea of moving money  
9 around in the budget that our predecessor, I guess, or maybe  
10 we have approved it. I think we did at the first -- at the  
11 last budget right after we were --

12 CHAIRMAN WITTGRAF: We have acted upon it in part.  
13 Yes. These would be transfers, as I understand it, within  
14 management and administration. In fact, the recommendations  
15 we made for FY1991 had line items and management and  
16 administration was one line item in and of itself.

17 But I think, and it is the Chair's hope, that we  
18 will as of August and with an eleventh board member move  
19 toward a committee structure, and that will be the concern of  
20 one of the committees.

21 MR. DANA: Well, fine.

22 CHAIRMAN WITTGRAF: I am not sure that it --

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1 MR. DANA: I would just like to register my concern  
2 that -- and I would like maybe -- I guess what I would like is  
3 to ask management to check the history carefully and determine  
4 whether or not, in fact, that has been the practice, what the  
5 regulations say on this subject, and really assess whether or  
6 not it is good practice to move money around within the M&A  
7 line without pre-clearing it with the board.

8 CHAIRMAN WITTGRAF: Ms. DiSanto has indicated that  
9 for purposes of the board's guidance and future policy or  
10 actions that some historical summary or overview will be  
11 presented to the board by the time of its next meeting on  
12 August 26th and 27th.

13 MR. DANA: Thank you.

14 CHAIRMAN WITTGRAF: Further discussion regarding the  
15 matter of the internal transfer?

16 MR. SUAREZ: Just a question.

17 CHAIRMAN WITTGRAF: Mr. Suarez, welcome.

18 MR. SUAREZ: Thank you. I am sorry I wasn't here  
19 for the prior discussion on my own status.

20 CHAIRMAN WITTGRAF: It was minimal.

21 MR. SUAREZ: I had frankly thought that being polled  
22 on issues at meetings that I was not going to be able to

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1 attend would be almost the equivalent of attending. In any  
2 event, I appreciate the board's consideration on that.

3 What is the M&A line that Howard was referring to?

4 MR. DANA: Management and administration. It is the  
5 line that really -- there is one line in the -- I guess one  
6 line in the budget that we get from Congress that we spend.  
7 It is \$10, \$11 million and it is what the Corporation spends  
8 as opposed to the money we give out in grants to others.

9 MR. SUAREZ: I see. I just want to add that I do  
10 share the concern of Mr. Dana that any major intra-agency  
11 transfer should be submitted either to the board or in  
12 executive committee or however we decide to work it out, or  
13 even the Chairman if that is what the board decides. But it  
14 should be in accordance with our procedure guidelines,  
15 whatever those may be.

16 MR. GUINOT: Mr. Chairman?

17 MR. COLLINS: Mr. Guinot?

18 MR. GUINOT: I agree somewhat with Mr. Dana and  
19 Mayor Suarez's remarks. However, I would like to caution the  
20 board that we do not get involved in managing this Corporation  
21 too much.

22 Today, hopefully, we will be selecting a new

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1 president. Our selection more than likely will be made on the  
2 merits of the particular individual and his managerial skills.

3 I would hate to be the individual coming into this  
4 job and be nothing more than a forwarder of decisions up to  
5 the board of directors. I think that the less we do on a lot  
6 of these matters, the better off the Corporation is going to  
7 be.

8 It may be that this is one example of something that  
9 we should be involved in. However, we should very, very  
10 carefully and lightly on all of these matters. I just don't  
11 feel that we are set up to be micro-managing the agency and  
12 that is the danger that we seem to be facing constantly.  
13 Almost everything is coming up to us now. It could be that  
14 that is because of the fact that we are in a transition  
15 period. I hope that ends.

16 CHAIRMAN WITTGRAF: Thank you, Mr. Guinot. Further  
17 discussion?

18 (No response.)

19 CHAIRMAN WITTGRAF: Hearing none, we will move to  
20 the next item on the agenda. Item number six. Mr. Glick and  
21 Mr. Padilla will come forward on behalf of California Rural  
22 Legal Assistance. As they do, the Chair will be so

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1 presumptuous as to make a few background remarks.

2           You will recall that on or about May 17 of this year  
3 then president Terrance J. Wear wrote to California Rural  
4 Legal Assistance and proposed a reduction in its funding up to  
5 9.95 percent.

6           Representatives of California Rural Legal Assistance  
7 have presented, have continued to present certain written  
8 materials in response to that threatened reduction in funding.  
9 They, together with Allen Raumberg, who spoke in support of  
10 the proposed reduction in funding, all did appear before our  
11 last board meeting on June 25. Because of the press of other  
12 business, it turned out that it was not possible for Mr. Glick  
13 and Mr. Padilla to speak to the board.

14           Mr. Raumberg did present his remarks and his  
15 materials to the board as essentially the last item of  
16 business late on the afternoon and early on the evening of  
17 June 25. Mr. Padilla and Mr. Glick have rejoined us today to  
18 respond essentially to Mr. Wear's letter of May 17.

19           You also should have, in addition to the materials  
20 you have been receiving since late May, a recent memorandum  
21 from Ms. DiSanto dated July 24 providing certain materials  
22 that have come to the Corporation's office and now to the

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1 members of the board both from and on behalf of California  
2 Rural Legal Assistance and in support as well of a possible  
3 reduction in funding.

4 With that background information and alerting you  
5 all to refer to that portion of your papers which pertain to  
6 California Rural Legal Assistance. It is my pleasure to call  
7 on Mr. Glick and Mr. Padilla to make sure remarks as they  
8 wish. I believe Mr. Padilla has just circulated additional  
9 materials at this time dated today as well.

10 Gentleman?

11 MR. COLLINS: Mr. Chairman?

12 CHAIRMAN WITTGRAF: Mr. Collins?

13 MR. COLLINS: Before we commence, have we made a  
14 determination of the amount of time that will be allocated to  
15 this item?

16 CHAIRMAN WITTGRAF: Mr. Collins, thank you. Mr.  
17 Raumberg did make a presentation that to the best of my  
18 recollection took some 40 or 45 minutes, both orally and in  
19 presenting certain printed materials that he had reproduced  
20 for us.

21 I believe that what I had indicated to the  
22 representatives of CLRA when we concluded our meeting on June

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1 25 was that we would devote up to an hour of this the first  
2 substantive item on our agenda at our next meeting, today's  
3 meeting.

4 So, I think we are looking at a maximum of an hour,  
5 Mr. Collins. I don't know that the representatives are  
6 prepared to take that much time necessarily.

7 We are also in a bit of an awkward position in the  
8 sense that while on May 17 Mr. Wear spoke of the possibility  
9 of a reduction in funding or a punitive reduction of up to  
10 9.95 percent, he made no specific recommendation. Ms. DiSanto  
11 up to now has made no specific recommendation. And depending  
12 in part what happens with the selection of a new president yet  
13 today, either Ms. DiSanto or her successor as the new  
14 president probably will make the specific recommendation which  
15 would be anything from nothing to 9.95 percent.

16 So, that keep in mind as these representatives make  
17 their presentations that they are simply providing both the  
18 board and at this point the interim president, Ms. DiSanto,  
19 with their response, their oral response combined with their  
20 written response as it already exists to Mr. Wear's letter of  
21 May 17.

22 MR. COLLINS: So, Mr. Chairman, this is, therefore,

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1 an informational item only. No action will be taken by the  
2 board today.

3 CHAIRMAN WITTGRAF: That is correct.

4 MR. COLLINS: Thank you.

5 CHAIRMAN WITTGRAF: Further comments before we  
6 begin?

7 (No response.)

8 CHAIRMAN WITTGRAF: Gentlemen?

9 MR. GLICK: Thank you very much. We appreciate the  
10 opportunity to provide the information today. I think you  
11 have outlined, Mr. Chairman, the basic situation. Let me add  
12 to that, again our thanks for the opportunity to talk to you.

13 And our recognition that you, too, are pressed for  
14 time this morning. We have organized approximately a 15  
15 minute presentation, some of that nature. We would be  
16 delighted to entertain questions during the course of that  
17 presentation on any matter that we cover.

18 But expect that we can conclude in that period of  
19 time what we would like to say and devote the rest of the time  
20 to any thoughts you might have as clearly we are interested in  
21 responding to what is on your mind as opposed to you just  
22 sitting and listening to what we otherwise would say.

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1 I would add finally that I was on the phone with the  
2 Chairman and with Ms. DiSanto between the last meeting to talk  
3 about whether this was the appropriate meeting to make this  
4 presentation or whether a later point would be appropriate,  
5 and was asked that we do it now so both the staff and the  
6 board could simultaneously hear the matters that we are  
7 presenting.

8 So, what I propose then to do is give the board and  
9 the staff a brief outline of what CRLA is and that will  
10 probably take the least amount of time in the presentation.  
11 But I think you should have a little picture of the program.  
12 Second, the cases that are at issue here, the facts that  
13 relate to it. Third, our view of the application of the  
14 restriction in question to those facts. Finally, as i have  
15 talked to both the Chair and the staff, a suggested resolution  
16 that the board might take into account at the appropriate time  
17 to this matter.

18 I have given you a handout. The handout is not new  
19 information. It is simply for your convenience. As we are  
20 going along, I want to refer to matters you have had  
21 previously, but rather than try and dig through a mass of  
22 materials to find it, I thought it might be convenient simply

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1 to have in front of you that which we are talking about at  
2 that moment in time.

3 Okay. Then as promised, a moment on the nature of  
4 the California Rural Legal Assistance. CRLA is one of the  
5 oldest grantees of the Legal Services Program. It was funded  
6 by OEO in 1966. So, next year will be its 26th year in  
7 existence. It was the first state-wide program ever funded.

8 It stretches from El Centro, which covers El Centro,  
9 Colexo, towns right on the Mexican border in Southern  
10 California up to Marysville. A stretch of about 700 miles.

11 It provides services in 27 or 28 California counties  
12 out of 15 different offices. It reports annually 20,000 to  
13 23,000 range of client cases. Clients that it has either  
14 served or helped to get service elsewhere.

15 It has a basic budget of \$3-and-a-half million from  
16 this Corporation and receives migrant funds as well. It  
17 receives State of California trust funds of approximately a  
18 million or a million-two, in that range, depending on which  
19 year you are talking about.

20 Historically, its emphasis has been in four fields:  
21 Education, employment, health and housing. That has continued  
22 to be the priorities which the program has served across its

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1 years. There is a very heavy Spanish speaking clientele being  
2 situated as it is in rural areas of California.

3 It has a representation for excellence. I think one  
4 richly deserved. It has won 19 of 21 cases that it has been  
5 involved in before the California Supreme Court. It received  
6 the first annual reward from then OEO as the outstanding legal  
7 services program in the country.

8 I wanted to mention briefly just to give a little  
9 flavor and examples of some of the cases that fit these  
10 priorities. This will take about a minute, but I think it is  
11 worth doing.

12 One example of the kind of matter to which CRLA has  
13 paid attention is in the education area. CRLA found that  
14 through a group of clients out of its Soledad office that  
15 children were being placed in classes for the mentally  
16 retarded through the use of English only IQ tests.

17 Examination indicated that 25,000 such children in  
18 California were misplaced in those classes. An action was  
19 brought. It was successful. And a program was adopted across  
20 the school districts to transition children misplaced on the  
21 basis of tests which they didn't understand the language of  
22 back in two regular classes. That case took several years

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1 from the beginning to resolution but is an example of some of  
2 the emphasis.

3 A second case that wa brought just last year in  
4 Colexo is another example. There 23 former farmworkers were  
5 living in the Hotel Colexo. They were age 70 to 90. They  
6 were a mutual support group of elderly, some of them disabled,  
7 but it was an alternative to nursing home living for them.

8 The city made a decision that they wanted to use the  
9 hotel for other purposes and without pursuing eviction  
10 proceedings announced to the tenants that they would need to  
11 leave and when they resisted they cut off the water to those  
12 units.

13 An action was brought. Settlement proceedings then  
14 ensued and it was agreed with the city, we will move the  
15 tenants to some motels. The city will pay that rent in the  
16 motels while developing housing, which was in the works, and  
17 then move the tenants to that housing. That was agreed.

18 They were evacuated to the motels and then two weeks  
19 later the city came in and evicted the tenants from the  
20 motels. A temporary restraining order was obtained by the  
21 court. They were able to remain, these elderly individuals,  
22 in that housing and then ultimately the new housing was

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1 constructed and they were successfully in there.

2 Now, one reason I bring this to your attention is  
3 that success, which CRLA has had, has brought over the years  
4 scrutiny. CRLA historically is probably the most scrutinized  
5 program that has been funded. First by OEO and later by the  
6 Legal Services Corporation. It has had many audits.

7 So, in addition to the tradition in CRLA of being  
8 successful there is a tradition of being very careful to  
9 comply with rules and regulations. It is an important  
10 priority in CRLA. They try their best to pay very close  
11 attention to what the rules are and to comply with them  
12 because they know they are going to be scrutinized.

13 So, with that background, let's look at the matters  
14 that are at issue here. The first is the Lickness litigation.  
15 I think it is fair to say at least in terms of the letter that  
16 was received from former President Wear that the Lickness or  
17 family planning litigation was basically the center at least  
18 of what was addressed.

19 So, family planning is a federally mandated service.  
20 The United States Congress in passing its statutes regarding  
21 Medicaid and other services denominated 21 possible options  
22 for states. 21 possible services. 16 of them are optional, 5

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1 of them are mandatory.

2 One of the mandatory services provided for in that  
3 statute, which I have brought and can refer to if it is  
4 important, is family planning services. So, states are  
5 required to provide that service.

6 The services themselves we set out in the letter. I  
7 am mindful that we sent you a long letter. We tried very hard  
8 to respond on the merits to the concerns that were raised in  
9 Mr. Wear's letter. I know at least a month has elapsed since  
10 we sent that letter. I know it was long to begin with and  
11 that is why I am taking a moment to touch on it. I don't  
12 mean, however, to go over matters in too long a length that  
13 you have had an opportunity to consider.

14 The services involved in this federally mandated  
15 program include a comprehensive initial and periodic  
16 physicals. Something, 98, 99 percent, I believe the  
17 statistics are, of persons who are served by family planning  
18 are women, childbearing age women.

19 Some 500,000 patients annually, mostly poor women,  
20 this is their point of entry into medical services in the  
21 State of California. Statistics showed something like 2,000  
22 pap smears a week in just Los Angeles as part of the services.

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1 Services provide early detection for cancer and  
2 sexually transmitted disease. There is a high rate in the  
3 program of detection of these diseases and of successful  
4 treatment. Again I believe it was in Los Angeles, there is a  
5 report of 19,000 individuals successfully treated.

6 They provide basic health education. Of course,  
7 they provide contraceptive services as the name implies. They  
8 provide education on prenatal care. They provide pregnancy  
9 testing, counselling and referral services.

10 The first matter in the handbook that I wish to  
11 refer you to is the copy of the California family planning  
12 legislation. That is item A in your handout. I simply want  
13 to point out to you that the Bill itself from the California  
14 legislature provides in something like 8, 19 or 10 places its  
15 own very strict definition that family planning money excludes  
16 abortion, pregnancy testing solely for the purpose of referral  
17 for abortion, advertising, use of funds, co-mingling, and I  
18 won't go through each and every item.

19 But you will note there, and I pencil marked it on  
20 the left-hand side, the clarity with which the California  
21 legislature wanted to separate out using funds for abortion or  
22 related activities from the activities of family planning,

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1 which they were enacting and which they were asking to be  
2 provided again in accordance with what is required under  
3 federal law.

4 This bill from its inception enjoyed widespread  
5 bipartisan support in the California legislature. It, like  
6 many matters, has its opponents, but you should know that  
7 ultimately it was enacted by a 65 to 8 vote in the California  
8 assembly and a 35 to 4 vote in the California senate. That is  
9 its ultimate enactment. Earlier on it had similar widespread  
10 support, but not quite at that breadth of numbers.

11 As I think you know, the governor exercised his line  
12 item veto. In California, the governor can go in and on a  
13 line he can veto the whole matter or he can reduce funding.  
14 In this case the California governor reduced the funding by  
15 two-thirds or \$24 million.

16 CRLA's plaintiffs in this matter -- and I did  
17 mention at the end of the last hearing that I believed that  
18 the speaker was mistaken as to who CRLA's client was.

19 CRLA's clients were a Ms. Rose Butterfield, a 25-  
20 year-old woman, who had been diagnosed with a pre-cancerous  
21 cell abnormality and was receiving family planning services.  
22 She had a high risk of cervical cancer. After the cut she was

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1 denied service.

2           The second plaintiff was Mary Ann Ray, she was the  
3 parent of six children, her physician recommended  
4 sterilization given her physical condition at that time. She  
5 would have been eligible prior to the cuts and was not  
6 eligible for family planning services after the cuts.

7           The lawsuit was brought on behalf of those  
8 plaintiffs by CRLA. It was successful. As it seems looking  
9 at the pleadings, that it would be successful. It is a  
10 federally mandated service. If you are going to have a  
11 California program or a Hawaii program, or an Idaho program,  
12 or wherever you are, you must have this federally mandated  
13 service.

14           The litigation was brought and it was successful.  
15 The funds were restored and health services for these  
16 plaintiffs and others were resumed.

17           Another problem raised by President Wear in his  
18 letter to CRLA is as follows: Approximately two percent of  
19 family planning -- at best, our number, I don't know the  
20 number. In San Luis Obispo it was two percent, but it is in  
21 that range. -- of the services provided in family planning  
22 involves pregnancy testing, counselling and referral.

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1           President Wear points out that at the point of  
2 counselling, even with the restrictions in this statute, women  
3 can be advised of all their options, which include adoption  
4 and abortion. If the woman then seeks a referral, the woman  
5 can be referred to an agency which performs abortions or which  
6 aids in adoptions, or whatever the effective service is.

7           Therefore, the letter argues that since the case was  
8 brought to restore money to family planning and family  
9 planning services would include at some point consultations.  
10 So, somebody might be told of their options and then that  
11 individual having been told of their options might get a  
12 referral to a place and ultimately have an abortion.

13           Presumably here, someone who otherwise would not  
14 have found their way to this without that information at the  
15 counselling point and without the referral. That, therefore,  
16 the restoration of dollars to the family planning program  
17 could result down the line in an abortion and, therefore, it  
18 is a restricted activity in violation of the federal rules.

19           I will come back in a moment to what I think is a  
20 crucial matter. That is to point out vividly to this board  
21 that CRLA never in its wildest dreams imagined that such an  
22 interpretation would be made. And that, in the final

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1 analysis, one question here before all of you always is when  
2 you are going to exact a punishment on someone, when you are  
3 going to fine them \$150,000 or \$250,000, or some other number  
4 of that magnitude, it ought to be because you need to bring  
5 them into line.

6 As I will point out in a moment, the statute under  
7 which such a penalty can be exacted requires that kind of  
8 finding. So, whether or not you ultimately decide that this  
9 activity, in fact, is a violation of the restriction, I think  
10 you have to find that CRLA sure didn't know that it was or  
11 believe for a moment that it was.

12 The next item in your handout is, in fact, the  
13 restriction in the Legal Services Act. That is your item B  
14 and as I am sure you are all well aware, the section, the  
15 appropriate section, refers to providing legal assistance with  
16 respect to any proceeding or litigation which seeks to procure  
17 an abortion. It goes on to talk about institutions, against  
18 their will and so on. But that is not involved here. What is  
19 involved is whether or not this, the Lickness case involved an  
20 action to procure an abortion.

21 Now, of course, neither Ms. Butterfield, nor Ms.  
22 Ray, was seeing an abortion. In fact, as pointed out both

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1 were opposed. Both had had between them seven children.

2           There is no mention in the pleadings or the briefs  
3 in the matter by either the state or by CRLA or by any other  
4 parties of an issue related to abortion. In fact, the only  
5 mention in support of family planning is that family planning  
6 reduces unwarranted pregnancies and, therefore, as a matter of  
7 timing reduces the demand for abortion. That is the sole  
8 reference in the papers of the case to abortion.

9           Of course, the statute itself, as we have already  
10 pointed out, has brought restrictions against abortions.

11           MR. SUAREZ: Excuse me, Mr. Chairman, to protect the  
12 record. Did you say "unwarranted" pregnancies?

13           MR. GLICK: I'm sorry. "Unplanned" pregnancies, not  
14 "unwarranted." My mistake.

15           MR. SUAREZ: Thank you.

16           MR. GLICK: So, one then has to examine the logic of  
17 saying, well, if there is counselling and if there is referral  
18 even though direct action is restricted, that fits within the  
19 restriction. We would point out as we pointed out in our  
20 letter that that -- if that logic is followed, if that is to  
21 be the sweep of this restriction, then any time you represent  
22 somebody who is seeking to become eligible for Medicaid, as

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1 soon as you are eligible for Medicaid, you are automatically  
2 eligible for family planning. It is a mandated service.

3 So, an action to help somebody get Medicaid is an  
4 action that qualifies them for family planning, which  
5 qualifies them for referrals, which would be restricted under  
6 this logic. The same is true literally of public assistance,  
7 because if you are eligible for public assistance, you are  
8 automatically eligible for Medicaid. Medical is what it is in  
9 California, but Medicaid. Therefore, automatically eligible  
10 for family planning.

11 I think what would be helpful is to stand back away  
12 from perhaps some of the emotion that has swirled around this  
13 issue and examine this in terms of what the law really is  
14 here. The law speaks to actions to procure an abortion.

15 Until late 1988, legal services programs -- there  
16 were some 72 actions around the country directly affecting  
17 abortion. Actions to remove the parental consent requirement.  
18 You are familiar with those. Actions to provide direct  
19 funding to directly perform abortion.

20 Until Mr. Shea wrote his letter in late 1988, legal  
21 services programs understood that consistent with this  
22 restriction, those actions could be pursued because they were

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1 to restore funds rather than start a new matter. Mr. Shea  
2 clarified in late 1988 that that was not a proper  
3 interpretation any longer of this restriction.

4 But he said that since there was an ambiguity before  
5 that point in time that up till October 1988 any actions legal  
6 services programs had taken at that point would not be  
7 punished. It was only going to be applied prospectively.

8 So, given all of that, I think you can -- while we  
9 leave to the board what we think is a critical policy  
10 question, and that is solving for legal services programs out  
11 there just what is going to be the scope of the restriction.  
12 I am sure the programs can comply with whatever the scope is  
13 that is described.

14 But I think we are now in an area with the proposed  
15 interpretation by Mr. Wear where some lines need to be drawn  
16 so everybody clearly understands is it all right to represent  
17 somebody who is seeking to get Medicaid. Where is the line  
18 precisely?

19 But what is, of course, involved for CRLA today, and  
20 I mean today or in the near future here, is this question of  
21 whether or not it should be sanctioned for bringing the  
22 Lickness litigation. I call to your attention the next

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1     handout.

2                     That is the section under which these ten percent  
3     cuts that the board has considered in the past is authorized.  
4     If it is authorized at all, of course. And we well know that  
5     there is -- you met with Texas Rural and there was a dispute  
6     about that, and that is being litigated. I don't intend to  
7     get into that dispute. The record is clear on that and  
8     whatever will happen will happen.

9                     But even assuming that the power exists to sanction  
10    without a hearing then the requirement that -- I checked with  
11    Ms. DiSanto and she confirmed what is in the letter, that this  
12    is the section under which such a cut would be authorize --  
13    for good reason requires that the recipient has persistently  
14    or intentionally violated the act and after notice or after  
15    notices failed to take appropriate action.

16                    So, the section requires two things, persistent or  
17    intentional misbehavior, misconduct. And, secondly, an  
18    opportunity to correct, that is some sort of notice and, look,  
19    what are you doing and let's stop.

20                    CHAIRMAN WITTGRAF: Let me interrupt you, Mr. Glick.

21                    MR. GLICK: Yes.

22                    CHAIRMAN WITTGRAF: Prior to the May 17, 1990,

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1 letter was anything sent to Mr. Padilla or to CRLA regarding  
2 this concern?

3 MR. GLICK: No, in fact, the CDRR case had been  
4 audited specifically. That is to mean something like the time  
5 of the CDRR case, which I will touch on in a minute, had been  
6 started, there had been three separate reviews of CRLA during  
7 the period before Mr. Shea's letter and nothing had been  
8 raised in regard to these matters before that.

9 I mean the only think that arguably is out there is,  
10 of course, Mr. Shea's letter in October was sent to every  
11 recipient and they were aware of that.

12 CHAIRMAN WITGRAF: October of 1988.

13 MR. GLICK: 1988; correct.

14 CHAIRMAN WITGRAF: So, that between the October,  
15 1988, letter from Mr. Shea as counsel for the Corporation and  
16 the May 17, 1990, proposed reduction letter from Mr. Wear  
17 nothing was sent to, no request was made for coming into  
18 compliance?

19 MR. GLICK: No. In fact, one of the ironic things  
20 here is that, of course, the CRLA had ample California state  
21 monies which are unrestricted in this respect. It was like a  
22 million dollars available. If the CRLA had the remotest

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1 notion that the Lickness case was implicated by this  
2 restriction, it could certainly have had the option to go  
3 ahead and fund it with state monies.

4           In fact, as we point out in our letter in regard to  
5 the CDRR matter, two years before the Shea letter, CRLA when  
6 it saw the authorization language which was passed in 1986,  
7 which says no litigation with respect to abortion, decided --  
8 although other programs went ahead with the course and used  
9 federal funds for that type of litigation, CRLA decided that  
10 to make sure it was in compliance with the law that it would  
11 use state funds from that point forward to fund that  
12 litigation.

13           So, again, if the examination is was CRLA trying to  
14 do what was right in terms of what the law requires, I think  
15 the record is very, very clear that they were. If, in fact,  
16 it turns out that it was -- it is inappropriate, that Lickness  
17 falls on the right side of the line, then that needs to be  
18 clarified. But if that is the answer, then to go ahead and  
19 take \$150,000 or \$350,000 away from the program for that I  
20 think sets a precedent of a different kind.

21           In fact, what I wanted to point out was that there  
22 is a second option. You had asked me again to comment on this

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1 when we spoke on the phone. There is an audit recapture  
2 provision in the code that doesn't require persistent  
3 intentional conduct. This is a penalty provision.

4 But the LSC audit teams can come in and say this is  
5 a question cost. We don't believe this cost was appropriate.  
6 Here something like \$12 to \$15,000 was spent on the Lickness  
7 matter in total, including staff salaries, overhead, rent  
8 allocation and the like.

9 Ms. DiSanto had asked me for a computation of that.  
10 I sent it to you. I trust you received it. Of course, if  
11 there is some disagreement about it we are open to working  
12 with the Legal Services Corporation to resolve a fair formula.

13  
14 CRLA has offered, despite the fact that it believed  
15 and believes that its action was appropriate that if it would  
16 resolve this matter and Legal Services Corporation felt that  
17 the appropriate remedy here is to proceed under the audit  
18 provisions and recapture all the money spent on the Lickness  
19 matter, CRLA is quite willing to proceed to do that. And,  
20 again, we tried to make that clear in our letter, but have  
21 made it clear in direct communications with both the chairman  
22 and with the president.

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1           The last matter, which, as lawyers do, has taken  
2 more time than I thought, is the CDRR matter and again that is  
3 set out in your materials. The last thing in the materials is  
4 the State of California determination that the CDRR litigation  
5 was brought in accordance with client eligibility requirements  
6 and in accordance with fee generating case requirements.

7           I guess what I want to point out that is not perhaps  
8 in the materials, if you will, to point out to the board how  
9 this is -- I don't know if the right word is different from  
10 the Youth Law Center matter that you have considered, but the  
11 client in this case, in the CDRR case, is a client I think  
12 something like the one in Pennsylvania that, Ms. Love, you  
13 mentioned you visited.

14           The California Welfare Rights Organization is an  
15 organization comprised of welfare recipients. They have been  
16 a self-help group in California for years. A primary  
17 membership requirement is that you be a welfare recipient or  
18 had been a welfare recipient. While there are others who  
19 work with them, from all recollection, that group has been an  
20 indigent group for a long time.

21           So, they not only would qualify based on the fact  
22 that they would qualify period, as well as in their

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1 representative capacity. It is clear that in CDRR they were  
2 seeking no benefits for themselves as an organization, but for  
3 the affected individuals.

4 As I pointed out, two years before or three years  
5 actually before Mr. Shea ultimately sent his letter, CRLA had  
6 made a determination to fund that litigation with state funds.  
7 I would remind the board that even use of federal funds  
8 wouldn't have drawn a penalty through October of 1988, through  
9 the date of the Shea letter. CRLA was one step better than  
10 that, if you will. It had made its own decision not to use  
11 federal funds for that litigation before that date.

12 The state has made a determination that the clients  
13 were eligible. I am not sure what other questions the board  
14 might have about that, but having taken the time I have I  
15 would be delighted to respond to any questions or concerns  
16 that either the staff or the president might have, staff and  
17 president or board members might have about the matter.

18 CHAIRMAN WITTGRAF: Thank you, Mr. Glick. Mr.  
19 Padilla, will you -- fine. Mr. Hall?

20 MR. HALL: Could this case have been referred out?  
21 Were there no other groups that would have been interested in  
22 taking over that case? That was the one question that stuck

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1 in my mind.

2 MR. GLICK: No. The Lickness case -- well, first of  
3 all, let me step back. What occurs, I'm sure, in other  
4 states, besides in California is that there is cooperative  
5 relations on these major cases. It is for any one program to  
6 take on the whole of some of these major matters would be such  
7 a killing hit at their resources that cases like CDRR or the  
8 case I mentioned involving mentally retarded or school  
9 classes, or these major cases, are often cooperative  
10 arrangements.

11 And, in fact, that is how CRLA and other programs  
12 act to fulfill their requirement of private bar and other  
13 group involvement and sharing the handling of the cases. So,  
14 no, the clients in that case were eligible, it was necessary  
15 to have representation of the eligible groups, and the case  
16 was not of the fee generating tort law type case that a  
17 private counsel would take and expect to receive a fee for.

18 So, no. I am not sure that that was even  
19 questioned. CDRR was questioned in that regard, but I don't  
20 believe Lickness was.

21 MR. HALL: I understood that in one of the two cases  
22 there were some other organizations involved that were on the

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1 same side of the CLRA.

2 MR. GLICK: CLRA's clients.

3 MR. HALL: Yes.

4 MR. GLICK: Yes. It is CDRR.

5 MR. HALL: Okay.

6 MR. GLICK: That was true. It is also true, though,  
7 in Lickness there was a counsel that represented the San Luis  
8 Obispo -- I have forgotten the precise name, but there was a  
9 San Luis Obispo provider that was separately represented in  
10 terms of its interest, and then there was a doctor, as I  
11 recall, who was also a co-plaintiff in that case, who was  
12 privately represented as well.

13 MR. PADILLA: Mr. Glick, I would like to say that  
14 because initially we did not feel that this case, the Lickness  
15 matter had violated any federal regulation, we did what we  
16 generally do in cases that ultimately will require more  
17 complex litigation. That is we actually sought private  
18 attorney involvement, because this is one of those cases  
19 because it does have statewide impact.

20 It is a case that would attract, would be attractive  
21 to private attorneys. Because it is clear to us that state  
22 law prohibited the use of these funds for abortions and

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1 services ancillary to abortions, that we went out and sought  
2 private attorneys. Private attorneys did get involved with  
3 their own clients.

4 MR. SUAREZ: Mr. Chairman?

5 CHAIRMAN WITGRAF: Mr. Suarez?

6 MR. SUAREZ: You are with a private law firm, right?

7 MR. GLICK: That's correct.

8 MR. SUAREZ: Did you by any chance try the famous  
9 case, I forget the name of it, the one that apparently  
10 invalidated the state's or the governor's veto of or partial  
11 veto of legislation for family planning?

12 MR. GLICK: No. I had no involvement.

13 MR. SUAREZ: Was it a private law firm as far as you  
14 know that tried that case?

15 MR. GLICK: There was a private law firm. I can't  
16 remember where. But I believe representing the San Luis  
17 Obispo agency and the doctor. But I don't know.

18 MR. PADILLA: I think that Ms. DiSanto, I think, has  
19 that information of the other counsel involved, but the EOC  
20 clinic that was involved was represented by, I think it was a  
21 private female, a woman attorney, a Hispanic attorney, I can't  
22 recall her name at this time.

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1 MR. GLICK: Was she from San Luis?

2 MR. PADILLA: From the San Luis Obispo area.

3 MR. SUAREZ: And you said that the basis of the  
4 finding of the court was that family planning was one of those  
5 mandated services by federal law that if you provide the other  
6 service you must provide that one?

7 MR. GLICK: That's correct.

8 MR. SUAREZ: And because the governor reduces the  
9 funding by two-thirds from his own state budget, somehow under  
10 federal law, which I thought was directed at how to handle  
11 federal funds, not state funds, you argued successfully or  
12 rather California Rural Legal Assistance argued successfully  
13 that somehow that is against the federal regulation, which I  
14 thought was really administering and regulating the use of  
15 federal funds.

16 MR. GLICK: There are certain -- a broad area of  
17 discretionary funds available under the -- once one receives  
18 those federal funds and then there are the five basic mandated  
19 services, family planning is one. The governor could cut  
20 funds across the board by two-thirds and decide that we are  
21 going to, based on funding necessities in the state, we are  
22 going to fund at this level or he can fund at this level.

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1           But if he is going to fund at this level, then he  
2 must provide the mandated services to the persons covered at  
3 that level. I believe that is the way the court saw the  
4 matter. Yes.

5           MR. SUAREZ: Family planning seemed to include, from  
6 the way you were describing it, a variety of medical tests,  
7 medical procedures directed at preventing, let's say, cervical  
8 cancer, et cetera; is that correct?

9           MR. GLICK: That is included in the services; yes.

10          MR. SUAREZ: And that is by definition by the State  
11 of the California I guess. It doesn't sound to me like family  
12 planning to tell you the truth. But I mean you were pointing  
13 that --

14          MR. GLICK: You are right.

15          MR. SUAREZ: -- any reduction in family planning  
16 funds might affect those kinds of pap smears, et cetera, et  
17 cetera.

18          MR. GLICK: Correct. Under California law the  
19 services that are provided with family planning money, I am  
20 not familiar enough personally with federal law to tell you  
21 how much of those components are federally mandated.

22           But in terms of how the program works in California

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1 and I think why it has enjoyed the support it has had in the  
2 legislature in California is that it provides these services,  
3 this entry into the medical system for poor women services,  
4 which I described, as well as contraceptive services, which  
5 is, of course, I think, the original concept around family  
6 planning and the other services that we have mentioned.

7 MR. SUAREZ: It sounds like a bit of a misnomer. My  
8 question, Mr. Chairman, is really not so much at the  
9 prohibition from engaging in legal activities and litigation  
10 that might affect the ability, practical or legal, of someone  
11 to obtain an abortion, but the wisdom of the choice by CRLA of  
12 what kinds of matters to involve itself.

13 It sounds to me like CRLA -- you know, we might  
14 conclude, this board might conclude that CRLA ought to be  
15 using the funds, at least the funds that we give them, for the  
16 kinds of litigation and legal services that are more needed  
17 than getting involved in a situation of trying to tell the  
18 State of California how the governor's veto power should be  
19 used.

20 And then having, when we deem proper, to possibly  
21 reduce some of the funding of the agency retrospectively or  
22 prospectively, having to pay private legal counsel to come

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1 with taxpayers money again to try to tell us that we can't  
2 tell them what funds to use and that they can, in turn, use  
3 whatever funds they obtain, including those from us, to try to  
4 tell the State of California how to run its family planning or  
5 medical services.

6 Is there any other alternative for us than to get  
7 involved in this restriction that is in the federal law as to  
8 litigation and legal service to do with abortion? I mean can  
9 we just simply conclude that it is not very wise for this  
10 agency to get involved in these kinds of cases and suggest to  
11 them by our funding discretion that at least prospectively  
12 they engage themselves in the kinds of cases that we think are  
13 most important to the poor community?

14 CHAIRMAN WITTGRAF: I believe at either our April or  
15 May meeting, Vice-President and General Counsel Shea provided  
16 us with a memorandum and we had some discussion at the board  
17 meeting about alternative reprimands, alternative actions,  
18 including penalty options.

19 In fact, the strongest thing that can be done  
20 without a formal de-funding procedure is a reduction in funds  
21 up to ten percent, just beyond the 9.95 percent maximum  
22 proposed by Mr. Wear in his May 17 letter.

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1           There certainly are many possibilities and the  
2 regulation itself, excuse me, the law itself suggests the  
3 possibility. That is why I inquired earlier about what  
4 reprimand or request for compliance had been made, if any,  
5 between October 1988 and May of 1990. Apparently none.

6           Again, let me go on for just a moment. This is  
7 something that we discussed quite a bit at the May meeting  
8 with the Texas Rural Legal Assistance where a comparable thing  
9 was done. A 9.95 percent punitive defunding letter was sent  
10 to Texas Rural Legal Assistance because of its involvement in  
11 different types of matters.

12           Mr. Wear ultimately made a recommendation of  
13 \$150,000, which was in the neighborhood, I think, of 3 to 4  
14 percent. The board discussed that some. There was an  
15 alternative proposal before the board that didn't pass. A  
16 reduction in funding of \$150,000 went through and Texas Rural  
17 Legal Assistance has now filed suit against the Legal Services  
18 Corporation accordingly for a variety of things having to do  
19 with that.

20           There are many, many options and I think what we as  
21 a board will be looking for is a recommendation from the  
22 president as to the appropriate action. The alert was the May

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1 17 letter. CRLA is now in the process of completing its  
2 response to that letter and an action will be proposed by the  
3 president.

4 The board can review that action, can suggest other  
5 action if it wishes or let the action go forward. We also get  
6 into a very sensitive area that is not clearly spoken to in  
7 the law that we discussed at some length in May and that is  
8 whether or not once that action is taken by the president and  
9 by the board, either by acquiescence or by affirmative action,  
10 what, if any, appeal right exists. I don't think that is  
11 clear in the law unfortunately and that is part of the basis  
12 for the TRLA lawsuit.

13 So, with that background, the answer to your  
14 question is there are many other options. At this point, in  
15 light of the action initiated by Mr. Wear, we are looking to  
16 the president to take an action which we as a board will be  
17 aware of and will either let stand or will review further.

18 I am not sure that we will get into a full blown  
19 appeal hearing because of the position we took in May  
20 regarding TRLA. We are on record unless the court tells us  
21 that we are in error or the law changes in the meantime.

22 MR. SUAREZ: I guess I have just one last question.

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1 It is really kind of a policy question. Perhaps the director  
2 could answer it. But in view of these legal wranglings  
3 between us and your agency, do you now feel as a statement of  
4 future purpose and policy that it might be worthwhile to  
5 engage in all of the other kinds of legal services and  
6 litigation and so on that could serve the poor people of  
7 California in your specific target group and avoid litigation  
8 such as this?

9 I mean is this something that you have considered  
10 within your agency and have made any conclusions that would be  
11 worth stating to this board so that we have an idea of how you  
12 prioritize them for future funding decisions? I am, frankly,  
13 not persuaded at all that we have any right whatsoever to  
14 impose any penalties retroactively, nor that we have followed  
15 any procedures.

16 But I would hope that from all of this would at  
17 least come some sort of a statement that you do recognize a  
18 whole host of other kinds of legal activities you can involve  
19 yourselves in that this board as a matter of policy and that  
20 the act as a matter of law envisions to be the ones that we  
21 think are most profitable.

22 Instead of being constantly suing governments and

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1 taking public monies, federal public monies, to sue state  
2 governments who in their wisdom and by their own charters and  
3 their constitutions have acted in a particular way, and I  
4 would hope that if you can make a statement to that effect,  
5 that would certainly ease my mind a great deal and maybe that  
6 of some of the other board members.

7 CHAIRMAN WITTGRAF: Mr. Padilla?

8 MR. PADILLA: I have to begin by saying that as a  
9 matter of policy CRLA does not get into any litigation that  
10 ultimately -- we don't begin litigation by asking ourselves  
11 whether or not it is going to be something that will  
12 ultimately threaten our funding. I mean we, as a matter of  
13 policy, we begin with what we believe to be the effect on  
14 clients.

15 This has been an example of a case where it was  
16 clear to us that it was a question of primary health care.  
17 So, that we begin and end with the interest of the client.

18 We have known for many years that state governments  
19 are wise in many ways, but we also know that at times our  
20 client's interests are not always primary when it comes to the  
21 various interest that governments have to weigh.

22 I cannot say that we will never in the future sue

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1 state government, because we believe that if the actions that  
2 government takes are against the interest of our clients,  
3 farmworkers or the poor, we have a beauty and responsibility  
4 to look out for their interests. That is what the money is  
5 there for.

6 We always look to our ability to serve them in the  
7 most effective of ways. This particular case was one where we  
8 expended \$12,000 and obtained \$20 million of primary health  
9 care.

10 So, that in the future we will be looking, you know,  
11 to our interest, to our client's interest first. As a matter  
12 of policy we don't always begin by saying let's go after the  
13 big boys. As Mr. Glick mentioned in the examples, the cases  
14 that CRLA primarily does in 80, 90, 95 percent of its cases  
15 affect individual clients. It is one of the few that affect  
16 large entities.

17 I think we can lose sight of that because those  
18 large cases are the ones that are seen as being controversial.  
19 But yet those are the cases that are in the minority of the  
20 cases that CRLA brings.

21 MR. GLICK: Let me just add one point if I may. We  
22 have imposed upon your time and we appreciate enormously the

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1 opportunity to talk to you about what we think the merits of  
2 this particular controversy are and the merits of a proposed  
3 penalty, if any.

4 That is for 25 years the heart and soul of the legal  
5 services program has been the original concept that what you  
6 are providing here is the opportunity for people to have  
7 access to resolution of grievances in a peaceful fashion.

8 The money is provided so that poor people have the  
9 same access to courts to challenge what their landlord does or  
10 what their neighbor does, or what their county does, or the  
11 state or the Congress or the president. Not that they can  
12 turn it around by themselves.

13 But they can bring to the courts for fair resolution  
14 their grievance that the state has acted inconsistent with the  
15 federal law if that is the truth. Or that a county has acted  
16 in a way, or that the bill, and this is the heart in most of  
17 the cases, they have got a bill and they can't pay and maybe  
18 or maybe not there were representations, or the car is being  
19 repossessed, or they are being thrown out of their home, that  
20 is the majority of it.

21 But the heart and soul of the program which was  
22 challenged early on and historically has been strongly

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1 supported is the right of the poor people to bring their  
2 challenge. Then it gets resolved on the merits. If the  
3 governor acted properly or the senate or the congress or the  
4 neighbor, then the CRLA's clients will lose. But they will  
5 have their day in court.

6 They ought to feel, they don't always, but they  
7 ought to feel, well, I had my chance, I got my grievance heard  
8 and I wish it had come out differently, but I got my grievance  
9 heard. What is inappropriate, I think is what legal services  
10 money is all about, is that you have a grievance and you have  
11 no way to bring it forward and get a neutral resolver to  
12 attack your grievance.

13 Here, of course, the case was successful, because  
14 successful cases breed a lot of opposition if the other side,  
15 which wishes it would have won, is unhappy about it.

16 But the fundamental question here is CRLA. I hope  
17 you understand from the facts, CRLA acted in accordance to  
18 what it thought was right. If, in fact, what it did was  
19 inconsistent with the restriction and that is clarified, they  
20 will absolutely follow the restriction to the letter. That  
21 has been their history and they will do so.

22 But to impose a penalty, a fine, when, in fact, they

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1 acted in accordance with what they thought was right, not  
2 flaunting it to do something wrong, in fact, went out of their  
3 way to move funds out of federal funding and have offered, and  
4 we still offer to take this \$15,000 and not federally fund it  
5 to resolve this matter.

6 We hope you will consider all of that at the  
7 appropriate time when the matter is ripe in the right way in  
8 reaching your decision. We thank you again very much for your  
9 time.

10 MR. COLLINS: Mr. Chair, one quick question.

11 CHAIRMAN WITTGRAF: Mr. Collins.

12 MR. COLLINS: The letter that Ms. DiSanto sent to  
13 you May 17th, you haven't responded to it?

14 MR. GLICK: No, the letter -- you mean Mr. Wear's  
15 letter?

16 MR. COLLINS: The last letter you got May 17th of  
17 this year. Did you get a letter?

18 MR. GLICK: Yes, we sent to every member of the  
19 board and to the staff a 40 some page letter.

20 MR. COLLINS: Okay.

21 MR. GLICK: Yes. But there is to my knowledge no  
22 other unresponded to letter.

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1           CHAIRMAN WITTGRAF: A formal response, I think,  
2           dated June 7, 1990, Mr. Collins. I believe we have copies of  
3           that.

4           Further questions or comments?

5           (No response.)

6           CHAIRMAN WITTGRAF: Thank you, gentlemen. I think  
7           the comments I made in response to the question raised by Mr.  
8           Suarez tells us where this matter stands. It is now to Ms.  
9           DiSanto as the president to make a recommendation of which we  
10          will be aware at our next board meeting and we will review it  
11          if we choose.

12          At this point, the board does not view itself, I  
13          don't believe, as a board of appeal should that matter be  
14          something not to your liking. If at some point a court tells  
15          us that we are to serve as a board of appeal, then we may have  
16          to do that. But I suspect for the time being we will remain  
17          consistent with the position we took regarding TRLA in May.

18          MR. GLICK: Well, for our point, we are fully  
19          available to Ms. DiSanto to talk on the phone and try and  
20          resolve this in any way that would be useful. If it is  
21          appropriate, we will or won't call you as to what we might  
22          suggest. But we appreciate what you have told us.

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1 Thank you.

2 CHAIRMAN WITTGRAF: Thank you for enduring the  
3 inconvenience of being here twice. We appreciate your  
4 cooperation.

5 At this time, the Chair is prepared to entertain a  
6 motion that the board retire to executive or closed session  
7 for the purpose of considering pending litigation and for the  
8 purpose of interviewing four candidates for president of the  
9 Legal Services Corporation and for the purpose of deliberating  
10 over the choice for the selection of a new president of the  
11 Legal Services Corporation.

12 MR. COLLINS: Mr. Chairman?

13 CHAIRMAN WITTGRAF: Mr. Collins.

14 MR. COLLINS: Is it possible that we might want to  
15 devote 30 minutes to item number 7, a discussion and  
16 consideration of reauthorization mark up and reform proposals?

17 CHAIRMAN WITTGRAF: I don't believe so. I am sorry,  
18 Mr. Collins. I guess going back to what I said when we began  
19 with the agenda, we have four 90-minute interviews scheduled  
20 and a lunch break as well. We also have some other matters in  
21 addition to the interviews in closed or executive session.  
22 Combined with the fact that I am not sure 30 minutes would be

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1 enough for us to discuss item number 7. It is the Chair's  
2 belief that we need to go on and to pick that up.

3 MR. COLLINS: Let me ask a follow up question.

4 CHAIRMAN WITTGRAF: Yes, sir.

5 MR. COLLINS: Do we anticipate taking up this item  
6 today before we conclude business?

7 CHAIRMAN WITTGRAF: It certainly is the Chair's  
8 expectation that we will. Yes, sir.

9 MR. COLLINS: All right.

10 CHAIRMAN WITTGRAF: The Chair is prepared to  
11 entertain the motion it described.

12 M O T I O N

13 MR. GUINOT: So moved.

14 MR. SUAREZ: Second.

15 CHAIRMAN WITTGRAF: It has been moved by Mr. Guinot,  
16 seconded by Mr. Suarez. Is there a discussion?

17 (No response.)

18 CHAIRMAN WITTGRAF: Hearing none, those in favor  
19 signify by saying aye.

20 (Chorus of ayes.)

21 CHAIRMAN WITTGRAF: Those opposed, nay.

22 (No response.)

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1           CHAIRMAN WITTGRAF: The ayes appear to have it. The  
2 ayes do have it. At this point, the Chair asks that all of  
3 our guests retire. Before they do, let me just comment that  
4 it is the Chair's expectation that we will be in executive  
5 session not only through the lunch hour, but through the  
6 dinner hour, and at a minimum until 8:00 p.m. or perhaps  
7 later. 8:00 p.m., I suspect will be the earliest that we will  
8 be returning from executive session. Just to try to guide you  
9 in your schedules for the rest of the day.

10           Having said that, the Chair asks that all of our  
11 guests and all of our staff members, with the exception at  
12 this time of the board secretary, the president and the vice-  
13 president and general counsel, excuse themselves from the  
14 room.

15           (Recessed to Executive Session.)

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