

1 LEGAL SERVICES CORPORATION

2 - - -  
3 MEETING OF THE BOARD OF DIRECTORS

4 - - -  
5 Room 405  
6 Marvin Center  
7 The George Washington University  
8 800 Twenty-first Street, N.W.  
9 Washington D.C.

10 - - -  
11 March 2, 1978

12 The Board met pursuant to Notice, at 9:00 a.m.,  
13 Roger C. Cramton, Chairman, presiding.

14 BOARD MEMBERS:

- 15 ROBERT J. KUTAK  
16 J. MELVILLE BROUGHTON, JR  
17 REVIUS O. ORTIQUE, JR  
18 GLEE S. SMITH, JR  
19 HILARY RODHAM  
20 CECILIA ESQUER  
21 STEVEN ENGELBERG  
22 RICHARD TRUDELL  
23 JOSEPHINE WORTHY  
24  
25





1 PRESENT:

2 THOMAS EHRLICH, President

3 E. CLINTON BAMBERGER, JR., Executive Vice-President

4

5 STAFF MEMBERS:

6 Barbara Sard, Buck Hennigan, Charles Jones, Alice  
7 Daniels, Alan Houseman, Dick Carter, Steve Walters.

8

9 ALSO PRESENT: David Levy, De Miller, Bernie Veney

10 David Levy, De Miller, Bernie Veney, Henry Freedman,  
11 Raphael Gomez, David Madway, Paul Nathanson, Robert MsKay,  
12 Millard Ruud, Peter Liacouras, Joseph Harbaugh, Edgar Cahn,  
13 Susanna E. Bedell, Mary Ellen Hamilton.

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1 MR CRAMTON: All those opposed, no.

2 (No response.)

3 MR CRAMTON: The record will show unanimous vote  
4 of all Board members in favor of the motion.

5 MR BROUGHTON: Now, Mr Chairman, at the meeting last  
6 night Mr Bamberger and Mr Hennigan were there and you have at  
7 your place here, I hope you do, some documents that we had  
8 last night, which we discussed -- at least to some extent.

9 By way of information and by way of opportunity for  
10 Committee members and others present at the meeting to inquire  
11 about. So if there is agreement, I would like for Mr Bamber-  
12 ger and Mr Hennigan in whatever order they choose to go through  
13 these and within reason of course, seek the questions of the  
14 Board members at this point.

15 MR BAMBERGER: Let me just say what the three docu-  
16 ments are and then Buck can respond to any questions that you  
17 have or go into more detail.

18 The first is the Consolidated Operating Budget for  
19 Fiscal Year '78. That is the total budget for the year.

20 Second is the Budget Review Worksheet of both Grants  
21 and Contracts, as well as expenses for the quarter which ended  
22 December 31, 1977.

23 And the last is the Direct Expenses only for that  
24 quarter. This does not include the Grants or Contracts but  
25 the direct administrative expenses that were incurred by the

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1 ahead of that and a few go a few days later and you see a very  
2 significant drop at the end of March, again, in the next bud-  
3 get.

4 There are only two minor adjustments in the budget  
5 that the Board approved at the December 10th meeting. A move-  
6 ment of 35,000 dollars and a movement of 18,000 dollars, sim-  
7 ply to correct some slight inaccuracies in my allocations of  
8 the balances carried forward.

9 And they are basically technical changes and mainly  
10 of concern to the Committee.

11 The last point I would mention is that the -- of the  
12 balances carried forward for 1977 and 1978, of approximately  
13 8.8 million, two items represent a significant portion of that,  
14 the Reginald Heber Smith Grant of 4.4 million and the Second  
15 Round Delivery System Demonstration Grants of 1.5 million.  
16 Both of those have cleared and therefore our balances forward  
17 have been reduced to approximately 2.8 million and many of  
18 those-- a significant portion of that has been liquidated since  
19 the 1st of January. But as I said, the report is of December  
20 31st.

21 Those were the only significant highlights and I  
22 would be pleased to answer any questions.

23 MR BROUGHTON: One question that we got into last  
24 night, Buck, was going over to the section dealing with the  
25 budget review for the period ended, that we -- where they had

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1 first quarter spending rate as a matter of simple arithmetic,  
2 which is a very low rate and arrived at the figure that Mr  
3 Broughton indicated, showing 7.8 million.

4 That really is an arithmetic number to put in there  
5 at this time, the actual amount of unexpended is going to be  
6 I hope, a million or less. But in the absence of accurate  
7 spending plans at that point, it was better to carry the  
8 thing straight through, then to put in another number that was  
9 equally inaccurate but had no way to trace it back.

10 MR BROUGHTON: Are there any questions of either of  
11 these gentlemen?

12 MR ORTIQUE: Even though we allocate these funds as  
13 the request comes in from a field program, do they actually  
14 get the money then or do we keep the money?

15 MR HENNIGAN: Do me mean in the case of a normal  
16 grant or award, Mr Ortique?

17 MR ORTIQUE: Yes.

18 MR HENNIGAN: A grant award will be made normally  
19 on the 1st of January for a full 12 month period and then,  
20 Charles, is the first payment for two months or one month?

21 MR JONES: Two.

22 MR HENNIGAN: We give them a two month payment which  
23 gives them a bit of front-end money, so to speak. Then the  
24 subsequent payments I believe are on a monthly basis.

25 But the funds are held by the Corporation, this year

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1 in effect, they are held in the Treasury, until we draw them  
2 down to make the payment to the Grantee.

3 MR ORTIQUE: So we don't have the money, nor does  
4 the field have the money.

5 MR HENNIGAN: The United States has the money until  
6 we bring it down, but the Grantee has an instrument pledging  
7 payment to him and we are liable for that expense.

8 MR BROUGHTON: Another part of the discussion at  
9 the meeting last night was the Report by the President as to  
10 the status of the current budget request in Congress and it  
11 might be well at this point -- or at some point before we  
12 leave this subject -- that we have a report from him on that.

13 MR EHRLICH: As you know, we submitted the request  
14 for 304 million dollars to the Congress. Mary <sup>o</sup>Burdette and I  
15 and others in the Corporation have spent a fair amount of  
16 time making sure that all questions about the budget -- what  
17 we are asking for and why we are asking for it -- are answered  
18 in terms of various Congress people, who appear a week from  
19 today, next Thursday, before the House Subcommittee on Approp-  
20 riations that deal with our appropriations.

21 Congressman Slack of West Virginia is Chairman of  
22 that Subcommittee but Congressman Neal Smith, in fact will be  
23 heading the hearing. We expect that probably a month to six  
24 weeks after that the Senate Subcommittee chaired by Senator  
25 Hollings, charged with jurisdiction of our budget will also

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1 hold a hearing and review our budget.

2 At some point thereafter, presumably each one of  
3 them will set a mark and then try to work out a compromise,  
4 unless they come up with the same amount. If last year is a  
5 guide it should be some time in the very late spring or early  
6 summer when we have a fair notion of what the Congress will  
7 appropriate for 1979. And we will, of course, be working con-  
8 tinually with the Committee on Appropriations and Audit in  
9 terms of planning for that year, just as we are in '78 and will  
10 be starting this summer on 1980.

11 MR CRAMTON: Anything further, Mr Broughton?

12 MR BROUGHTON: No, sir. We took action on all that  
13 we needed to take action on as far as the Board is concerned.  
14 However, if there are any questions about the information fur-  
15 nished today, now or later in the meeting, I assume that we  
16 can come back. And if Mr Stophel should appear, perhaps he  
17 has some comments to make, which I am sure that we could hear  
18 at that time.

19 MR CRAMTON: That is the briefest report from the  
20 Committee on Appropriations and Audit which we have had the  
21 privilege to hear from some time. That will also be the brief-  
22 est we will hear for at least a year.

23 MR BROUGHTON: Flu and weather have curtailed our  
24 opportunities to gather and perhaps provoke more discussion  
25 than we were able to provoke this morning.

1 MR CRAMTON: Now we move to item 4 (b), Report on  
2 the Committee on Regulations, Mr Kutak and Mr Walters.

3 MR KUTAK: Mr Chairman, first of all I have to say  
4 that I am not to be intimidated by the reference to the brevi-  
5 ty of the earlier report. I will continue the fine tradition  
6 and reputation of our Committee by discussing in detail and I  
7 hope with great edification to all, the content of -- certainly  
8 of our work.

9 First of all let me say Mr Chairman, that I join you  
10 in welcoming our new members. I am proud to say that although  
11 I did not quite understand the mission when I accepted the  
12 responsibility of the Regulations Committee, several years ago,  
13 or so it seems, I find it a very facinating committee assign-  
14 ment and I know that my colleagues will as well.

15 And I am delighted to have all of you with us. You  
16 are at a great advantage over me, as a matter of fact, until  
17 you came on Board, I didn't know quite how I could come to  
18 grips with what we had done, but when I was given a copy of  
19 the briefing book that was prepared for you, I for the first  
20 time saw all of our regulations together.

21 And I want to commend General Counsel and the Legal  
22 Staff for that compliation, which I guiltily confess I should  
23 have done myself.

24 MR CRAMTON: Has that been distributed to members of  
25 the Board?

1 MR KUTAK: Yes. So, I will call to the attention  
2 of all of the members of the Board --

3 MR CRAMTON: I don't seem to have it.

4 MR KUTAK: -- the orientation of --

5 MR CRAMTON: Did you get it?

6 MS RODHAM: Yes.

7 MR KUTAK: This is the orientation book.

8 MR CRAMTON: Yes, I have it.

9 MR KUTAK: Has not only an absolutely accurate copy  
10 of 93-355, as amended, but also a complete compilation of the  
11 regulations thus far promulgated. The later of course, guaran-  
12 teed to cure insomnia. But I do say that it indicates to us  
13 what kind of a job we had ahead of us, once we get through all  
14 of the regulations.

15 It is my dream that once we finally get through these  
16 individually, we then go back and do a recodification to the  
17 ends of simplicity, avoidance of duplication and I hope the  
18 facility of simplification, which, although it was our goal,  
19 has not been our achievement so far.

20 It seems logical, Mr Chairman, you know that we are  
21 nothing if we are not logical in our Committee, to discuss the  
22 various items --

23 MR BROUGHTON: You might have to explain that.

24 (Laughter.)

25 MR KUTAK: -- to discuss the various items contained

1 on the agenda in an order different from that which has been  
2 stated.

3 Rather than go immediately to the By-Laws, I would  
4 prefer to take up a key regulation, The Sunshine Act Regula-  
5 tions, beforehand.

6 Let me say that I quickly alert my colleagues that  
7 while we are starting then with proposed Regulation 1622, let  
8 me assure you that we started with number 1600. There are not  
9 1600 regulations -- or 1621 regulations before this.

10 Regulation 1622 -- the Public Access to meetings,  
11 under the Government in the Sunshine Act. You will see the  
12 reason for this as we go through the agenda.

13 Very briefly, at our October Board meeting, the  
14 Board approved for publication for Notice and Comment the pro-  
15 posed regulation 1622, which implements the Government in the  
16 Sunshine Act.

17 However, we knew that we were going to be impacted  
18 by the amendments of the organic act and sort of figured out  
19 by then, just about how, while we didn't have to do anything  
20 definitely until the law became effective.

21 So, we went ahead and published in contemplation of  
22 what we thought would be the changes, and of course, they were  
23 But they were always subject to any changes that Congress woul  
24 make.

25 Then, as you know the tentative draft was published

1 and the time for comments on the draft has now expired. We  
2 have received one comment and while it was good, it did not  
3 affect the substance of our proposed regulation.

4 However, because of the fact that we have a new  
5 Board and it is timely to consider this very sensitive and im-  
6 portant issue, we wanted to resubmit Regulation 1622 to the  
7 Board, before proceeding to final publication.

8 Our Counsel, Steve Walters, is here and can very  
9 briefly describe what is now the substance of Regulation 1622  
10 and of course to answer any questions that anyone on the Board  
11 or indeed, in the audience might have. Steve could you pick  
12 up from there?

13 MR WALTERS: I hope that you will bear with me a  
14 little bit. I have a cold that my daughter brought me from  
15 her pre-school, so I might not be able to speak as loudly or  
16 as long as I would like.

17 Essentially the open meeting provisions of the Govern-  
18 ment in the Sunshine Act require that meetings of Government  
19 agencies and similar bodies generally be open to the public,  
20 subject to -- and they can be closed only in certain instances  
21 and only after certain procedures are followed.

22 The Regulation that you have before you, Part 1622,  
23 implements and pretty well tracks the provision of the Govern-  
24 ment in the Sunshine Act. It sets out, insofar as applicable  
25 the Corporation the exception to the -- or the permissible in-

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1 stances in which meeting may be closed.

2 It set outs the procedures, which are briefly, the  
3 requirement of the vote of the majority of the directors, prio  
4 to the meeting. It sets out the requirements for public anno  
5 nouncement of meetings at least 7 days in advance, setting out  
6 the subjects to be discussed and stating whether the meetings  
7 will be open or closed, the meeting or any portion of the  
8 meeting will be open or closed.

9 And it sets out the requirement that the General  
10 Counsel of the Corporation certify whether closing the meeting  
11 would be legal under the Sunshine Act, prior to the time that  
12 the meeting takes place.

13 There are exceptions to those procedural require-  
14 ments for unusual circumstances and by majority vote of the  
15 directors, they can shorten the time requirement and close  
16 the meeting nonetheless.

17 Regardless of the timing of the announcement, a  
18 transcript has to be kept of the meeting, it has to be avail-  
19 able to the public, insofar as their discussions at the closed  
20 session or executive session that are not themselves exempt.

21 It also sets out the further requirement that the  
22 Corporation report annually to the Congress its compliance  
23 with the Sunshine Act. With that brief background, I would  
24 be pleased to answer any questions.

25 MR KUTAK: With one footnote. The thrust is really

1 thus: Number one, we are following not only the letter but  
2 the spirit of the Government in the Sunshine Act and two --  
3 and heavily larded around us is the notion that we are not  
4 going to have a lot of hasseling about executive session, we  
5 are of the emphasis that everything is open and it is only un-  
6 der very special and extraordinary circumstances that you would  
7 ever have an executive session.

8 The history of this is that we went through a lot  
9 of contortions and agonies and hand wringings about whether  
10 we ought to have executive sessions or not and now we have  
11 moved really right to the point where we are in step, syncro-  
12 tization with the Government national philosophy of the Govern-  
13 ment in the Sunshine Act.

14 MR BROUGHTON: Well, that refers to executive ses-  
15 sion, so far as any committee is concerned --

16 MR KUTAK: Yes, the committee sessions would track  
17 the Board practices.

18 MR WALTERS: That is a point that I should have made  
19 The Government in the Sunshine Act would apply to committee  
20 meetings and also to the State Advisory Council Meetings.

21 MR KUTAK: If there are no questions, I would move,  
22 Mr Chairman, that the proposed Regulation 1622 be published  
23 to become effective after 30 days.

24 MR SMITH: Second.

25 MR CRAMTON: It has been moved that Part 1622 be

1 published in the Federal Register as adopted by the Board to  
2 become effective after 30 days.

3 MR BROUGHTON: Question, you have taken 1622 plus  
4 each section there through 9, right?

5 MR KUTAK: Yes.

6 MR BROUGHTON: There was one place where I marked it  
7 and I cannot find it now about -- maybe that is another sec-  
8 tion. There was a section there talking about executive ses-  
9 sion where --

10 MR KUTAK: We'll come to that in a moment. Question?

11 MR CRAMTON: Is there discussion on the motion to  
12 adopt these regulations? To become effective 30 days after  
13 publication.

14 MR BROUGHTON: I have one question. 1622.5, does it  
15 generally -- is that a statute tracking provision?

16 MR KUTAK: Yes, it does, Mel. If we took out one  
17 thing from tracking the statute, there is one other exception

18 MR BROUGHTON: This is on page 9.

19 MR CRAMTON: 9 and 10.

20 MR BROUGHTON: "1622.5 Grounds on which meetings  
21 may be closed -- information withheld."

22 MR KUTAK: There is one other section in the statute  
23 if I recall correctly, about matters relating to National Se-  
24 curity. And we really thought that we never have any matters  
25 in the Legal Services Corporation that would touch and concern

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1 National Security, although we may have pretensions to think  
2 so. And therefore, that one other statutory exception we have  
3 not included. Otherwise they do track.

4 MR CRAMTON: Am I correct in understanding that in-  
5 formal discussions among Board members, such as the one that  
6 we had at breakfast this morning and so on are appropriate,  
7 as long as they do not pre-determine any action or item on  
8 the agenda.

9 MR WALTERS: That is correct.

10 MR CRAMTON: Am I also correct in believing that the  
11 actions of the President and the Chairman in setting the agen-  
12 da and making other arrangements which are empowered to them,  
13 prior to a meeting -- for example, my discussion with Board  
14 members concerning their committee assignments and so on, that  
15 those are not subject to the Sunshine Act requirements, right?  
16 Those can be done on the phone with informal consultation a-  
17 mong Board members.

18 MR WALTERS: That is correct. The Sunshine Act only  
19 applies to joint action of voting members of the Board. And  
20 even a procedure whereby the Board took action by notation pro-  
21 cedure, sending out a memorandum and everyone sends back their  
22 vote without a collegial discussion, doesn't fall within the  
23 definition of a meeting under the Government in the Sunshine  
24 Act.

25 MR CRAMTON: Is there further discussion?

1 (No response.)

2 MR CRAMTON: All those in favor of the adoption of  
3 Part 1622, to become effective 30 days after publication in  
4 the Federal Register, please say aye.

5 (Ayes.)

6 MR CRAMTON: Those opposed, no.

7 (No response.)

8 MR CRAMTON: The record will show that all Board  
9 members have cast their votes in favor of the adoption of  
10 the Regulation.

11 That leads me to make a point about the procedure  
12 that we follow in that little statement that I made. Our By-  
13 Laws require a division by show of hands, if there is any dis-  
14 agreement on the Board. And we usually don't do that if there  
15 is a voice vote and it appears to be unanimous even though  
16 everyone may not have spoken.

17 In other words, I will interpret your silence as  
18 assent, unless you then speak up and say -- make some contra-  
19 dictory sign and then we will have a division and a recorded  
20 vote because the By-Laws and I think the Government in the Sun-  
21 shine Act require that the votes of all members be recorded on  
22 each matter.

23 And if you want to abstain, you have got to speak  
24 up and say I want to abstain. Is that correct?

25 MR WALTERS: The Government in the Sunshine Act does

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1 not, other than on votes to close the meeting.

2 MR CRAMTON: But our By-Laws require it whenever  
3 there is a division.

4 MR WALTERS: The By-Laws do.

5 MR CRAMTON: So that is the practice that we have  
6 used and you are recorded on a voice vote as being for the  
7 motion, if you don't say anything.

8 MR KUTAK: Mr Chairman, the next item would be our  
9 By-Laws. If everybody would turn to the tab that says By-Laws  
10 hard as it is, of course for me to grapple with the thought,  
11 various provisions of our lovely Corporation By-Laws are in-  
12 consistent with or indeed made unnecessary by, the Government  
13 in the Sunshine Act.

14 (Laughter.)

15 MR KUTAK: Oh, how we labored over those By-Laws.  
16 The Committee considered several amendments to cure these de-  
17 ficiencies or inconsistencies at our February meeting in Chi-  
18 cago.

19 And recommend that various amendments to the By-Laws,  
20 which are contained in the agenda book be adopted. These amend-  
21 ments have been published in the Federal Register according to  
22 our standard procedure and would become effective immediately.

23 And we want to brief the Board with respect to them  
24 and seek your concurrence. Steve would you briefly describe  
25 the amendments and answer any questions that the Board might

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1 have.

2 MR WALTERS: Fine. As I said in my discussion of  
3 Part 1622, the Sunshine Act places various procedural require-  
4 ments on the holding of meetings.

5 What we have tried to do in these amendments to the  
6 By-Laws is to conform them to make it possible to comply with  
7 the requirements of the Sunshine Act. Particularly the re-  
8 quirements that public announcements of the time, place, sub-  
9 ject matter and whether the meeting will be open or closed,  
10 must be made at least 7 days prior to a meeting unless there  
11 has been a vote that Corporation business requires a meeting  
12 on shorter notice.

13 We have tried to change the provisions for notice  
14 to the Directors to make it possible to comply with the 7 day  
15 announcement requirement.

16 Where the existing By-Laws requires 10 days notice  
17 to Directors for regular meetings, 7 days notice for special  
18 meetings, we have made those notice requirements both 15 days  
19 before.

20 Whereas the prior -- where the existing By-Laws re-  
21 quire the submission of agenda three days before the meeting,  
22 we have required that it would go with the notice to the Dir-  
23 ectors, so that they would have the opportunity to review the  
24 agenda and vote whether any portion of the meeting should be  
25 closed to public observation.

1           We have made provision for General Notice, which  
2 formerly was required to be made at the time the notice was  
3 mailed to the Directors, conforms with the requirement for  
4 public announcement under the Sunshine Act which is at least  
5 7 days prior to the meeting.

6           And then we have also, by the provision relating  
7 to executive sessions to incorporate, by reference, the require-  
8 ments of the Sunshine Act and we have made the provisions re-  
9 lating to committee meetings, which are also under the Sun-  
10 shine Act conform to the general requirements applicable to  
11 the Board as a whole. I would be glad to answer any questions  
12 that you have.

13           MR KUTAK: As you have just heard, these are not  
14 profound amendments. They are more -- I think the legislative  
15 term would be technical and perfecting amendments, but they are  
16 necessary. And therefore, with your approval, I urge their  
17 adoption. To be effective, again, within 30 days.

18           MR WALTERS: No, these would be effective immediate-  
19 ly.

20           MR KUTAK: Oh, that's right. By-Laws would be effec-  
21 tive immediately.

22           MR BROUGHTON: On page 4 reference is made to exist-  
23 ing 1601.22 where two thirds of the members eligible to vote  
24 determine the consideration of a specific matter on a specific  
25 occasion would be closed to the public. Now the proposal

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1           Now, the proposed change is a majority. Could that  
2 be explained? As I understand it the change makes it simpler  
3 or easier to have an executive session. Right?

4           MR WALTERS: No, it doesn't because the majority  
5 vote is what the Sunshine Act requires and the Sunshine Act  
6 goes further and requires that a meeting can be closed only in  
7 specific instances.

8           And then only if the Board determines that the public  
9 interest requires closure and then it lays out the procedures  
10 to be followed.

11           The change from two thirds to a majority simply in-  
12 corporates the requirements of the Sunshine Act and there are  
13 the additional requirements that I have explained.

14           MR BROUGHTON: That will still make it easier.

15           MR KUTAK: No, Mel is right on that point.

16           MR BROUGHTON: What I am saying is that mathematical-  
17 ly, it is easier to get a majority than it is to get two-thirds  
18 on these.

19           MR KUTAK: Mathematically Mel is right. Steve is  
20 right in the sense that as it is now written it would have a  
21 more limited grounds for which you could go into executive  
22 session and then there are check points such as General Coun-  
23 sel's Certificate if there is any question.

24           It is a wonderful situation in which you are both  
25 right. There are fewer grounds, but there is -- consistent

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1 with the statute there is a lower percentage that is required  
2 to do it.

3 We urge it very basically for the simplicity of be-  
4 ing consistent with the statute, rather than having a differ-  
5 ence.

6 MR EHRLICH: I apologize, but I thought that a  
7 change had been made and apparently it hadn't. The require-  
8 ment of a 15 day notice is in the Sunshine Act?

9 MR WALTERS: No. The 15 day notice to Directors is  
10 to enable us to comply with the public announcement require-  
11 ment of the Sunshine Act, which is at least 7 days prior to  
12 the meeting itself.

13 The 15 day notice is to Directors, not the public  
14 at large.

15 MR EHRLICH: What is the basis for requiring 15  
16 days?

17 MR WALTERS: To give ample time to the Directors  
18 to review the subject matter and to --

19 MR EHRLICH: What I am concerned about -- in the  
20 past, at least, we haven't been able to develop an agenda al-  
21 ways 15 days -- the kind of detailed agenda that you have --  
22 the general area. And is it in fact essential to send the kind  
23 of agenda that is here 15 days ahead of time?

24 MR WALTERS: The Sunshine Act requires that it be  
25 publically announced at least 7 days prior and the sum of 15

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1 days was arrived at in order to give time to get the materials  
2 it is the time that notice has to be sent. So that there is  
3 sufficient time for the Directors to receive the notice and  
4 vote -- take any votes that are required to close the meeting.

5 Once the agenda is publically announced, it cannot  
6 be changed, other than by a recorded vote of the majority of  
7 the Directors, that Corporation business requires and that it  
8 could not have been done any earlier. And that is why we  
9 thought that the 15 day a reasonable time.

10 MR ORTIQUE: Must the announcement and the agenda  
11 go out at the same time?

12 MR WALTERS: The public announcement has to be of  
13 the agenda.

14 MR ORTIQUE: No. I am talking about the announce-  
15 ment to the Directors, because I thought that that By-Law re-  
16 quired that the Directors be notified of the meeting 15 days  
17 ahead of time. Not necessarily concurrent therewith, they  
18 would receive the agenda. I thought that the agenda matter  
19 the public agenda, would still fall within the Sunshine Act  
20 at the 7 day level. Is that correct or is that nor correct?

21 MR WALTERS: Under the revision of 1601.18, the  
22 agenda must accompany the notice to the Directors.

23 MR ORTIQUE: The agenda must --

24 MR WALTERS: The agenda prepared by the President or  
25 by the Chairman.

1 MR CRAMTON: The Committee will recall that I raised  
2 the question about this at the Committee meeting and pushed  
3 fairly hard on it and was told by the staff that there was no  
4 problem in getting it out on time and was overruled by the  
5 other members of the Committee that were there.

6 MR KUTAK: And particularly brow-beaten by it's  
7 Chairman.

8 MR CRAMTON: That's right.

9 (Laughter.)

10 MR CRAMTON: It does raise a problem in terms of  
11 the effective -- at least we haven't been able to do this in  
12 the past.

13 The problem that I see arises in terms of the diffi-  
14 culty of discussing matters which aren't included on the agen-  
15 da. We are going to have to be very imaginative about phras-  
16 ing the agenda in a fairly broad way, that permits all of the  
17 things that we wanted discussed under the various rubrics to  
18 come up.

19 MR KUTAK: Let me explain to you, Mr Chairman, how  
20 I understand that it works. The staff or the President devel-  
21 ops the proposed agenda, to get it out within the 15 days.  
22 We react to it, I hope, if we have any ideas, we say gee, do  
23 we have to put that on or more likely, gee I would like to have  
24 something else put on in addition, which is usually the case.

25 The idea of getting the agenda to us 15 days in ad-

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1 vance is so that we can have some feed back to the President  
2 or to his colleague in time so that it does comply within the  
3 7 day rule for publication of the Government in the Sunshine  
4 Act.

5 MR ORTIQUE: Why don't we call this the proposed  
6 agenda, then?

7 MR KUTAK: That is what I think we were calling it  
8 unless it --

9 MR ORTIQUE: You didn't call it that in the material  
10 And I don't want us to use any imagination on the agenda. I  
11 want us to tell me what the agenda is, if it is in fact the  
12 agenda. If it is a proposed agenda to which I am to react,  
13 which makes a lot of sense to me --

14 MR KUTAK: But isn't that --

15 MR CRAMTON: I am talking about the regulation as  
16 proposed. The regulation as proposed requires that the Direc-  
17 tors and the public be informed 15 days in advance.

18 MR WALTERS: No. Not the public.

19 MR CRAMTON: What changes can be made -- changes  
20 can be made?

21 MR KUTAK: Sure.

22 MR WALTERS: Up until the agenda is announced to the  
23 public. That is the 7 day period. There can be --

24 MR CRAMTON: Yes, but it is going to be too late, be  
25 cause if it is mailed in within 15 days, the Board members are

1 not going to get it, there is only going to be a day or two  
2 and there isn't going to be time for anything to take place.

3 MR KUTAK: Mr Chairman, may I call on our Presi-  
4 dent, because, very frankly, we as a Board, want to do some-  
5 thing that will facilitate the administration of the Corporation.

6 On the other hand we have got -- I was trying to  
7 struggle with two concepts. The opportunity for us, as fellow  
8 Board members to have an idea of what is on the agenda, so  
9 that we could have input to the officers prior to the time  
10 that it has got to be locked in for publication to the public,  
11 which is 7 days. So that is the spirit of it.

12 Now, if there is some way by which we can achieve  
13 that spirit by better words, we are always open and Steve, if  
14 I could for just a minute, could I call on Tom, because I am  
15 really trying to get a job done that helps Tom run the Corpor-  
16 ation in a consistent way. Mr President.

17 MR EHRLICH: For the new members, what the Chairman  
18 of the Board and I have done is talk about the kinds of issues  
19 in light of the preceeding Board meetings and particularly any  
20 individual member or group of Board members who said hope we  
21 can discuss this at the next meeting.

22 We have always tried to do that and myself I would  
23 hope that the approach of having Board members say to the Chair  
24 man or to me, or if you would prefer to both of us, here is  
25 an issue and I hope that you can raise it at this meeting or

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1 at some future meeting.

2 That works very well. Myself, I would be concerned  
3 knowing the kinds of pressures on Ruth Felter and on our staff  
4 about a requirement of 15 days as opposed to 7 days. We will  
5 do our best to get it out 15 days in advance, but I would hope  
6 that --

7 MR WALTERS: Tom, the reason -- well, that would  
8 eliminate the possibility of closing a meeting ever. Unless  
9 there were a vote in the meantime --

10 MR EHRLICH: Excuse me, what I mean is that if we  
11 send it out 15 days ahead of time, then they could in fact do  
12 that. But if you put it in the By-Laws that every single one  
13 must be 15 days ahead of time, it seems to me that is writing  
14 a general regulation for a very unusual situation.

15 I don't think, except for a few possibly personnel  
16 matters, the Board will want closed meetings. Now that may be  
17 wrong, but --

18 MR WALTERS: The further difficulty is that agenda  
19 itself cannot be changed after public announcement, unless  
20 there is a determination that Corporation business requires it  
21 and it couldn't have been done earlier. That is a requirement  
22 of the Sunshine Act.

23 MR CRAMTON: But by mailing a tentative agenda and  
24 then mailing the -- THE agenda, which is the agenda for the  
25 meeting at the time that would meet the 7 day requirement.

1 Why not follow that approach? Go to the mailing of the tenta-  
2 tive agenda to Board members 15 days ahead and the publication  
3 of the agenda 7 days.

4 MR EHRLICH: If you put it in the By-Laws, it be-  
5 comes a requirement and if it isn't done, I think it brings  
6 in the question of the validity of the --

7 MR KUTAK: I think it needs one word, but before I  
8 add that one word, Steve you had something.

9 MR ENGELBERG: Yes. Steve, let me ask you this.  
10 Reading the Sunshine Act with the By-Laws together, let's  
11 assume that the 7 day announcement and at the meeting the  
12 Board decides that they want to drop or add an item to the  
13 agenda.

14 Can that be done both under the Corporation's By-  
15 Laws and the requirements of the Sunshine Act?

16 MR WALTERS: Dropping is no problem. They can always  
17 drop, they can always not discuss something that is not on  
18 there.

19 MR ENGELBERG: Okay.

20 MR WALTERS: The problem is adding and they can add  
21 providing that they determine the Corporation business require  
22 that it be discussed at that meeting and that they couldn't  
23 have added it earlier. And the second part of that require-  
24 ment strikes me as very difficult to meet, in most situations.

25 MR SMITH: It wouldn't be difficult if the majority

1 of the Board votes that that is the case.

2 MR CRAMTON: Except that it has to meet a statutory  
3 standard that it couldn't have been -- that there is an emer-  
4 gency. What is the statutory language?

5 MR WALTERS: That --

6 MR CRAMTON: And if it is a situation where you just  
7 haven't thought of something that was evident, I am not sure  
8 that you meet it. It would --

9 MR SMITH: I wouldn't serve on any Board where you  
10 didn't have the flexibility to add something that comes up  
11 that you think is important to the business of the Corpora-  
12 tion. And I would think that if the majority of the Board  
13 votes that it is important and that it --

14 MR CRAMTON: From my understanding, it has to be an  
15 intervening event that you didn't know of at the earlier time.  
16 And there are not many things that meet that.

17 MR EHRLICH: Is that accurate, Steve, you can't  
18 have an "Other Business" category that will allow you to bring  
19 in matters that just weren't thought of but should have been?

20 MR WALTERS: I would read the Sunshine Act as ex-  
21 cluding that kind of category, yes. The language is that "it  
22 may be changed by a recorded vote of the majority of the mem-  
23 bers of the Corporation that Corporation business so requires  
24 and that no earlier announcement of the change was possible."

25 MR EHRLICH: Was possible.

1 MR SMITH: Well, if we said that and voted, I think  
2 that is it.

3 MR ORTIQUE: Well, I don't want to -- Mr Chairman --

4 MR CRAMTON: Go ahead, please.

5 MR ORTIQUE: I don't think that we ought to write  
6 these regulations and then have in mind that we are going to  
7 play games with them.

8 This By-Law needs to be revised so that there is --  
9 that we are not stuck with the 15 days for an agenda that we  
10 are locked to. It is obvious to me that 15 days ahead of time  
11 something might develop that we need to react to. Or something  
12 may be left off of the agenda that some Board members wants to  
13 put on the agenda.

14 So I don't want to be locked into --

15 MR EHRLICH: It is my fault for not --

16 MR KUTAK: Mr Chairman, what I would suggest, if I  
17 may, can we pass this item and come back to it after lunch.  
18 We'll find the language, because it is not a difficult techni-  
19 cal --

20 MR WALTERS: Let me point out that in terms of the  
21 agenda itself, the Sunshine Act does not lock it in until it  
22 has been announced and under the current procedures if the ag-  
23 enda, devised by the President and the Chairman went out 15  
24 days in advance, there would still be the power to change it  
25 under current procedures, based on suggestions by other Board

1 members, up until the time that it is publically announced.

2 MR ORTIQUE: That's not what -- you know, Johnny  
3 can't read, but that doesn't mean that Revius can't read and  
4 I am reading that, "... each regular and special meeting the  
5 Chairman of the Board or the President of the Corporation shall  
6 cause to be prepared an agenda ..." and it doesn't say tenta-  
7 tive agenda, it doesn't say to which Board members can react,  
8 it just says, "... shall prepare an agenda..."

9 MR CRAMTON: Mr Kutak would like to have some oppor-  
10 tunity to confer with the staff over lunch and perhaps to get  
11 a revision of this. Now don't violate the Sunshine Act in con-  
12 ferring about this.

13 MR KUTAK: Oh, of course not. Thank you for remind-  
14 ing me of that.

15 MR BROUGHTON: How long are you going to allow them  
16 for lunch?

17 MR KUTAK: This problem will be -- this horse will  
18 be quickly --

19 MR CRAMTON: Curried.

20 MR KUTAK: -- curried. Can we lay over the discuss-  
21 ion of the amendments of the By-Laws until after lunch? And  
22 if I may then, could we turn to the tab called Regulations.

23 The Legal Services Act Amendments of 1977 made nec-  
24 essary, we would surmise, several changes in the Regulations  
25 as we have already adopted them.

1 At our February meeting which has already been re-  
2 ferred to the Committee considered proposed amendments to sev-  
3 eral staff regulations.

4 One is Regulation 1608 concerning prohibited politica-  
5 cal activities.

6 Second is section -- I guess the technical word is  
7 Part 1612, concerning prohibited activities by recipients.

8 And the third is Part 1620, concerning priorities.

9 If you would allow me, I would like to confine our  
10 discussion to those three units at this time. The Committee  
11 commends that the proposed amendments in your books to those  
12 Regulations be published for Notice and Comment, so that you  
13 are all comfortable and confident about what those changes  
14 are, which are required, we believe, by the Act.

15 But, nevertheless, that you are comfortable to  
16 what they are, I would like Steve to briefly describe those  
17 changes and answer your questions.

18 MR CRAMTON: 1608 and 1612?

19 MR KUTAK: 1608, 1612 and 1620. We are deferring  
20 the next one, 1614 to later.

21 MR WALTERS: With respect to Part 1608 of the Regu-  
22 lations, as you all know the Legal Services Act Amendments of  
23 1977 made staff attorneys as Corporation employees are now,  
24 subject to the requirements of the Hatch Act, applicable to  
25 State and Local employees.

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1           The Hatch Act as it is currently written. It elimin-  
2           ates several more restrictive requirements regarding the poli-  
3           tical activities of staff attorneys on their own time.

4           The single -- as currently written, the Hatch Act  
5           prohibits people subject to it's terms from being a candidate  
6           in any partisan political election. Lest there be an amend-  
7           ment striking that restriction, the Congress added a restric-  
8           tion on staff attorneys that would prohibit them, in any event  
9           from being a candidate in any partisan political election.

10           We don't have to confront that possibility right now,  
11           because it is all a part of the Hatch Act. Amendment 1608.5  
12           would simply reflect that change and state that neither staff  
13           attorney nor any Corporation employee can be a candidate in  
14           any partisan political election.

15           The Amendments 1608.6 would simply eliminate sub-  
16           section (b), which places additional restrictions on the poli-  
17           tical activities of staff attorneys on their own time, and  
18           those restrictions are not required by the Hatch Act.

19           MR CRAMTON: Do you intend also to eliminate the  
20           (a) in the whole --

21           MR WALTERS: Yes.

22           MR CRAMTON: Ms Esquer.

23           MS ESQUER: Yes, I have a question. Under which of  
24           these provisions does the Reggie participant fall? Do they  
25           fall under 1608.5 or .6 or where?

1 MR WALTERS: I think that they would fall under  
2 1608.5 -- .6, excuse me. Well, both. 1608.5 applies both to  
3 Corporation employees and staff attorneys. I think that they  
4 would be subject to 1608.6 also.

5 MS ESQUER: Are Reggies considered staff attorneys?

6 MR WALTERS: The definition of a staff attorney, as  
7 I recall it, is any person who receives more than one-half of  
8 his or her compensation from funds provided by the Corporation.

9 MS ESQUER: I thought that it said funds from a lo-  
10 cal program. Or more than half from a recipient.

11 MR WALTERS: From a recipient, that's correct.

12 MS ESQUER: So therefore, if a Reggie is assigned  
13 or is located at a local program and a Reggie would not be a  
14 staff attorney. Is that right? Because they receive their  
15 funds, if I understand it, from the Corporation.

16 MR CRAMTON: No, they receive they funds from a  
17 recipient. Howard University.

18 MS ESQUER: Oh, Howard University.

19 MR CRAMTON: They receive -- it is a different re-  
20 cipient than the local program, but it is still -- that is an  
21 interesting question, though and it raises some -- it is a  
22 very good question -- and it raises a national point about  
23 what happens with loan programs or Corporation sabbatical pro-  
24 grams and so on, that put somebody on the Corporate payroll,  
25 whether they switch from being -- even though they are really

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1 working in a local program, or in response to a local pro-  
2 gram and I think that we have to consider that question where  
3 staff attorney and attorney are used.

4 MS ESQUER: Yes, Because .6, as I understand is  
5 less restrictive it implies, the thought to me at least, that  
6 as long they are not on Corporation time, that they can be  
7 involved in partisan political activities. Is that correct?

8 MR WALTERS: That is true of staff attorneys as  
9 well. They are also subject to 1608.6. Since the Hatch Act  
10 does not prohibit political activity generally and it doesn't  
11 prohibit voter registration activity and this sort of thing.

12 So as long as the staff attorney engages in those  
13 activities on his or her own time, then it --

14 MS ESQUER: A staff attorney can be on a partisan  
15 campaign committee on his own time?

16 MR WALTERS: Yes. As long as the further require-  
17 ments of not lending the name of the program and not using  
18 the name of the Corporation or funds and not coercing fellow  
19 employees.

20 MR CRAMTON: Is .6 applicable to Corporate employees?

21 MR WALTERS: Yes.

22 MR KUTAK: Could we pick up comments to 8,12 and 20?

23 MR WALTERS: On the amendment 1612, the Legal Service  
24 vices Corporation Act Amendment extended the prohibition of  
25 lobbying activities to include lobbying regarding State ini-

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1 tititive proposals.

2 It expanded the exceptions to the general ban on  
3 lobbying to include activities designed to influence legis-  
4 lation or administrative regulations that directly affect the  
5 recipient or the Corporation and we -- it further clarifies  
6 the restriction on soliciting clients, for the purpose of pro-  
7 viding legislative representation to mean soliciting clients  
8 in violation of professional responsibility. So it provides  
9 that standard.

10 We simply have amended 1612.4 to reflect those changes.  
11 changes.

12 In the enforcement provision of 1612, which is 1612.5  
13 are finer regulations incorporated by reference, certain OEO  
14 regulations for termination and extension. We published in  
15 proposed form our own regulations on that subject and so it  
16 is no longer necessary to rely on the old regulations.

17 MR CRAMTON: Is it your position that the changes  
18 dealing with soliciting and the legislative representation con-  
19 text are required by the statutory change? That the Corpora-  
20 tion is without authority to continue the existing regulations?

21 MR WALTERS: Technically the Corporation may be, I  
22 think the intent of Congress in lifting that restriction was  
23 quite clear, that staff attorneys, that recipients of the Cor-  
24 poration should be able to engage in those activities. And  
25 I think that is quite clear from the legislative history.

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1           So, I suppose my answer would be that based on Con-  
2           gressional intent we are required?

3           MR CRAMTON: And that to continue with the existing  
4           Regulation would be invalid? Do you agree with that Ms Daniel

5           MS DANIELS: I don't think that that is an issue we  
6           really have to address because the legislative history is so  
7           clear on this particular provision, that I think that Congress  
8           ional committees that work with the statute would justly feel  
9           that their directions has been ignored if we didn't follow  
10          them.

11          MR CRAMTON: The point that I am getting to is that  
12          as I understood it, both the Chairman of the Committee and also  
13          Mr Walters approached this change as one that was required  
14          Quote required by the statute and made necessary by the Act  
15          and if in fact we have the authority to maintain the existing  
16          regulation, it is not a question of the requirement or obliga-  
17          tion, it is a question of policy, in which the argument that  
18          you made, that the Committee or certain Congressmen might not  
19          be happy is relevant to the determination of policy, but per-  
20          haps not completely.

21          MR KUTAK: I think that you would reflect my think-  
22          ing in that statement, Roger, if I represented to my colleagues  
23          that this was absolutely mandated.

24          It seems to me that we can always be more restric-  
25          tive than what the Congress allows us to be. What we wanted

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1 to be was consistent with what we sense the flavor and the  
2 spirit of the Congressional direction was.

3 I think we would have it within our power also to  
4 do less, it is just that we can't do more and we are trying to  
5 do the same.

6 MR CRAMTON: What are the reasons that the Committee  
7 favors the drafting of the language in 2,1, and 2, reasons of  
8 policy?

9 MR KUTAK: My argument was that it seemed more con-  
10 sistent with the contextural direction of the amendments and  
11 the discussion that surrounded it.

12 I feel as you know, very awkward about this whole  
13 thing, as I also wear the hat, presently, of the Chairman of  
14 an American Bar Committee that is revising the Code of Pro-  
15 fessional Responsibility and we are going into this whole thing  
16 in that area.

17 But as I see it here, we are just trying to make  
18 it as simple and as straightforward as we can.

19 MR CRAMTON: Would you summarize the kinds of solici-  
20 tation that is prohibited under the provision? "No employee  
21 shall sollicite a client in violation of professional respon-  
22 sibility." What does that prohibit? What does it allow?

23 MS DANIELS: As you perhaps recall, that question  
24 was pending before the United States Supreme Court this term,  
25 a case called N. Ray Smith, came up from South Carolina. In

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1 which an attorney was censured -- formally censured -- for  
2 violating prohibition against solicitation.

3 The vagueness of the precise proscription right now,  
4 is a matter that Bob's Committee was addressing. At the time  
5 that this Regulation was considered by the Committee, I urged  
6 this change very strongly and I would continue to urge that  
7 to the entire Board, because the statute requires that we in-  
8 sure that Legal Services lawyers abide by the ABA Code of Pro-  
9 fessional Responsibility.

10 Which of course, does prohibit solicitation. We  
11 have seen no evidence that any more specific prohibition is  
12 needed, with respect to Legal Services lawyers than it is with  
13 respect to any other lawyers.

14 The Committee heard from field people, who frankly  
15 felt that this was an offense to Legal Services lawyers, to  
16 suggest that they had to be singled out from the Bar as a whole  
17 and admonished not to engage in solicitation.

18 MR CRAMTON: But it is not a clarification. It is  
19 a resort to a very uncertain standard, as against a somewhat  
20 simpler and clearer, more precise requirement that says --

21 MR WALTERS: In my view it is a clarification in  
22 the sense that it does specifically incorporate the Code of  
23 Professional Responsibility, which is an admittedly based  
24 standard.

25 As the Regulation now reads, --

1 MR CRAMTON: No, it doesn't, it say violation of  
2 Professional Responsibilities, I presume that it deals with  
3 the diverse laws of the states in which the Legal Services --

4 MS DANIELS: When it is used in our statute it means  
5 the ABA Code and of course, --

6 MR CRAMTON: It meant both. It refers to both and  
7 I would assume that South Carolina is free to have different  
8 standards than New York or California and so on.

9 MS DANIELS: Of course the proscription against  
10 solicitation applies not only to lobbying, but to every other  
11 context in which Legal Services lawyers act as well and it --

12 MR KUTAK: Roger, Alice put her finger on it from a  
13 standpoint of the situation. There's sensitivity to the con-  
14 sideration of the regulations if we had phrased it before, say-  
15 ing that there is something special and we have to be more sus-  
16 pect about with regard to the Legal Services lawyer than my-  
17 self or Mel or Steve or anybody else who is in practice.

18 And what we are really trying to do is move up in  
19 the spirit of the amendment of the Act. To try to weed out  
20 these kinds of overtones and colorations that crept in, unfor-  
21 tunately.

22 MR ORTIQUE: It seems to me that you compound --  
23 every Legal Services Corporation lawyer is subject to the Am-  
24 erican Bar Associations standards as well as the state in which  
25 he practices.

1 MR KUTAK: Right.

2 MR ORTIQUE: And it seems to me that if you want to  
3 say something, then you just ought to go ahead and say that  
4 and put a period behind it. Instead of trying to use language  
5 that makes it appear that we are going to do something dif-  
6 ferent.

7 MR KUTAK: That is what we are trying to do.

8 MR ORTIQUE: I would merely state it very simply,  
9 that every Legal Services lawyer shall, if that is what you  
10 want -- I frankly don't see the need for any regulations at  
11 all.

12 MR KUTAK: But that is a separate point, and by the  
13 way with recodification, we may get to that point, or if we  
14 don't the Supreme Court might first, but in any event, what  
15 we are trying to do, Revis, in our revision is accomplish  
16 what you just pointed out by making it simpler.

17 Let's go to 1612 and -- I guess we have -- 1620.

18 MR WALTERS: In the Legal Services Act Amendments,  
19 they included a requirement which was only a requirement of  
20 the Corporation regulations before, that each recipient estab-  
21 lish priorities. There is a further requirement in the statute  
22 that there be consideration of the needs of groups with special  
23 difficulties of access to legal services or with special legal  
24 problems. The elderly and the handicapped are given as exam-  
25 ples.

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1           When we went into the authorization process, this  
2 amendment was worded somewhat differently and we were concerne  
3 that the Congress was attempting to establish a preference for  
4 certain groups in the provision of legal services.

5           As the language was changed, and the Committee re-  
6 ports and the conference reports make clear that that was not  
7 the intention of Congress. That what they meant was that the  
8 needs of all significant segments of the client community be  
9 considered in the priority setting process. That all of those  
10 groups were heard and that the priorities reflect a considera-  
11 tion of needs such as for increased outreach or increased train  
12 ing as well as substantive legal problems.<sup>2</sup>

13           And the amendment to 1620 had been written to re-  
14 flect that fact. I might add that there are some members of  
15 the field have asked that the priorities regulation in general  
16 be strengthened to mandate more clearly client participation  
17 in the priority setting process.

18           As I understand the Committee's recommendation to  
19 be is that we go ahead and publish this for Notice and Comment  
20 to get the ball rolling and then consider the comments that  
21 have already been received and that will be received during  
22 that period in time, with a view to possibly clarifying addi-  
23 tional language in the regulation.

24           MR KUTAK: As my colleagues will recall, I said at  
25 the outset that these three regulations, 1608, 1612 and 1620,

1 come to you for these initial reactions that you have. They  
2 are beneficial to us and of course to Counsel.

3 My motion is to have them published for Notice and  
4 Comment. We are not acting on them in any final way today.  
5 We needed only, but always, your comments and in our subsequent  
6 deliberations we will, I hope, be influenced and impacted by  
7 them.

8 So, I will renew my motion, Mr Chairman, if there is  
9 not further comment for these three regulations to be publish-  
10 ed for Notice and Comment.

11 MR CRAMTON: In general the Committee has tracked  
12 statutory language in making these changes, but in 1620.2, you  
13 have not done so. You have added the word "all" in front of  
14 "significant segments of the client community".

15 Wouldn't it be better to just follow the statutory  
16 language? And eliminate that word where it appears in two  
17 instances?

18 MR KUTAK: I never could understand, we say signifi-  
19 cant, I think it means all.

20 MR SMITH: I don't think that it does. It might  
21 mean some significant. We discussed that pretty thoroughly  
22 at the Chicago meeting and we resolved that "all" was necess-  
23 ary. If you really mean all. Because otherwise it could be  
24 just a sampling of significant --

25 MR CRAMTON: You are going beyond the statutory re-

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1       quirements?

2               MR SMITH: Right.

3               MR WALTERS: Given the concern of Congress in writ-  
4       ing the statute, I am not sure that it would be -- that it is  
5       going beyond the statute. I think that the clear concern of  
6       Congress was that priorities are being set based on an assess-  
7       ment of the needs of your current clientele -- whoever can  
8       vote with their feet and get in the door.

9               And they wanted to insure that people who did not  
10       currently have access to legal services had their needs con-  
11       sidered as well.

12              MR SMITH: I think that we are just making the in-  
13       tent of Congress more explicite. This is really what they  
14       meant to say. They aren't quite as explicite as we are. I  
15       think that our language is necessary, Mr Chairman.

16              MR CRAMTON: Is there further --

17              MR BROUGHTON: What is it that Congress meant to say?

18              MR SMITH: They meant to say all significant seg-  
19       ments. When they said significant.

20              MR KUTAK: I am reminded of a line from A.P. Herbert  
21       I think he said, "If Parliment meant what it said, it ought to  
22       have said so."

23              But in any event, let's leave it as it is and get  
24       our reaction.

25              MR CRAMTON: Is there further discussion on the pro-

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1 posed regulation?

2 MR SMITH: I will second the motion.

3 MR CRAMTON: It has been moved by Mr Kutak and seconded  
4 onded by Mr Smith that the Corporation publish for Notice and  
5 Comment proposed Part 1608, 1612 and 1620 in the form in  
6 which they have been distributed to the Board. Is there fur-  
7 ther discussion?

8 (No response.)

9 MR CRAMTON: Are you ready for the question? All  
10 those in favor please say aye.

11 (Ayes.)

12 MR CRAMTON: Those opposed no.

13 (No.)

14 MR CRAMTON: We will have a show of hands. All those  
15 in favor, please raise your hands? Mr Kutak, Mr Broughton,  
16 Mr Ortique, Mr Smith, Ms Rodham, Ms Esquer, Mr Trudell, Mr  
17 Engelberg and Ms Worthy.

18 Opposed Mr Cramton.

19 We will --

20 MR KUTAK: Mr Chairman, the Legal Services Corpora-  
21 tion Act Amendments 1977, removed the restriction on juvenile  
22 representation previously contained in Section 1007 (b) (4).

23 This action therefore removes the need for Part 1614  
24 of the Regulations and therefore we happily recommend that  
25 that Part be repealed.

1           The conforming amendment to Part 1613 which relates  
2 to criminal representation, refers to Part 1614 and therefore  
3 needs change.

4           The Committee recommends that the latter amendment  
5 be published for Notice and Comment, but we really have a two-  
6 fold motion for you. One is to repeal old Part 1614, made  
7 necessary because of the amendment to the Act and to change  
8 Part 1613 to be consistent therewith. Counsel will describe  
9 the amendment and answer any questions that you may have.

10           MR WALTERS: I think that Bob fairly well summerized  
11 the amendment -- the change to Part 1613, concerning criminal  
12 representation.

13           MR CRAMTON: Mr Walters, the President has suggested  
14 that it might be desirable to take a short break now, because  
15 we have commitments to 11 o'clock to move to a different mat-  
16 ter. So I am going to suggest to the members of the Board  
17 that we take a brief adjournment and then come back to this  
18 item. You prefer to go ahead?

19           MR KUTAK: I am a victim of culture, that's all. Oh  
20 no, I always defer to my Chairman. We will suspend at this  
21 dramatic moment.

22           (Laughter.)

23           MR CRAMTON: We will break for 10 minutes and allow  
24 the Reporter to stretch and resume at 11 o'clock with item 6.

25           (Whereupon, a short recess

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1 MR CRAMTON: Please resume your seats. Ruth, may-  
2 be you could go down the hall and get Mr Smith and Mr Brough-  
3 ton.

4 MR KUTAK: I could keep on talking about Legal Assis-  
5 tance to juveniles.

6 (Laughter.)

7 MR CRAMTON: Announcement to members of the Board  
8 and also members of the public, we plan to adjourn for lunch  
9 at 12:15. Members of the Board, I understand that they are  
10 going to be eating on the third floor of this building in the  
11 Member's part of the University Club, it is just one floor  
12 below and we plan to reconvene at -- Tom do you know?

13 MR EHRLICH: I think that it is quarter of two.

14 MR CRAMTON: 1:45? That's plenty of time. Why don't  
15 we reconvene at 1:30. At this time, I would like to move to  
16 item 6 on the agenda, as announced earlier.

17 And we are very, very pleased that we have with us  
18 actually six people, I would like to get another chair up here  
19 and get Millard Ruud to join us, if we could.

20 All of you know Charles Jones and Dick Carter of  
21 the Corporation staff, with four distinguished visitors. And  
22 the order in which the Board may want to have brief remarks  
23 from each of them and then have them free to respond to the  
24 questions.

25 First Bob McKay, now of the Aspen Institute, but

1 formerly Dean of the N.Y.U Law School.

2 Millard Ruud, who is Executive Director of the Ameri-  
3 can Association of American Law Schools.

4 Peter Liacouras, who is Dean at Temple University.

5 And Professor Joe Harbaugh, who is engaged in Clinical  
6 teaching at Temple.

7 MR EHRLICH: Over the past years we have received  
8 a number of inquiries from Law Schools concerning the various  
9 kinds of ways in which the Corporation might be further in-  
10 volved in relations with schools that tie in to clinical legal  
11 education.

12 It seemed to the Chairman and the staff that we  
13 ought to do over the course of the coming year and analysis --  
14 further analysis of that issue and as a backdrop to it, thought  
15 it would be helpful to have a Board discussion of the issue.

16 We have, of course, ties to a number of Law Schools,  
17 through our individual programs and thought it would be help-  
18 ful at the very outset to hear from the two Office Directors  
19 most directly involved with those ties, Charles Jones who  
20 knows most about our relations in terms of individual programs  
21 and Dick Carter, Office of Program Support, in terms of the  
22 training relations that deal with law schools and clinical ed-  
23 ucation. Charles.

24 MR JONES: Thank you, Tom.

25 MR CRAMTON: Before you start, Charles, during the

1 break I heard a number of comments from the audience that they  
2 just can't hear, either members of the Board or particularly  
3 people that are addressing the Board.

4 MR KUTAK: Even me?

5 MR CRAMTON: They said that they could hear Cramton  
6 and Kutak.

7 (Laughter.)

8 MR CRAMTON: So would you please speak out louder  
9 than you would in a private conversation with us. Charles.

10 MR JONES: I will do my best to project. The Corpor-  
11 ation presently has through it's grantees, relationships with  
12 a variety -- number would probably be better -- of law schools  
13 around the country, for clinical education.

14 The interesting aspect in trying to fashion a  
15 clinical education program which meets the educational desires  
16 of the law school and meets the mandate under the Act, which  
17 is the provision of legal services in an efficient, effective,  
18 economical manner, has been the subject of much discussion.

19 The results have been mixed, frankly, but there have  
20 been successful arrangements -- successful to the extent that  
21 they have seemed to satisfy both the client who is receiving  
22 the service and the law school, who has the primary responsi-  
23 bility of providing the educational experience to the law stu-  
24 dnet.

25 The types of arrangements that local programs have

1 entered into have varied from situations where the law school  
2 has provided the physical facilities, has provided law student-  
3 generally speaking third year law students to work as student  
4 supervisors, where the program has provided personnel -- attor-  
5 ney personnel to provide the supervision on an on-going basis  
6 and to insure that the activities of the law students are sup-  
7 ervised.

8 And also has attempted to discharge, through some  
9 kind of classroom attendance by the attorney, who is an employ-  
10 loyee of the local program -- a seminar type of arrangement --  
11 for the review of matters.

12 We also have situations in which the law schools  
13 come directly into Legal Services offices. There may or may  
14 not be student supervision involved in those kinds of arrange-  
15 ments. More frequently than not in some situations, the  
16 attorneys, as a whole in the program, have law students assign-  
17 ed to them and have the responsibility for the supervision of  
18 the law students.

19 I can say quite frankly that the experience of that  
20 latter arrangement is not as satisfactory. The problem with  
21 law students involved in the activity has been that there are  
22 a variety of pressures on law students and unless the school  
23 has an arrangement where the clinical experience is a full-  
24 time experience, the student must maintain his reading and his  
25 all of the activities that a student must go through in the

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1 other courses, and of course, there are exams when time away  
2 from the office is required, in addition to that there are  
3 whatever other pressures that that law student has to deal  
4 with in just working through the business of living.

5 .The arrangements financially, have varied from situa-  
6 tions where the law schools have actually made contributions  
7 to the program, financial contributions for the hiring of a  
8 full time person, who will assume the responsibility for super-  
9 vision to those where no such financial arrangements are made.

10 One of the things that Legal Services programs have  
11 tended to find out over the years, is that free help frequent-  
12 ly is not free. One needs space for that help, one needs all  
13 of the equipment from paper clips to secretaries to everything  
14 that one can imagine in order to support someone who is pro-  
15 ducing legal work.

16 The Corporation -- what I have just described has  
17 been the relationships that programs have worked out with  
18 various law schools. The Corporation funds directly two  
19 clinical programs. The Corporation, obviously under the Act,  
20 is required to fund Legal Services programs. The two clinical  
21 programs that are funded under the Corporation, both are situa-  
22 tions in which attorney time is committed.

23 In other words, even if there were no law students  
24 involved in the process, those programs would be obligated to  
25 produce X number of work hours for attorneys. There are perma-

1 nent situations so that when students go away for their sum-  
2 mer vacation the activities continue. There is no disruption  
3 in the client service. Those have tended to work very well.

4 They are frequently the only delivery service in  
5 communities, as in the situation in Knoxville, Tennessee.  
6 There is, in addition, a clinical arrangement with Antioch  
7 Law School, in the District of Columbia, that has operated in  
8 much the same way.

9 In other words, there are full time lawyers assigned  
10 the responsibility of providing the supervision of the stu-  
11 dents who work on the cases. The cases are assigned to those  
12 lawyers on a full time basis. So that if the student activity  
13 diminishes for whatever reason, the activities and the service  
14 provided continues a pace.

15 Both of those arrangements were arrangements inherit-  
16 ed by the Corporation from OEO and CSA. Both of them were  
17 looked at very carefully when the Corporation came into exist-  
18 ence and indeed in one of those situations, the overall plan  
19 was completely restructured, to insure that what the Corpora-  
20 tion was funding was a delivery of legal services mechanism.

21 That basically is an over-view of the kind of arrange-  
22 ments that have existed. It gives you some sense of the diffi-  
23 culties with the arrangements, obviously the benefits to ac-  
24 cru to Legal Services programs has to do with the fact that  
25 law students who come from clinical programs frequently seek

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1 employment in Legal Services programs. They have a much  
2 broader kind of experience than the ordinary graduate of a  
3 law school.

4 They certainly have had exposure to poverty related  
5 work and are -- a substantial number of attorneys in our pro-  
6 grams around the country have had that kind of background.

7 MR EHRLICH: Dick.

8 MR CARTER: There is a considerable amount of ex-  
9 change with legal educators in our training, particularly with  
10 clinical educators, because of the emphasis on skills training  
11 in our training -- in all of the training.

12 There is a training session that is devoted to the  
13 lawyering skills, such as interviewing, negotiation, discovery,  
14 trial or the skills are used as a means to raise issues, when  
15 you are teaching about the issues of housing law or other is-  
16 sues of law.

17 The educators serve in three ways, really. One is  
18 in membership on our advisory committees. We have small com-  
19 mittees of lawyers in and out of Legal Services and educators  
20 who helped design the training and decide what will be done  
21 and how an issue or an area of law will be attacked.

22 Secondly, in the preparation of materials, often  
23 they are the people who can give us their expertise and their  
24 time and have the time to devote to preparation of detailed  
25 materials.

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1           And thirdly, as instructors in the training sessions.  
2 In our New Lawyer Series, which is just one of a number of  
3 series, and represents a minimum of 14 training sessions in  
4 this fiscal year, out of a total of about 80 some training  
5 sessions, there will be a faculty of about 20 people at each  
6 session.

7           And I would say that about half of those, at any one  
8 session are legal educators and usually clinical educators.  
9 It is also significant, I think, the number of the programs --  
10 clinical programs -- use the materials that are developed.

11           Some of course are materials that they have played  
12 a large role in helping to develop, but there are over 40 law  
13 schools that use the New Lawyer set of materials in their  
14 Clinical Education courses.

15           They have been featured in articles, in books. Some  
16 of you are familiar with the material by Phil Shrag at Columbia  
17 and I had a call yesterday from Richard Dansig, who is at  
18 Stanford, who is using our -- what we call the Allan Case, in  
19 materials for a book that he is publishing.

20           So there is a considerable exchange in the training  
21 at all of the levels. From design to the delivery of the  
22 training.

23           MR EHRLICH: Bob McKay.

24           MR MCKAY: Thank you. Mr Chairman, members of the  
25 Corporation and my unseen audience, out there, I shall try to

1 to speak loudly enough to be heard and I hope convincingly,  
2 because I come before you as an enthusiastic supporter of  
3 clinical legal education.

4 I am particularly glad that you have this item on  
5 your agenda. I have no specific proposal to bring to you to-  
6 day, but I think it is extremely important that there be this  
7 kind of exchange between those in legal education who are in-  
8 terested in clinical education and those who are concerned  
9 primarily with the delivery of legal services.

10 I think that we have much to benefit from that kind  
11 of exchange with each other. My primary purpose today is to  
12 tell you something about the way legal education is proceeding  
13 now to re-examination -- I might even say a first careful ex-  
14 amination -- of what clinical legal education is.

15 And it is the Committee that has been set up by the  
16 Association of American Law Schools and the American Bar Assoc-  
17 iation called The Clinical Guidelines Committee of which I  
18 am Chairman.

19 Oddly enough, although clinical legal education has  
20 been a part of American legal education to some extent, part-  
21 icularly the service component for a very long time, as a  
22 fundamental part of legal education, as such, it really is  
23 only about 10 or 15 years old, in bulk of American Law Schools.

24 During that time, it has been stimulated a great  
25 deal by assistance provided originally by Ford Foundation

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1 money through the vehicle of the Council of Legal Education  
2 For Professional Responsibility, known as CLEPER, which has  
3 had about 10 million dollars to spend in law schools on experi-  
4 mental programs to see what could be done in clinical educa-  
5 tion as an educational and as a service device.

6 Indeed, the money from our Committee comes from that  
7 organization as well. 150,000 dollars over about the next  
8 three years.

9 Curiously, there is no agreed upon definition of  
10 what clinical legal education is, yet. Mr Jones, I think,  
11 well described the variety of programs that trade under that  
12 name. We talk about actual service clinics, the one in Tenne-  
13 ssee is an outstanding example of legal services and education  
14 being completely fused into a single program.

15 There are others in which the legal services com-  
16 ponent is a relatively small part and there are other in which  
17 simulation is the principal way in which the program is done.

18 But, I am not willing, at this point at least, to  
19 exclude even those programs which have been part of legal edu-  
20 cation for a long time, such as drafting legal instruments,  
21 writing seminars, imperimental studies that are conducted by law  
22 reviews and other groups. There are lots of ways in which the  
23 practical dimension of the law can be brought into legal educa-  
24 tion.

25 Yet oddly, we are only at the threshold of under-

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1 standing what those implications are and defining what the  
2 programs might be and of trying to pull the whole thing to-  
3 gether into some kind of coherent whole.

4 We have worked out clearly what should be the re-  
5 lationship between clinical legal education and legal ser-  
6 vices. But I think that it is quite striking when we pre-  
7 sented our Committee program -- it is not really a program,  
8 we are just defining it now -- when we discussed it at the  
9 Association of American Law Schools meeting in December in  
10 Atlanta, a meeting at which Mr Carter was present, we found  
11 that there was a very strong feeling from clinitians and other  
12 legal educators who were there, that we should explore with  
13 you the possibilities of combining service and education.

14 Now this was before I had any idea myself that this  
15 was a likely agenda for your discussions or that you had a  
16 long standing interest in it. So come at the same question,  
17 I think, from our seperate but inter-related perspectives.  
18 That is trying to find a way in which legal education can  
19 serve you and you can be of assistance, I think to legal educa-  
20 tion.

21 In the early days of clinical education, I think it  
22 was viewed mostly as a service function. As I say, the Tenne-  
23 ssee example is a good one, it continues successfully to the  
24 present. More recently it has been thought in view of the  
25 criticism that has been advanced against lawyers as they emerge

1 from law school -- that they are not sufficiently trained in  
2 the pragmatics of practice -- it has been thought that things  
3 can be done at law school to give some better preparation for  
4 skills training of a variety of kinds, whether it is negotia-  
5 tion or whether it is appearance in Court, administrative ag-  
6 encies or client counselling, a whole variety of things which  
7 are part of the real practice of law.

8 Many of us believe that the law schools have been  
9 too isolated from some of those realities of practice, many of  
10 us believe that legal education can assist in the training  
11 for the final practice of law.

12 We also believe, or at least we want to explore the  
13 possibility that there can be useful service provided at the  
14 same time.

15 I come from a school, New York University, which  
16 has a very substantial clinical component in the legal educa-  
17 tion for about the last 10 years. And I come from a city,  
18 New York, in which there has been very substantial interchange  
19 between the Legal Services programs -- Community Action for  
20 Legal Services, your program and the Legal Aid Society, which  
21 has some of your money in the civil programs there.

22 In all of those there has been we believe, in New  
23 York, a useful interchange between the two for what I believe  
24 has been the mutual benefit of both.

25 Our Committee wants to explore those questions. We

1 have no preconceived notions, as I say we have not even agreed  
2 upon a definition that would limit or circumscribe unnecessari-  
3 ly and to soon what is clinical legal education.

4 Let me tell you just about the committee and then  
5 I am done. The Council on Legal Education for Professional  
6 Responsibility in the spring of last year, conceived a notion  
7 that as one of it's final acts, it is due to go out of exist-  
8 ence in 1979, it would be useful to get an overview or per-  
9 spective of what had happened, what the prognosis is for the  
10 future and how it might be best assisted for the long run.

11 The grant was made to the Association of American  
12 Law Schools, to the American Bar Association and the Committee  
13 was set up to structure guide lines that would be helpful to  
14 law schools, to legal education and I hope thus to Legal Ser-  
15 vices over a period of time.

16 We will probably function into 1979 or 1980. We  
17 have proceeded so far to present our preliminary idea, or  
18 really just a kind of agenda to the law schools, to law school  
19 deans, to clinicians, to students, to American Bar Association  
20 groups and now an opportunity to explain to you a little bit  
21 of what we are about.

22 The seven person committee, three having been chosen  
23 by the American Bar Association and three have been chosen by  
24 the Association of American Law Schools, as I said I serve as  
25 Chairman of that group.

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1           We have a Reporter, who is compensated in part for  
2           his services, Steven DeLicho, an Assistant Dean at New York  
3           University School of Law and a continuing consultant from  
4           Cleveland State Law School and we will at our meeting, next  
5           weekend begin the process of farming out several of the tasks  
6           that we want to inquire into other consultants around the coun-  
7           try.

8           At that meeting, we have a preliminary outline of  
9           what we want to try to put in final shape, the direction of  
10          the inquiry in which we want to make in clinical legal educa-  
11          tion and thus move toward the guide lines over a period of  
12          time.

13          So this opportunity to speak with you today, comes  
14          for me at a most opportune time because we are just at the  
15          threshold -- we just have some tentative ideas -- nothing  
16          formulated in final fashion and thus we are very willing to  
17          move and take into consideration what you think would be app-  
18          ropriate to look at.

19          We see this as an opportunity to look at legal ser-  
20          vices as a component of legal education. We see this as an  
21          opportunity to improve the quality of legal education. We see  
22          this as an opportunity to insure better infusion of profession-  
23          al responsibility into the law students who are in law schools  
24          today. And finally, we see it as an opportunity to train  
25          young lawyers with the perspective of Legal Services as a

1 potential career choice for them.

2 So that there are all these ways, in both the short  
3 run and I hope in the long run, there will be an opportunity  
4 for real improvement in legal education and the ultimate de-  
5 livery of legal services to all Americans.

6 MR CRAMTON: Why don't we go through the various  
7 visitors and then have questions and discussion on the part  
8 of the Board with any of our consultants and friends. Millard  
9 Ruud, Executive Director of Association of American Law Schools.

10 MR RUUD: Ladies and gentlemen of the Board. I came  
11 to listen and to hear what Bob and Peter Liacouras and others  
12 were going to say and listen to the discussion, but let me,  
13 having been invited to say a word or two, to express to mem-  
14 bers of the Board the great interest of legal educators in  
15 legal education.

16 I suppose as Mr Jones indicated and Bob McKay has  
17 indicated, we as legal educators typically have some kind of  
18 consensus, but we have different explanations and different  
19 interests in legal education.

20 I think that clinical education offers one of the  
21 finest opportunities for real education. An opportunity for  
22 our students to understand the function of lawyers and lawyer-  
23 ing in ways that reading about it does not provide.

24 Let me say one other thing. I think that it would  
25 be useful to us to appreciate that legal educators view the

1 principal role of law schools is legal education and many in  
2 the leadership of our Association see that if the law school  
3 doesn't do it there isn't any other institution to do it.

4 We are interested, obviously in providing service to  
5 the community, but if there is substantial conflict then we  
6 need to serve the interests of legal education, but I think  
7 those can be accomodated and matched. Let me just stop there  
8 and thank you for this opportunity.

9 MR CRAMTON: Dean Liacouras and Professor Harbaugh.

10 MR LIACOURAS: Thank you very much, Mr Chairman  
11 and Mr Ehrlich and Clint Bamberger, and others, we appreciate  
12 the opportunity to be with you.

13 I endorse everything that has been said so far from  
14 11 o'clock until 11:28 and with that I would like to focus  
15 just for a moment on one program among others, our program,  
16 which is facing a funding crisis and which happens to fit all  
17 of the parameters that I understand that are included within  
18 the two programs that are being funded at law schools --

19 MR CRAMTON: Peter, I think that the audience can't  
20 hear you.

21 MR LIACOURAS: Well, I am focusing with your per-  
22 mission on one program, our program at Temple Law School. We  
23 have and have had for 22 years a legal services office. The  
24 first 17 years it was a branch of the Legal Aid Society of  
25 Philadelphia. The last 5 and 1/2 years it has been a full

1 blossomed, integral part, with certain slight changes of the  
2 Temple University Law School.

3 With a full time staff of lawyers, three full time  
4 lawyers, five parttime lawyers, a clerical staff and some --  
5 between 150 and 200 law students working in the office and the  
6 office costs us about 175,000 dollars a year and we service  
7 3,500 clients.

8 I want it emphasized that we service up to 3,500  
9 clients in the North Central Philadelphia area for 175,000 dol-  
10 lars, direct cash outlay. All of which comes directly from  
11 Temple Law School.

12 We simply cannot continue that kind of funding, by  
13 the Law School. Now, we do not operate as though we are going  
14 to use our clients as some sort of educational guinea pigs.  
15 We service them as people. The predominate number happen to  
16 be Black and Puerto Rican. Mr Schweigert, who is the Deputy  
17 Dean in charge of the educational process of all programs,  
18 educational and service, is now the General Counsel of the  
19 U.S. Civil Service Commission.

20 Mr Díaz -- Nelson Díaz, was one of the part time  
21 counsels, he developed the program for Hispanics, he is now  
22 Special Assistant to Mr Mondale.

23 We had 80 per cent of our Black and Puerto Rican  
24 students -- Hispanic students -- who operate in the program.  
25 Associate Dean Singley would be here today, but he had an

1 earlier conflict, the selection of a new General Counsel and  
2 what I want you to understand is that there is tension between  
3 the educational side and the service of a Law School, but that  
4 is a healthy tension.

5 We have not waited for reports to come in, we got  
6 started with a full commitment, 5 and 1/2 years ago and we  
7 feel as though our program, which put in an application last  
8 year to National Legal Services Corporation, symptomatic of  
9 at least one or two other similar programs in the country, one  
10 I understand is the University of Chicago, should in fact be  
11 funded.

12 We represent the other side of conflict of interest  
13 because of conflict of interest possibilities in custody cases,  
14 those where the other counsel is Community Legal Services Cor-  
15 poration -- CLS, in Philadelphia.

16 We had at least 10 to 15 per cent of our cases re-  
17 ferred to us by CLS but we received not one cent of support  
18 for our program and we insist on having the kind of housing in  
19 our facility which has -- let's see we have 11 rooms, which are  
20 not counted in terms of cost in the 175,000 dollars that I men-  
21 tioned, just direct cash outlay.

22 We think it should be in our law building as a con-  
23 cept of the Law Center implemented, not just training lawyers  
24 in the classroom -- future lawyers -- but delivering services  
25 in that building, integrating it as much as we can with our

1 educational side but having responsibility placed on the pro-  
2 fessional staff for the legal services and the educational  
3 staff for the educational aspect and Associate Dean and Pro-  
4 fessor Joseph Harbaugh, who is a leader in clinical education  
5 in the United States, is overall in charge of our educational  
6 programs and can answer questions.

7 I didn't mean to come and give you a horror story  
8 about one particular program, but it is in fact a crisis and  
9 we may have to announce the closing of this office, which will  
10 create a major impact in Philadelphia and we expect it would  
11 also impact here to the National Legal Services Corporation.

12 We would like to avoid it. We will use our own mon-  
13 ey for at least this year -- the rest of this year -- through  
14 June and hopefully if we can arrange it for next year, but I  
15 cannot find a sufficient amount of hard money to continue this  
16 program.

17 By your taking over legal services and having a mon-  
18 opoly, for instance in Philadelphia, CLS, you have cut out  
19 United Way's support for our program. Because the thought is  
20 that you have all of the money and therefore there is no need  
21 for -- it doesn't follow, but in fact -- but it follows opera-  
22 tionally so far that there is no need to try to support for  
23 legal services in Philadelphia.

24 There is no inconsistency in anything we have done  
25 with maintaining the educational supremacy of the educational

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1 side and of service supremacy of the service side. We have  
2 tried to use the two and we think that we have been success-  
3 ful.

4 And I hope that you will give this your immediate  
5 and direct attention. We appreciate very much this opportunity  
6 to be with you, especially the Chairman's initiative in invit-  
7 ing me, thank you very much.

8 MR CRAMTON: Thank you, very much. I think that we  
9 have some questions from members of the Board. There is an-  
10 other distinguished legal educator who has had a lot of ex-  
11 perience with clinical legal education who would like to say  
12 a word or two -- Edgar Cahn, the Dean of Antioch, who is one  
13 of the two recipients in the legal education world of Corpora-  
14 tion money. Why don't you come up, Edgar and -- if this keeps  
15 going, we will have more people up here than in the back of  
16 the room, but that's all right.

17 MR CAHN: I am not sure whom amongst this group would  
18 consider themselves more of an outcast within the establish-  
19 ment of legal education for which purposes.

20 But all of us, I think, feel some beleaguered and  
21 some in a situation where we are fighting for changes in legal  
22 education that we regard as critical. I think Gene and I  
23 moved to try to establish Antioch Law School because we felt  
24 that legal education was fundamentally --

25 MR CRAMTON: Can you speak up a little, I don't

1 think that they can hear you in the back.

2 MR CAHN: Gene and I didn't start out as legal educa-  
3 tors, essentially. We came to feel that involvement in legal  
4 education was critical because legal education, we felt, had  
5 such a profoundly regressive impact on the availability of  
6 legal services to the poor.

7 And that regressive impact stemmed from a variety  
8 of aspects of legal education, whether it was admissiona cri-  
9 teria, that did not look either to social commitment, contri-  
10 bution, staying power, responsibility, qualities I think that  
11 we look for in the profession in all aspects of the profession,  
12 whether that went for curriculum, criteria for selection of  
13 faculty, definitions of relative legal scholarship, financial  
14 aid, or libraries.

15 Because law schools, by and large have been unwilling  
16 to address the issue of the lawyers monopoly over legal know-  
17 ledge. You have been much more willing to do that in your  
18 recent set of proposals -- or invitations for funding proposals.

19 And I think that legal education and legal educators  
20 have some social responsibilities there that institutionally  
21 they have been loath to deal with.

22 Clinical education is kind of either the vanguard  
23 or last bastion of folks who feel strongly about that. I per-  
24 sonally don't think that right now that I see them having the  
25 leverage to secure the financial base to the extent that funds

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1 have dried up in the past and now that CLEPER is going out of  
2 existence, unless either the definitions of who one gains ad-  
3 mission to the Bar change because law school curricula tend to  
4 be dictated to a large degree by Bar exams, and I think that  
5 the tensions that are mentioned between service and education  
6 that are very real, can only begin to be solved by a series  
7 of planned experiments about how those trade offs can make  
8 sure that you get the kinds of returns to your dollars in terms  
9 of service that are real.

10 We are now about to start a joint venture with the  
11 Neighborhood Legal Service Program to see -- to open an office  
12 in the Adams-Morgan Area to see whether or not students per-  
13 ceive of themselves as students or professionals when they  
14 work in different environments.

15 When they work in the law school clinic, they func-  
16 tion, initially in the first year and perceive of themselves  
17 as students. Under certain environments we see them function-  
18 ing with much greater productivity than Neighborhood Legal  
19 Service Attorneys and we think that they have something to add  
20 both in terms of enthusiasm and in terms of, at least they are  
21 not yet burned out.

22 I think that clinical education has something very  
23 important to give in terms of whether or not you can legitimate  
24 or help to legitimate, the poverty law and concerns about eq-  
25 ual justice under the law as a fundamental part of legal educa-

1 tion. It hasn't really succeeded yet, it is still kind of a  
2 step-child.

3 I would simply say that I think that it is a critical  
4 area because increasingly, we see career choices determined in  
5 a whole variety of ways and going into a poverty law career is  
6 no longer as fashionable as it was. Financial aid considera-  
7 tions, curriculum considerations, the whole structure of the  
8 placement office are problems that ought to be dealt with. I  
9 think that it is the kind of area where a planned set of ap-  
10 proaches by the Corporation into placement, into testing, in-  
11 to financing, as you have done with the loan forgiveness ex-  
12 periment. That it will take a combined strategy and a very  
13 thoughtful strategy to use money in a way where it just isn't  
14 consumed, the project is over and the project seeks refunding,  
15 but one that would impact significantly on the system that pro-  
16 duces lawyers and that provides the placement system as a marr-  
17 iage broker between the law schools and the existing delivery  
18 system and that saddle people with debt that makes it impossi-  
19 ble for them to afford the salaries that you can pay.

20 And I think that unless you begin to look at all of  
21 the aspects of legal education that legal education will con-  
22 tinue to have a regressive impact on the delivery of legal  
23 services.

24 MR CRAMTON: Millard.

25 MR RUUD: I have something that I should have said

1 initially, perhaps all members of the Board know, but just in  
2 case, we are having a conference that starts tomorrow after-  
3 noon at 1:30 in Nashville and concludes on Saturday at noon,  
4 that is directed at the problem that has been mentioned severa  
5 times, a future funding pattern for legal education.

6 As I think perhaps all of you do appreciate, it is  
7 a much more expensive form of education, requiring, if it is  
8 going to have quality to have a much lower student - teacher  
9 ratio, an individual educator can provide education to a much  
10 smaller number in that kind of setting. That requires dollars.

11 We estimate that depends on the program, that it is  
12 three to five times more expensive per student credit hour than  
13 for others.

14 We will be looking at a variety of ways to try to  
15 deal with the matter of funding at that conference. Tomorrow  
16 afternoon will be addressed primarily to what have we got now,  
17 what is the future and in that we will examine the possible  
18 future of Title 11 of the Higher Education Act of 1968.

19 I think most of you know about and for this current  
20 fiscal year, for the first time, ever been funded -- funded  
21 11.1 million dollars. Though the authorization is 7 and 1/2.  
22 With a provision that it is a one time thing. We hope that it  
23 is not a one time thing and that we can do a good job.

24 I might want to mention one other matter that does --  
25 the matter of placement and the difficulties there is and a

1 member of your staff is attending the conference called the  
2 Placement Summit in Austin, Texas where it was 86 degrees the  
3 day before yesterday and with representatives of a variety of  
4 organizations talking about some of the placement problems in-  
5 cluding this.

6 I might say that our association in addition to par-  
7 ticipating in the efforts that Bob McKay is heading to try to  
8 1) distill the value of all of the experience we have had with  
9 clinical education over the last decade and then 2) on the basis  
10 basis of that then recommend some guidelines for the future.

11 We had a program last fall, in Cleveland for some  
12 60 clinical teachers to assist them in becoming more effective  
13 that will be continued as one weeks summer sessions for the  
14 next three years.

15 The association is investing considerable effort to  
16 support and to help develop an improved clinical education.

17 MR CRAMTON: Do members of the Board have questions  
18 for any of the panel?

19 MR BROUGHTON: Mr Chairman, the Temple question on  
20 support from United Way, am I -- I am not sure that I under-  
21 stood your point. Was it that that organization terminated  
22 its support for legal services?

23 MR LIACOURAS: In Philadelphia.

24 MR BROUGHTON: Because of the existence of this  
25 Corporation? I am not --

1 MR LIACOURAS: Yes, in 1971 in anticipation of the  
2 what was then OEO in taking over a greater responsibility of  
3 legal services, an agreement was made between the then Phila-  
4 delphia Legal Aid Society and the United Fund, which was the  
5 funder of the Legal Aid Society that in five years the funding  
6 would cease.

7 It happened that in the second year there were  
8 changes at Temple Law School, which I mentioned and those of  
9 us who were not party to that agreement, although Temple was  
10 represented when the agreement was made, raised the question  
11 whether or not the conditions are not sufficiently changed so  
12 that the funding should continue through Temple.

13 And the answer -- although they are very supportive  
14 of our program has been that we made certain plans, we had an  
15 agreement and because at that time the National Legal Services  
16 Corporation had come in with all of the -- funding, so it  
17 seemed -- we would thereby abide by the agreement and stop  
18 funding any legal services in Philadelphia.

19 So, I repeat, the 20 dollars a case and these are  
20 undramatic type representations, while we in no way would do  
21 anything inconsistent with our professional responsibilities  
22 in pursuing a case all the way to the Supreme Court, our cases  
23 aren't those types.

24 They are domestic relations, landlord-tenant, no  
25 appointment is necessary. If a client has an immediate problem

1 we feel just as someone who has an immediate medical problem,  
2 you should be able to go to an office and at least have some  
3 preliminary discussion with someone in authority.

4 Now, I underline that we will be faced with an announce-  
5 nouncement of closing this office, which I have tried very  
6 hard to avoid by stating publically. But as a practical mat-  
7 ter, given the conditions of the University -- the financial  
8 conditions -- and what we face are the equities in our case,  
9 for outside funding being a service program, not a clinical  
10 education as such, we may have no alternative.

11 MR EHRLICH: In fact, a number of law school clinics  
12 around the country have raised the same kind of concern. Old  
13 Board members will recall at the very outset, when we embarked  
14 on the minimum access plan and realized that it was very scarce  
15 resources and the job was to provide service in the most equit-  
16 ale way that we could to poor people.

17 That is our job, of course, it is not legal education  
18 tions. It is to provide direct service and to do so, in the  
19 fairest and most effective way that we can.

20 It seems to the staff, in terms of preliminary think-  
21 ing at least, that at least through the 1979 fiscal year, when  
22 all of the resources focused on that minimum access plan, and  
23 of course depending on what the Congress does, perhaps even  
24 after that, that will have to be the priorities, but

25 But it does seem not to early to begin to think

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1 about the longer range questions of thereafter and in our very  
2 preliminary thinking I would be interested in the Board's re-  
3 actions.

4 We have thought about at least a couple of possible  
5 kinds of approaches for future involvement and they are not  
6 mutually exclusive and there certainly are others. And one  
7 would be to try, consistent with the overall needs for service  
8 around the country, to think of a program that might look to  
9 funding at least portions of the cost of the clinical efforts  
10 at a number of schools, 10, 20 whatever, chosen on a competi-  
11 tive basis.

12 Schools that would make a number of kinds of commit-  
13 ments. Not only commitment to provide direct service to poor  
14 people, consistent with the overall plans for service, but al-  
15 so commitments of the kind Edgar was talking about, exposure  
16 to all students to legal services. Inclusion of material re-  
17 lating to legal services for the poor in all courses -- tradi-  
18 tional courses -- not just poverty courses.

19 Helping local programs through back-up and research  
20 support, through sabbatical and exchange programs and a varie-  
21 of other kinds of ways.

22 You can imagine at least in the long run, one kind  
23 of approach that would be on that kind of way. You can ima-  
24 gine another one, I think that would look at a single institu-  
25 tion or maybe a couple of institutions that were aimed more,

1 particularly at training Legal Services lawyers. The truth is  
2 in terms of number of applicants of course we don't have a  
3 problem. There are far more applicants for Legal Services  
4 positions than there are. There are problems in being sure  
5 that they are trained well.

6 Dick and Edgar and others who were the first in  
7 stating their problems in terms of staying power, how long  
8 they will stay in.

9 But those are the kinds of questions and the kinds  
10 of approaches at least we have begun to consider and I think  
11 that it is fair to say that we would expect, at some point,  
12 down the road when the minimum access plan is achieved, we  
13 would expect to formulate our own thinking in terms of the  
14 staff and continued involvement with these gentlemen here and  
15 others.

16 MR CRAMTON: I have a few comments on the President's  
17 remarks, pardon if my perspective is a little bit different.  
18 It does seem to me that the attitudes of the Corporation and of  
19 its regional staff and field services have been somewhat inhospitable  
20 to applications from law schools that had clinical operations,  
21 even in those situations in which there is no public  
22 ally funded Legal Services in the area, and it is not even  
23 consistent with the minimum access program.

24 And second that in those areas in which -- that in  
25 the country as a whole we have departed from the minimum access

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1 as a principal priority at the recommendation of the staff. A  
2 very substantial number of instances that involved a very sub-  
3 stantial portion of the total increase of appropriation and  
4 deferring this issue to some future date is essentially a  
5 priority issue and it seems to me that the Board perhaps ought  
6 to consider and discuss.

7 A question that is based on what I think is a correc  
8 perception of the legal services community in general is that  
9 was reflected in Charles Jones comment that the experience in  
10 the legal services community with delivery of legal services  
11 through clinical legal education is quote mixed.

12 Now what that means is, I assume, that the quality  
13 of legal services delivered to poor people, in that setting,  
14 is erratic, is not as reliable. I would like to get Professor  
15 Harbaugh and Deans McKay and Cahn to comment on their percep-  
16 tion of the quality of legal services in the communities in  
17 which they are familiar, delivered by Temple University Law  
18 students in your legal clinic compared to what the Philadel-  
19 phia Legal Services program does and Washington D.C., through  
20 either the Legal Services entity or the Antioch offices and  
21 by N.Y.U. students in the New York area. Is there a problem  
22 of erratic or mixed quality? Or is there an assurance that  
23 quality legal services are being performed for poor people?

24 MR HARBOUGH: It seems to me, Mr Chairman, that the  
25 quality of legal services provided by clinical programs that

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1 have an emphasis on service is comparable to most Legal Ser-  
2 vices offices that I have observed in three states, three law  
3 schools, in Connecticut, in North Carolina and now in Pennsyl-  
4 vania at Temple.

5 The differences that do exist depend upon the abilit  
6 of the supervising attorney that you have in clinical your  
7 programs. I want to emphasize, for example, in Temple, part  
8 of our supervision comes from graduate teaching fellows, ten  
9 of whom we have run through on the clinical side thus far,  
10 seven of whom we recruited from Legal Services offices in five  
11 or six different states and most of whom have gone on to direc  
12 clinical programs.

13 So of them have gone back into Legal Services. And  
14 if you have the funds available to pay supervising attorneys  
15 who come to the programs with experience, particularly experi-  
16 ence in delivery of poverty legal services, as we do at Temple  
17 then it seems to me that the quality of the delivery is compar  
18 able.

19 You tend to have some students who don't have the  
20 experience and who may not be caught and you will have some  
21 times, in some instances less quality of legal service than  
22 you might have.

23 On the other hand, you have students who take more  
24 time to do the same thing because they are inexperienced and  
25 so that you have a time factor that is different between the

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1 Legal Service lawyer who is experienced and the third year  
2 law student who doesn't have experience and is learning.

3 Over all, I would say that most of the Legal Ser-  
4 vices clinical programs that deliver direct legal services to  
5 the poor the quality between Legal Services and clinical pro-  
6 grams are comparable.

7 MR JONES: Mr Chairman, I want to make it clear that  
8 I agree with that point of view and that was principally the  
9 point that I was trying to make.

10 In situations where the law students have devoted  
11 themselves to a direct delivery method, the result has been  
12 very good.

13 When I say that they were mixed, I had reference to  
14 some where that kind of commitments. And it happens that two  
15 of the situations that you are talking about are here today.  
16 Dean McKay also responded with reference to Knoxville. Where  
17 that kind of commitment also exists. I have no quarrel with  
18 that at all.

19 I had referenced two situations where that kind of  
20 commitment does, in fact, not exist.

21 MR CAHN: I think that the quality issue has been  
22 less a concern -- the reviews of the quality of service that  
23 have been produced by Antioch have indicated that they have  
24 been of the highest order and compare very favorably with Le-  
25 gal Services. I think that

1 I think that our concerns and the concerns of the  
2 Corporation at Antioch have been around the quantity and the  
3 volume when one starts moving with, in effect a Legal Ser-  
4 vices program with 400 law students and the management sys-  
5 tem necessary to deliver on the commitment that you are speak-  
6 ing about. And that is the thing that we have had to wrestle  
7 with.

8 MR MCKAY: In New York I think the experience has  
9 been similar to those described in Philadelphia and Washing-  
10 ton. We have had, I think, very good experience in working  
11 with law students at several law schools in the New York area  
12 and several of the Legal Services programs.

13 Indeed, the Legal Aid Society worked out an actual  
14 contract with New York University for the payment of part of  
15 the salary of some of the clinical law teachers on the theory  
16 that they are getting value received for that.

17 And so it seems to me that it is very attractive  
18 as President Ehrlich mentioned to try these kinds of experi-  
19 ments in a variety of schools, perhaps with different formula-  
20 tions as Dean Cahn suggested earlier, that will allow you to  
21 figure out what the cost-benefit factors are. It seems to me  
22 that you can work that out, and figure out exactly how much  
23 benefit's being given by law schools in the form of the deliv-  
24 ery of legal service.

25 And let the law school pay for the legal education

1 part and let somebody else pay for the actual delivery of  
2 legal services.

3 There is another element of value in all of that  
4 which Mr Ehrlich also mentioned and that is the fact that it  
5 is away of training future Legal Services officers, those who  
6 will have a commitment, those who have experience that can go  
7 directly into the program.

8 I know that the Legal Aid Society of New York said  
9 that one of the big benefits of the program of the cooperation  
10 with the law schools there was that they were able to take  
11 graduates of the law schools and put them immediately to tasks  
12 that they would otherwise not have been prepared for without  
13 six months to a year's training.

14 So there is a quite early pay off and I think also  
15 a long range pay off in the training and the commitment fac-  
16 tors.

17 The final thing that I want to say is that this  
18 question of quality control is a serious one in the law school  
19 and that is one of the things that our committee is concerned  
20 about looking in to, to see if there can be standards and eval  
21 uation for clinical instructors, for clinical teaching material  
22 for preparation of materials, evaluation of students, evalua-  
23 tion of performance and of the services rendered. All of  
24 those things I think can be measured and what we are going  
25 to try to do is figure out to do it.

1 MR CRAMTON: Mr Ortique has been very patient.

2 MR ORTIQUE: He certainly has.

3 (Laughter.)

4 MR ORTIQUE: Two comments. One, sir, having been  
5 connected with United Way programs, I know that they want to  
6 put all of the burden for the type of activities that you have  
7 described on the Corporation and people say you went from  
8 71 million to 204 million -- 205 million dollars and therefore  
9 you have buckets of money.

10 I would certainly hope that you would resist that  
11 type of tact, in my home town, New Orleans, we have had it  
12 over the years. They wanted to reduce to zero the amount that  
13 United Way contributes to that very small private operation.  
14 And we resisted it because we think that they are rendering a  
15 real service, particularly for those one time type of situa-  
16 tions domestic relations problems, adoption problems and bank-  
17 rupcies.

18 And it serves a very real purpose and I would cer-  
19 tainly asked that you go back -- I know some of those people  
20 in Philadelphia and I am sure that some of the leaders there  
21 recognize that you can perform a real service.

22 Which gets me to my second point and since I am  
23 known to most of the persons who are seated out there, and you  
24 know that I have tremendous confidence in what you are doing.

25 But the one thing that I would be concerned about as

1 a member of this Board is the utilization of Corporation funds  
2 to train people who are not concerned with poverty programs.

3 I know, for example, that we need to broaden clinical  
4 programs throughout our law schools across the country. I  
5 know that students come out of law schools without knowing  
6 what to do in the courtroom, that they get little or no -- moot  
7 court is a farce as far as I am concerned, in terms of train-  
8 ing people to be ready on the day after they pass the Bar to  
9 go into a courtroom.

10 MR KUTAK: Or even into a law office.

11 MR ORTIQUE: Or into a law office, sure Bob. But I  
12 don't want us to use Corporation funds, dedicated to the assis-  
13 tance of the poor for training major law firm proteges or --

14 MR KUTAK: Why do you look at me?

15 (Laughter.)

16 MR ORTIQUE: When I say major I am talking about  
17 that kind of operation. It just seems to me that we as a  
18 Board have got to be ever mindful that that does not occur  
19 because the majority of law graduates are not going into pov-  
20 erty law and we have got to protect these funds as much as we  
21 can.

22 MR MCKAY: I fully agree with that Mr Ortique. But  
23 the beauty of the possible partnership between this Corporatio  
24 and clinical legal education is that clinical legal education  
25 is concerned with assistance to the poor. *Alma*

1           Almost all of the programs are primarily concerned  
2 with service to the poor and it is those people who become  
3 dedicated to the poor in the course of their legal education  
4 experience to that program, who are now largely going into  
5 Legal Services programs around the country.

6           I think it is just the best way of interesting law  
7 students for that kind of practice rather than a major law  
8 firm. Which I hope continues also, but seperately.

9           And it is that kind of service that is offered in  
10 the clinical programs, by and large. It is a natural marriage

11           MR CRAMTON: Dean Liacouras.

12           MR LIACOURAS: And Mr Ortique, I agree 100 per cent  
13 with what you say. We have been devastated because United Fun  
14 has made an irrevocable decision three years ago to stop fund-  
15 ing and the powers that be, in good faith, have decided that  
16 there will be no additional funding.

17           In '72 we had a budget of 12,000 in 1970, when the  
18 agreement was made, it was only 7,000. It is now over 170,000  
19 direct cash and if you use the overhead and if you use the fac-  
20 ility, it is must greater.

21           So the burden really, for this service program not  
22 clinical, but service with staff attorneys, et cetera is based  
23 directly on the Legal Services Corporation. We have no altern  
24 tive.

25           And we did file an application which was rejected

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1 last year and I can understand the reasons for it, from what  
2 I heard, but I repeat that if we are interested in minimal  
3 access and all of the other features mentioned here, for the  
4 long term but specifically treating 3,500 persons daily -- on  
5 an annual basis, but daily without appointment process with  
6 quality legal services -- we are going to have to find fund-  
7 ing now.

8 MR ORTIQUE: I just have two brief comments. Num-  
9 ber one, that 3,500 impressed me greatly, the moment it rolled  
10 off you lips, I certainly am concerned about that.

11 The second thought that I have is that I would be  
12 willing to assist you in putting on my other hat, Bill Claus  
13 is there, Berney Seigel is there -- I would be willing to  
14 assist --

15 MR LIACOURAS: They are all good friends of mine.  
16 In fact, Bill Claus is the chairman of our fund raising com-  
17 mittee at Temple University, but it has resulted in not one  
18 cent for our Temple Law School.

19 Bernie Seigel is also a good friend and in fact,  
20 I spoke to Scheffstaff yesterday -- not about this, but about  
21 other things.

22 MR CRAMTON: Mr Engelberg:

23 MR ENGELBERG: I realized that the issue of looking  
24 at this sort of philosophically about funding training is very  
25 difficult, but what is the staff's concern about -- take the

1 Temple situation, -- if you get an application that can be  
2 done -- that is purely service money divorcing it from train-  
3 ing money.

4 Is it felt that the funding should go through the  
5 primary Legal Services grantee in Philadelphia as opposed to  
6 an entity like Temple?

7 MR JONES: There are two issues. In a situation  
8 where there is not existing Legal Services program, where we  
9 have a commitment to expand services, I was surprised to hear  
10 what Roger said and I'll have to talk to him later on and  
11 find out what particular examples he has reference to.

12 But where there is no particular Legal Services pro-  
13 grams, if there is a clinical program and if it can meet the  
14 requirements that we have discussed -- that it's primary pur-  
15 pose is the delivery of legal services to poor people for all  
16 of the reasons that have been suggested, both on this side and  
17 that side of the table -- it ought to be looked at carefully  
18 as the possible grantee for services in that area.

19 But the other problem that we are faced with, whether  
20 it be a clinic through a law school or whether it be another  
21 program that wants to operate in the same area is very basical  
22 a policy that has been articulated which requires us -- and  
23 all we are really doing, theoretically, Philadelphia is ser-  
24 ved by the Philadelphia program -- but everyone must keep in  
25 mind that when we talk in terms of our access rhetoric, there

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1 is no one on the Corporation staff certainly, who has any  
2 anticipation that everyone who is poor in Philadelphia and  
3 who has a legal problem is going to be able to receive legal  
4 services.

5 We therefore, are trying to increase the capability  
6 of our existing grantees. We have what amounts to an upper-  
7 limit that we can provide based upon the population.

8 So that we have not been able to provide duplicated  
9 services for the same general population in the same general  
10 area.

11 MR ENGELBERG: Let me just get a clarification,  
12 Charles. What you are saying is that let's say that Temple  
13 were in an area with no legal service at all and they applied,  
14 that the staff would view that on the merit, as any other  
15 grantees and consider accordingly. But the problem that you  
16 are saying is that it comes out of an area like Philadelphia  
17 the existing policy is to continue to fund existing grantees  
18 in that area?

19 MR JONES: The Dean mentioned his negotiations with  
20 the Legal Services program in Philadelphia. Indeed, in Los  
21 Angeles the program that I came from we had relationships with  
22 three of the law schools, but basically the funds came to us,  
23 from OEO at that time, to us. We then would enter into re-  
24 lationships, depending upon what we could buy.

25 Much the same situation will have to occur in commun

1 ties where law schools want clinical programs.

2 Dean McKay referred to a relationship with the Legal  
3 Aid Society in New York and that typically is what will have  
4 to occur. Unless and until we can go through the kind of  
5 process that Tom has described to try -- once we get everyone  
6 to a minimal access level.

7 ME ENGELBERG: Let me ask just one more follow - up.  
8 I assume that you have had negotiations with the --

9 MR LIACOURAS: Three years.

10 MR ENGELBERG: -- with the Philadelphia Legal Ser-  
11 vices program. And what is there attitude?

12 MR LIACOURAS: The attitude of the two sides has  
13 been this. Temple says we would like to maintain autonomy  
14 for a variety of reasons. We have an advisory committee. The  
15 CLS would like us to be a branch or at least to have control  
16 over the selection of staff and the student -- and the deliv-  
17 ery of services.

18 We in no way would quarrel with order that there  
19 is including a Board which would be reflective of both points  
20 of view. But it has been a three year negotiation, which has  
21 not resulted in anything.

22 And I am not being critical of my colleagues there,  
23 please do not misinterpret this, because Bill Claus is as fine  
24 a person as you will meet and his staff -- in fact the Deputy  
25 General Counsel of CLS is our own First General Counsel.

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1 Ernie Jones, who went over to CLS recently.

2 But the result has been that we are faced with im-  
3 mediate crisis.

4 MR CRAMTON: Ms Rodham and then Mr Trudell.

5 MS RODHAM: I have a few comments that I would like  
6 to make. I think that what we will probably reach today is,  
7 I hope, an understanding that we will examine this problem and  
8 investigate it, but I have a few additional considerations I  
9 would like to throw out to this staff and to our visitors to-  
10 day.

11 I was in the position that you are in today, running  
12 a clinical program, did make application, was told by the re-  
13 gional office that I would not be considered, that only two  
14 law school programs would be funded. Antioch and Knoxville an  
15 that was it, it was irrevocable and even though we were in an  
16 area for which there was no other alternative service.

17 What that finally pushed us into doing, which was  
18 obviously the regional staffs inclination in that regard, was  
19 to create a branch of the Legal Services Corporation, by creat  
20 ing a Corporation that would be a direct grantee.

21 I have no problem with that, but I am concerned that  
22 the monopoly, which I think is an appropriate word, of Legal  
23 Services to indigents that is currently residing in the Corpor  
24 ation will not necessarily always best serve the interest of  
25 the poor.

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1 I think that we need to have a wider constituency  
2 than just the staff and the other persons directly involved  
3 in the services from Corporation grantees in order for the  
4 kind of legal services that we wish to see delivered to be in  
5 a strong and on-going position, vis-a-vis the Bar, the Con-  
6 gress and all of the other kinds of institutional supports  
7 that we require.

8 Whether it be going to the Congress for our approp-  
9 riation or convincing law students that they need to go into  
10 direct legal services for indigents or whatever the kinds of  
11 reasons might be.

12 I think that we are in a sense cutting ourselves off  
13 from building that constituency if we don't go to other insti-  
14 tutions that might help us.

15 A second consideration that I would like to have  
16 thrown out for the staff study is that I also believe that the  
17 cross-fertilization between law schools Legal Services programs  
18 that are effectively and well run and Corporation personnel is  
19 very fruitful and I think necessary.

20 I think that there is a danger anytime any group be-  
21 gins to corner the market on any particular delivery of ser-  
22 vices.

23 If there are not different models, and that is part  
24 of what we are trying to do, is talk about establishing stan-  
25 dards and criteria for accountability and judgment, it would

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1 be, I think, not productive at all if the only standards that  
2 we were to arrive at were based on looking at one model, which  
3 is sort of the direction that we seem to be moving in.

4 So I would urge very serious consideration of the  
5 kinds of concerns that have been brought to us today. Not  
6 just because of what the individuals have said in terms of  
7 legal education, which is I think has to be a secondary con-  
8 sideration of our Board, but because of what it will do for  
9 the delivery of Legal Services to indigents, which I think is  
10 a critical matter that we need to examine more carefully than  
11 perhaps has been done in the context of utilizing the law sch  
12 schools.

13 MR CRAMTON: Mr Trudell.

14 MR TRUDELL: I would like to second what Hilary  
15 said. In the past how much discussion has there been between  
16 the staff and the Board regarding legal education centers.

17 MR EHRLICH: It is fair to say that this is the  
18 first generalized discussion at Board meetings that I can re-  
19 call.

20 MR TRUDELL: Because I really feel that the Corpora-  
21 tion has a responsibility for all of the things that Hilary  
22 said and having been exposed to and with working with an in-  
23 tern program for Indian law students in particular, I think  
24 that it is very critical that they have the opportunity to --  
25 really have the opportunity to the cross fertilization that

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1 Hilary referred to and that we can't just look to one model.

2 And I think that in the future, at least I think  
3 most of the new Board members, will really want to get involv  
4 ed and not just be taken for granted in terms of making sure  
5 that these things are discussed.

6 MR CRAMTON: I have a request from a member of the  
7 public, who is really not a member of the public, but part of  
8 our family. With unanimous consent, Bernie Veney.

9 MR VENNEY: Thank you, Mr Chairman, I am personally  
10 excited by the thought of Dean McKay becoming involved with th  
11 Corporation in this kind of study. Dean McKay doesn't know  
12 it but he and I met in the past when he was trying to institut  
13 public law in the N.Y.U. curriculum and I applauded his effort  
14 then and I am sure that he will bring the same leadership to  
15 this particular endeavor.

16 Obviously Dean Cahn has done, perhaps, more in this  
17 field than anyone that I personally know and certainly has  
18 provided us all with considerable leadership.

19 So this is exciting to me. I do however want to  
20 make some observations to the Board and I would hope that in  
21 your future study you would consider, seriously what I am  
22 about to say.

23 First of all, I think that you as a Board and this  
24 Corporation as a whole has a made a commitment to poor people  
25 to provide access. By your funding decisions, that is the de-

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1 cisions to request certain amounts from Congress and not to  
2 request other amounts, you have said in effect over a long  
3 period of time, to about 9 million poor people now and the  
4 number is down from 15 million a couple of years ago.

5 But that still is a lot of people, why folks, wait.  
6 Thirteen years after the funding of Legal Services originally  
7 you continue to wait.

8 Now my problem with access is not that all of the  
9 people in Philadelphia will not be served not all of the peo-  
10 ple in Chicago, or all of the people in New York. My problem  
11 is that most law schools are not located where the problem is.

12 Most law schools are located in urban areas. And  
13 the problem of access is not an urban problem at this particu-  
14 lar moment in time. It is not peculiarly urban, it is peculi-  
15 arly rural. And unless in your thinking and unless in your  
16 considerations you can begin to address the rural needs through  
17 law schools, I suggest to you that we are further down the  
18 line in 1979 or 1980.

19 The second thing that I think you have to give your-  
20 self to addressing is the problem of quality. And I think the  
21 law schools will be of particular help. As I see Dean McKay's  
22 involvement and the others in this as a two way street. The  
23 problem of quality, hopefully would mean that the Legal Servic  
24 Corporation would impact on the curriculum of our law schools.

25 Because you see when the law schools use the poor

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1 as their training ground and Dean McKay, I seldom disagree  
2 with you, sir, but the reason I think that the clinical law  
3 schools deal with the poor is that they can't deal with the  
4 rich.

5 I simply feel that maybe, just maybe, the Corpora-  
6 tion can have massive impact on what attorneys learn. Turn  
7 some of their heads around so that the goal is not wealth and  
8 Wall Street, but it is in fact justice for people then I would  
9 certainly suggest that this would be a worthwhile effort.

10 Just a couple of other things, because I don't want  
11 to take up a lot of your time, but I worry about the ability  
12 of most law schools to deal with the Legal Services Corpora-  
13 tion as the Corporation is now set up and as I hope it will  
14 remain.

15 You have heard discussion about petigage versus  
16 service and I think that is certainly a problem. I however  
17 would worry more about the probelms of faculties, the rules  
18 of governments and by that I mean very simple, I am not sure  
19 how any law school in the country and I think Dean Cahn can  
20 tell you how they have managed to meet that and I guess Tenn-  
21 essee has too, but I am not sure how any law school or most  
22 law schools are in fact, going to set up the independent  
23 governing body required by the Act.

24 Now, until you resolve that particular problem I  
25 don't see how you can begin to talk about law schools as grant

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1 grantees.

2 Now that is not just a paper tiger, that is a gover-  
3 ing body composed of attorneys and clients. The other thing,  
4 I guess is that, it would seem to me that law schools should  
5 be very much involved in the training of people who are cur-  
6 rently in Legal Services. Paralegals certainly require more  
7 training, but I guess as we look around we find that there are  
8 very few law schools whose faculty and curriculum is geared  
9 to that kind of work that our paralegals practice.

10 So that I would look forward to client involvement  
11 in discussions with these gentlemen, particularly with Dean  
12 McKay, Edgar Cahn over the future of this joint relationship.  
13 Thank you.

14 MR CRAMTON: Thank you, Mr Veenev. Are there further  
15 comments or questions for our panel?

16 MR EHRLICH: Out of this came a number of, at least  
17 for me, very helpful things. There is a substantial amount of  
18 involvement, as Charles said at the outset in a lot of differ-  
19 ent programs in a lot of different law schools. More than  
20 obviously be reflected in the direct discussions here.

21 There are also some problems in going forward and  
22 Bernie Veenev has put his finger on one of them -- how do you  
23 structure an independent governing board of clients and lawyer  
24 not that they are really insolvable, but they really are prob-  
25 lems. And we will continue to work through on these issues

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1 with the Committee on the Provision of Legal Services and try  
2 to come up with the kinds of schemes that we have been talking  
3 about and keep in contact with Dean McKay and others on those  
4 issues.

5 MR CRAMTON: Well, I might add that I don't think  
6 that that particular problem will turn out to be a problem.  
7 All you have to do is create a separate non-profit corporation  
8 which has association with the law schools and has a board com  
9 posed of lawyers, some of whom will be faculty members and  
10 others will have clients and the client accountability, it  
11 seems to me, will be more likely served by a community based  
12 organization like that, than it is by the staff's very, very  
13 strong preference coming out in decision after decision on  
14 the operating field for very large programs over very large  
15 geographic area.

16 Which in my mind have a much greater risk of sacri-  
17 ficing clients accountability and client involvement.

18 Is there further comment or discussion on this?

19 MR ENGELBERG: I would like to ask just one more  
20 question and this again is largely based on ignorance, Charles  
21 but let's again take the Temple situation -- and I realize Tom  
22 and Roger that we are not supposed to get into --

23 MR CRAMTON: No, it is just an example, Little Rock  
24 has been mentioned too, I could talk about a small unserved  
25 portion of Upstate New York.

1 (Laughter.)

2 MR ENGELBERG: What are the -- in terms of prior  
3 policy -- of dishing out money to put it in its formal sense?  
4 Could the Corporation, for example, if it found that the Tem-  
5 ple program was 1) about to fold, 2) was a very meritorious  
6 service program -- could the Corporation in effect intercede  
7 between these negotiations between the Philadelphia Legal Ser-  
8 vices program and the University and try to work something  
9 out, using -- maybe conditioning a grant on that basis.

10 MR JONES: Well, you understood the issue that has  
11 yet to be resolved in Philadelphia. As I understand what the  
12 Dean has suggested, the issue has to do with funds coming from  
13 the program going to the University and there are local issues  
14 dealing with who runs the program.

15 Now, I can't say to you, at this moment whether or  
16 not those issues can be resolved so that we comply with the  
17 acting regulations.

18 Certainly there is no reason why the Corporation  
19 could not involve itself with those discussions, but it is  
20 ultimately the issues that come to the issue that Berney Veene  
21 raised with regard to the Board of directors and the accounta-  
22 bility, which we are required -- that is obviously something  
23 that has to be worked out.

24 We would not hold, at this point in time, if a re-  
25 lationship was worked out between Temple and the Philadelphia,

1 program, we hold the Philadelphia program accountable.

2 MR ENGELBERG: Sure, I understand. accountable

3 MR JONES: If they have no way of holding Temple  
4 accountable, then I would guess that we would intercede in  
5 the other direction.

6 I must say that I just don't know enough about --

7 MR ENGELBERG: Oh, sure, I understand.

8 MR JONES: It would be possible for us to participat  
9 in that kind of discussion by ultimately you have to keep in  
10 mind that we are a granting agency. One of the Board members  
11 refered to us and said that we created branches of the Legal  
12 Services Corporation.

13 We fund non-profit organizations that have their  
14 own Boards of Directors and subject to the Act and Regualtions  
15 function independently.

16 So that, there has to be some obvious reason, having  
17 to do with accountability, the Act and Regulations for us to  
18 intercede in that kind of negotiations.

19 MR LIACOURAS: Mr Chairman, I have just concluded  
20 there is no problem, whatever for a non-profit corporation at  
21 Temple.

22 Secondly, we had one whole three hour session on  
23 whether there should be a monopoly on the kinds of service,  
24 Ms Rodham, in Philadelphia.

25 Remember, we tried it, established there, not only

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1 the training of law students traditionally and in criminal  
2 clinics, but to create the concept, operationally of a law  
3 center within a community.

4 If our program goes down the drain, for whatever  
5 reason, it will be a message to others not to try to innovate  
6 for helping poor persons. To helping them directly with legal  
7 services.

8 And the real issue is whether or not -- in my view --  
9 whether or not such a program should be funded as a minimal  
10 access with all of the peripheral advantages which to a clini-  
11 cian are the principal advantages in the study that is being  
12 done by my distinguished friend, Mr Bob McKay.

13 And again, I don't mean to make this a narrow Temple  
14 issue, but it is -- if it is symptomatic of other programs  
15 that are in trouble, it is going to be a disaster for poor  
16 persons in those areas, because they will not be serviced in  
17 Philadelphia by CLS since so many of our cases come from CLS,  
18 CLS knows our operation and they obviously believe that it  
19 meets more than minimal competence, otherwise they wouldn't  
20 refer the cases there.

21 MR CRAMTON: David Levy would like to speak briefly.

22 MR LEVY: Dean Cramton, I hate to take more time on  
23 this issue but I think that last point needs an answer in some  
24 respect. Speaking from NLAMA's point of view, which is very  
25 whetted to the idea of clinical education, one of the problems

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1 we worry about is the commitment of law schools to clinical  
2 education.

3 If they don't have money coming in, would they pro-  
4 vide clinical education, would they have faculty members who  
5 are not just second class citizens but have full tenure?

6 Would they provide legal services not just to poor  
7 people, but to the whole range of people? Those are the ques-  
8 tions and just trying to get on a question of money raises all  
9 of those. Thank you.

10 MR CRAMTON: Thank you very, very much and I hope  
11 that the Board will have an opportunity to re-visit this issue  
12 from time to time and we may want to call on one or more of  
13 you for wisdom and advice as time runs on.

14 I would like, now at the risk of violating the Govern-  
15 ment in the Sunshine Act to depart from our agenda to enter-  
16 tain a motion that is now in front of all members of the Board  
17 It has been distributed and I would like to read it. And then  
18 I hope that someone will make an appropriate motion.

19 MR ORTIQUE: What's the penalty?

20 MR BROUGHTON: You'll be in the dark.

21 MR CRAMTON: "RESOLVED, for his leadership role in  
22 furthering the participation of clients in Legal Services pol-  
23 icy-making at every level. His vital and dynamic advocacy to  
24 increase Legal Services appropriations to help make equal ac-  
25 cess to equal justice a reality and his dedicated efforts to

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1 express the views of the clients.

2 The Directors of the Legal Services Corporation ex-  
3 press to Bernie Veeney their great appreciation and best wishes  
4 for the future."

5 Now the background on this is that Mr Veeney has  
6 received a high appointment with the Federal Government and  
7 he is about, before our next Board meeting, to leave our circle  
8 and our family -- I hope not forever -- and to seek his for-  
9 tune elsewhere.

10 I want to express our appreciation for all the help  
11 that you have been to the Corporation and to the Board and  
12 for the leadership that you have provided.

13 Do I have a motion?

14 MR ORTIQUE: I accept the risk and I move that the  
15 resolution be adopted.

16 MR KUTAK: For reasons perior to the old Board, let  
17 me second that motion.

18 (Laughter.)

19 MR CRAMTON: Is there discussion?

20 (No response.)

21 MR CRAMTON: All those in favor, please say aye.

22 (Ayes.)

23 MR CRAMTON: The motion is unanimously carried.

24 (Applause.)

25 MR CRAMTON: We also have a very little momento we

1 would like to present to you on behalf of the Corporation.

2 MR VENEY: Thank you very much.

3 (Applause.)

4 MR VENEY: Do I have unanimous consent? I guess  
5 there is nothing that gives me greater pleasure or more sur-  
6 prise. I would say that this has been perhaps one of the most  
7 significant periods of my life and we have had some battles,  
8 but I think it has been battle for poor people and it has bene-  
9 fited poor people and I want to say to you that I am jealous  
10 because I think that the Corporation now is moved to new  
11 heights with it's new members insistent involvement and the  
12 good faith of all of the old members. Thank you.

13 (Applause.)

14 MR CRAMTON: We now stand adjourned, it is not 12:30  
15 why not say 1:45 we will reconvene.

16 (Whereupon, the meeting recesses from 12:30 p.m. to  
17 1:45 p.m. for lunch.)

18  
19  
20  
21  
22  
23  
24  
25

A F T E R N O O N S E S S I O N

(2:00 p.m.)

1  
2  
3 MR CRAMTON: The meeting will come to order. There  
4 should be a few more Board members in the very near future.  
5 It is now about one minute of two, the Support Center people  
6 are at two o'clock, I would suggest that we go ahead with that  
7 and then come back to the Report of the Committee on Regula-  
8 tions, since it has already been interrupted.

9 MR KUTAK: It will read like the last minutes on,  
10 I think it was Appropriations. Fine, if you can bear the sus-  
11 pense.

12 MR EHRLICH: We won't know whether they grow up or  
13 just stay juveniles.

14 MR CRAMTON: Are the Support Center people here? We  
15 are prepared to move to that item on the agenda at this time.

16 MR EHRLICH: I might say, by way of background that  
17 one of the last sessions several Board members suggested it  
18 might be helpful to hear from some who headed Support Centers  
19 about the kind of work they were doing, the kinds of concerns  
20 that they saw and so forth and thus, we organized this effort  
21 and this is with your permission.

22 Charles, can you begin by saying something generally  
23 the Corporation and its relations with the Support Centers.

24 MR JONES: For those of you Board members who are  
25 new as well as those old Board members who have not thought

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1 about it in a while, the Corporation funds some 13 Support  
2 Centers around the country, by contract as opposed to our ord  
3 ordinary granting process. The contracts specify certain fun  
4 tions for those Support Centers.

5 They are largely substantive Support Centers with  
6 some exceptions. For instance, Raphael Gomez, who is to my  
7 immediate left is involved with Migrant activities through a  
8 Support Center that is based in Washington D.C..

9 Paul Nathanson, on my immediate right is involved  
10 with problems of if the Elderly -- excuse me for not speaking  
11 up, I will -- problems of the elderly.

12 The Support Centers had been, prior to the advent of  
13 the Corporation generally funded through various universities  
14 across the country. That is no longer the situation. They  
15 provide direct support to Legal Service lawyers in terms of  
16 matters that they are handling, through a variety of ways.

17 Today to discuss their activities, Dave Madway who is  
18 with the Housing Law Center, ~~associated with~~ ~~the~~ ~~Center~~.

19 Paul Nathanson, who is with the National Health Cen-  
20 ter.

21 Raphael Gomez -- I'm sorry Senior Citizens -- Raphael  
22 Gomez who is with the Migrant Legal Action program and Henry  
23 Freedman who is with the Center on Social Welfare in New York  
24 Henry Freedman.

25 MR FREEDMAN: As Charles has explained, we are all

1 National Specialized Law Offices and as specialists it is our  
2 job to stay up to date on developments in the law in our par-  
3 ticular area, so that we can be of the greatest help and assis-  
4 tance to local programs and their clients as problems arise in  
5 our areas.

6 We work in a number of ways, we'll respond to in-  
7 quiries that come in by telephone or letter from lawyers or  
8 other Legal Services staff.

9 We will work together with local programs in matters  
10 that concern their clients in all forums. In court, before  
11 administrative agencies, before legislatures where appropriate.

12 We are charged with attempting to develop the most  
13 effective and efficient manner of solving problems among a  
14 large number of clients.

15 The Legal Services program is able to maximize the  
16 results that we could get from the limited resources that are  
17 available to the programs.

18 We provide information and analysis on matters on  
19 which many lawyers and paralegals are working at any one time.  
20 And we provide representation on selected matters from time  
21 to time. And what I would like to do is to describe a few of  
22 the matters that we have been involved in to give you an idea  
23 of the types of work that we do.

24 The first matter is a case that was described in the  
25 corporation's budget request that was submitted last month. In

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1 which a New Hampshire mother who had a disabled child and truly  
2 a heart-rending family situation was able to get SSI Cash Assi  
3 ted benefits for the child but because the child was receiving  
4 SSI benefits New Hampshire, following an HEW interpretation of  
5 the law said that the mother could not get ASET benefits for  
6 herself and the mother could not get Medicaid benefits for he  
7 self.

8 This matter was brought to us by the New Hampshire  
9 Legal Assistance program and working together with them we wer  
10 able to develop the legal arguments in the case.

11 We have a truly unique library in the area of Federal  
12 Welfare Law and we were able to draw upon matters there to  
13 frame the case which obtained preliminary relief for the mothe  
14 involved.

15 It seemed to us that we could get a speedier result  
16 ultimately and one which would benefit people around the coun-  
17 try if HEW would change its interpretation of the law. We be-  
18 lieve that our case was right and that their interpretation  
19 was wrong. So using our contacts and our credibility at HEW,  
20 we approached the people there and convinced them, during the  
21 pendency of the lawsuit to abandon the position that they ha  
22 taken and to notify the Court that they believed that they had  
23 incorrectly interpreted the law. This resulted in the case be-  
24 ing dismissed with the victory to the individual plaintiff, but  
25 it has also resulted in needy mothers of disabled children

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1 throughout the country being able to get the benefits without  
2 recourse to litigation but as a result of HEW's change in it's  
3 own policy.

4 I mentioned the library and I would like to elaborate  
5 on that for a moment. Over the 12 years of our existence, we  
6 have accumulated a substantial portion of the informal HEW op-  
7 inion letters that have been sent out making great use of the  
8 Freedom of Information Act, that HEW has submitted in various  
9 cases.

10 We are able, in litigation, to point out to the Court  
11 the occasions on which HEW has changed it's position and may  
12 at one point be advocating an interpretation of the law which  
13 is inconsistent with an interpretation that they took in another  
14 Court. Which is a very useful litigation weapon. It is also  
15 useful in our dealings with the Agency itself.

16 We are able to tell HEW staff that their own lawyers  
17 took a position four or five years ago that supports our cur-  
18 rent position that they are not knowledgeable about within  
19 the staffs scope of the Agency. So we are able to use HEW pol-  
20 icy statements from time to time that we have collected and in-  
21 dexed, in representation of other clients.

22 Another example of the type of problems that we have  
23 had to deal with. Over the years Legal Services programs have  
24 constantly come to us with problems concerning arbitrary ac-  
25 tions taken by local welfare administrators.

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1           And the questions both in the individual case and  
2 the best volume of client's going on their own -- how do they  
3 do something about case after case of arbitrary and incorrect  
4 decisions have been made.

5           When I first came to the Center, which was 11 years  
6 ago, after I had been with a law firm for a couple of years --  
7 I came to the Reggie program that assigned me to the Center --  
8 one of the first things that came up was what can we do about  
9 this and the staff at the Center had developed a theory that  
10 a person was entitled, in the due process clause, to a hearing  
11 before their Public Assistance was terminated.

12           A few cases had been brought trying to develop that  
13 theory, but they really did not get anywhere. At a Bar Associ-  
14 ation meeting in New York City I met a lawyer from one of the  
15 New York City Legal Services programs who said that they were  
16 just having a tremendous problem. And I said well here is a  
17 possible approach, a due process to a hearing before and that  
18 was how Goldberg versus Kelly came about.

19           Which has of course been one of the leading cases  
20 in the last decade on due process and of course, has made a sub-  
21 stantial difference in the administration of the Public Assis-  
22 tance programs. The right to a hearing before it is terminated

23           But as our clients and the local Legal Services off-  
24 ices keep telling us, that's not made the administration of  
25 Public Assistance a rational and orderly process around the

1 country. It has been a help but there is still much more that  
2 is needed.

3 More recently we recognized another approach to this  
4 problem. HEW has evolved a quality control program for state  
5 administrations. But the quality control program is completel  
6 skewed so that the only problems that they were checking up on  
7 were things that helped give more money to recipients. But  
8 they were not looking at arbitrary terminations, incorrect ter  
9 minations, incorrect reductions or underpayments of benefits.

10 On behalf of a number of welfare recipient's organi-  
11 zations from all over the country we brought a suit against  
12 HEW, challenging the unfairness of the quality control proce-  
13 dures being imposed upon the states.

14 We never had to reach decision in that case because  
15 HEW conceded the invalidity of what they had done and devel-  
16 oped a new quality control procedure with our very substantial  
17 involvement in developing those regulations and procedures  
18 that they were going to use.

19 One final example, just a year ago the new Adminis-  
20 tration submitted a welfare reform bill -- or began to devel-  
21 ope a welfare reform bill to be submitted to Congress, that  
22 would obviously have profound impacts on the clients of Legal  
23 Services programs around the country.

24 And we were immediately beseiged with inquiries, fro  
25 clients organizations and from Legal Services offices for in-

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1 formation on what this would mean to the people in their offices.  
2 fices. And in response

3 And in response to those requests we prepared written  
4 materials, we participated in meetings which were held around  
5 the country to respond to requests about the legislation and  
6 we continue to keep people in state and local Legal Services  
7 programs informed of developments in the program.

8 In fact, it is hard keeping up with all of the re-  
9 quests that we get in that area. So these are the variety and  
10 types of activities that we get involved in as a result of  
11 the requests and inquiries that come into our office.

12 I think that one theme that is running through all  
13 of this work is the constant communication that goes on between  
14 the programs in the field, on individual matters and also on  
15 matters of general concern to large numbers of clients that  
16 come into their office. And I think that this very vital and  
17 mutually enriching exchange has made us and had made the en-  
18 tire Legal Services program -- programs in the field and we in  
19 the Support Centers -- able to deliver services more effective-  
20 ly to the client community.

21 MR JONES: Thank you. Raphael Gomez, as I indicated  
22 earlier is with the Migrant Legal Action program, and he will  
23 talk about their activities.

24 MR GOMEZ: I would like to thank the Board for this  
25 opportunity to speak to you. And I want to be sure that every-

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1 one behind me can hear and if you have a problem please speak  
2 up.

3 I would like to say that in terms of legal represen  
4 tation, the Centers are basically the same, so that if there  
5 are questions at any time during my presentation I would be  
6 more than happy to entertain them. And I actually encourage  
7 you to ask questions of our activities.

8 What I am going to to -- at least for the time that  
9 I have speaking with you -- if to give you an idea of what th  
10 client -- who the clientele is that Migrant Legal Services pr  
11 vide services for.

12 Those are migrants. Those are individuals that are  
13 an identifiable group who are probably singularly the one  
14 group that doesn't receive legal representation in the United  
15 States. And I think that comes about partly because of their  
16 economic situation.

17 They are a transient group, many of them are mono-  
18 lingual. You have migrants that are from Puerto Rico -- that  
19 are Puerto Rican, you have migrants that are Black, you have  
20 migrants that are Chicano.

21 They travel all across the United States. In terms  
22 of representation, it wasn't until Legal Services came into  
23 being that many migrants received any representation at all.

24 For example the Wagner-Phizer Act passed in 1932  
25 was not enforced in terms of migrants until 1969, in an actio

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1 brought be Legal Services programs in Florida. In a case  
2 called Gomez versus Florida Employment Service.

3 You have a group of people that although there may  
4 be legislation issued on their behalf, it is either not en-  
5 forced or migrants are just unaware of the services that are  
6 available to them.

7 In terms of Legal Services and how Legal Services  
8 has functioned up -- since it's inception -- most of the pro-  
9 grams are -- migrants are in rural areas. The bulk of legal  
10 services, I think has been in more or less urban areas and un-  
11 til the Legal Services Corporation came into existence ~~that~~  
12 trend continued and is just now beginning to change.

13 So you had a situation where migrants had not access  
14 to legal counsel and you had a situation where there was no  
15 legal counsel going out to migrants. So there -- legal ser-  
16 vices not until about 1969 began setting up or were designated  
17 Migrant Legal Services programs. Until about 1975 there were  
18 only about 800,000 designated for Migrant Legal Services pro-  
19 grams.

20 Other rural legal services did provide services but  
21 on a greatly diminished fashion and you would find programs li  
22 Florida Rural or California Rural or Texas Rural who did pro-  
23 vide some services but did not receive specified migrant money  
24 until the Legal Services Corporation came into existence.

25 I think that one thing that the Board should be aware

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1 of is that now -- at least the new Board members should be  
2 aware of is that now the Legal Services Corporation has iden-  
3 tified migrants as a group that does and should receive ser-  
4 vices and has made an effort to provide funding for new pro-  
5 grams to be set up all around the country.

6 Clearly 7 dollars a poor person for individuals in  
7 a rural area from the perspective of local programs and from  
8 my perspective is not an adequate amount.

9 I just go to what MLAP is all about and as I said,  
10 if there are any questions feel free to interrupt me. In term  
11 of legal representation, we have judicial, administrative and  
12 legislative representation that Migrant Legal Action Program,  
13 a Legal Services Support Center provide to farm workers --  
14 directly to migrant farm workers and to local Legal Services  
15 programs who are representing the migrant farm workers.

16 The services that we provide are not only to those  
17 designated Migrant Legal Services programs, but those other  
18 regular Legal Services programs who do not have migrants as  
19 their primary concern.

20 So the staff meets regularly with regular Legal Ser-  
21 vices programs through traveling on cases that they have. At  
22 one point we had circuit riding, which has become from a cost  
23 point of view to prohibitive.

24 We have moved from that effort, at least on a regular  
25 basis to requesting from the Legal Services Corporation to have

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1 training sessions. Last week there was a training session in  
2 Denver for approximately 100 attorneys who are working with an  
3 representing migrant farm workers.

4 In those sessions we are able to -- local attorneys  
5 are able to communicate the concerns that they have directly  
6 with our staff. The kinds of problems that they feel deserve  
7 greater attention that we may not have been spending time on  
8 and we are able to review the developments in the migrant law  
9 area.

10 Migrant attorneys, as a group are individuals are in  
11 a situation where they have relatively few resources available  
12 to them. Local libraries may be as much as a hundred to one  
13 hundred and fifty miles away. Their offices are not very large  
14 their clients that they are visiting are transient are located  
15 either in migrant camps or in areas around an estate and are  
16 not generally in areas where they can walk or take a bus to a  
17 local Legal Services office.

18 MLAP -- the Migrant Legal Services Program, which is  
19 a Support Center for local Legal Services programs for farm  
20 workers, provides the kind of technical assistance in terms of  
21 legal research, assistance in representing clients in cases  
22 that they otherwise might not be able to avail themselves of.

23 I think that -- I just want to say in terms of our  
24 Board the composition as it stand now is five Legal Services  
25 attorneys, five at large members, who come from either law

1 firms or law schools and then five community people. On the  
2 at large list at present, there is one Legal Services attorney  
3 and so that there are actually six Legal Services attorneys or  
4 paralegals on the Migrant Legal Action Program.

5 We have nine attorneys and one paralegal. Our fund-  
6 ing is approximately 485,000 for 1978. I just want to say in  
7 terms of how the program views its purposes is to provide and  
8 assist local Legal Service attorneys to provide quality and  
9 aggressive legal representation.

10 Representation, I just want to emphasize that it was  
11 non-existent until the creation of the Legal Services Corpora-  
12 tion. If there are any questions, --

13 MR JONES: If we can indulge upon you, Dave to go  
14 ahead and complete the presentation and then ask for questions.  
15 Dave Madway, from the Housing and Community Development Law  
16 Project.

17 MR MADWAY: I will be brief so that there is a maxi-  
18 mum time for questions.

19 The Housing Law project was established in 1969 like  
20 a number of the others at that time, in connection with the  
21 University of California Law School at Berkley. We recently --

22 MR CRAMTON: Could you speak up, please?

23 MR MADWAY: We recently disaffiliated with the Uni-  
24 versity and the project is now independent. It's staff is  
25 comprised of eight attorneys of varied backgrounds. My own

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1 background is -- I came to Legal Services after six years in  
2 a law firm in New York City. A number of the attorneys on  
3 our staff come from field services programs. One of them a  
4 very experienced litigator is out of the District of Columbia  
5 Public Defenders Office.

6 The average years of experience on the project staff  
7 is somewhat over nine years. Like the other centers the bulk  
8 of our work is devoted to responding to requests for assistance  
9 from field lawyers.

10 The requests come in the form of letters and principally  
11 telephone calls. In an effort to systematize the delivery  
12 system, we have to a large extent succeeded in putting together  
13 packets that cover the areas that we are providing the  
14 advice on.

15 Now, when the occasion demands, we provide opinion  
16 letters and we provide advice on individual cases. Generally  
17 speaking we work in the following areas, private landlord-tenant  
18 issues, farmers and subsidized multi and single family home  
19 problems, relocation issues and most recently a considerable  
20 emphasis on rural housing issues, a neglected area.

21 Our litigation docket normally runs to between 35 and  
22 40 cases. Right now it sits at about 39 active cases. Now  
23 those include cases in which we are co-counsel of counsel. We  
24 do not engage in litigation ourselves. We are always in litigation  
25 with a local Legal Services program.

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1           Now let me take a moment to describe an effort which  
2 we undertook just about a year ago when the National Adminis-  
3 trations changed there was a consensus among a number of Legal  
4 Services Housing attorneys that it made sense to seek to settle  
5 a considerable amount of pending litigation against the agenc-  
6 ies. Specifically Farmers Home Administration, which is part  
7 of the United States Department of Agriculture, and the United  
8 States Department of Housing and Urban Development.

9           Accordingly, we convened here in Washington a meeting  
10 of about 25 or so field Legal Services attorneys to discuss  
11 pending issues, virtually all of them in litigation, in an  
12 effort to come up with a sensible list of issues that could be  
13 brought to the agencies and on which policy change could be  
14 achieved without need for any Congressional action.

15           Eventually approximately 10 issues were selected.  
16 Task forces were established, clients became members of those  
17 task forces, issue papers were prepared, circulated very  
18 widely in the Legal Services and client communities. Letters  
19 were written to Secretary Harris and Secretary Berglin annex-  
20 ing the issue papers which -- incidently included appendices  
21 listing pending cases in respect to each issue -- and meetings  
22 were asked for.

23           Those meetings took place, in fact I believe that  
24 Bernie Veney was present at one of them, a number of clients  
25 were present at them together with what amounted to a steering

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1 committee of Legal Services. Those meetings provided the occa-  
2 sion for us to define issues with agency heads and then move  
3 on toward a series of task force negotiations with subordinate  
4 officials within the Departments.

5 Now, the task forces continued this course of dis-  
6 cussion with the agency to this day. I will relate a couple of  
7 examples in just a moment. But let me suggest a couple of  
8 advantages which I think that this has given us, and the Legal  
9 Services community in general.

10 First, our Legal Services lawyers -- Housing special-  
11 ists have become educated in the process of how the bureaucra-  
12 cy functions.

13 Second, to the extent that we can achieve policy  
14 change that leads to the settlement of cases, we have saved  
15 Legal Services programs a great deal of time and effort. We  
16 have saved the agencies -- the Department of Justice among  
17 them -- a considerable amount of time and expense and we have  
18 certainly saved the taxpayers some money.

19 Finally, for the Housing Law Project, these task  
20 forces have a very direct impact and that is that they provide  
21 a check and a guide on what we do.

22 Let me lay out for you a couple of examples of the  
23 kind of work that we are engaged in. Back in 1974, we had a  
24 request from a rural Legal Services program for assistance in  
25 a foreclosure case involving Farmers Home Administration. Up

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1 on researching the question we determined that Farmers Home  
2 Administration had a statute that mandated the provision of a  
3 moratorium -- a mortgage moratorium -- to borrowers who were in  
4 financial distress temporarily.

5 The Agency had never implemented that statute. We  
6 brought an action with the local program in mandamus that com-  
7 pelled the Agency to issue the regs. The action was filed,  
8 within two weeks the Agency had, in fact, issued the regs. The  
9 action was withdrawn and the relief was provided for our client.

10 Unfortunately the regs were significantly deficient  
11 in a number of important respects. We received calls from  
12 other Legal Service programs around the country for assistance  
13 on this problem, we became actively involved in several cases,  
14 one of which arose in the northern district of Mississippi.

15 We litigated the case actively with the local program  
16 eventually won it, after a trip to the Fifth Circuit. The con-  
17 sequence of the decision was that the rural task force, within  
18 this framework of Housing lawyers was able to approach Farmers  
19 Home Administration and urge it to alter its regs.

20 Farmers Home has in fact responded, the regulations  
21 have been altered, which they may not be all that we would hope  
22 for, they represent a significant improvement over the prior  
23 situation.

24 Another example. In 1974, Congress provided an op-  
25 erating subsidy for HUD subsidized housing. The purpose was to

1 subsidize certain tax and utility payments so that project  
2 owners would not have to raise rents and force low income ten-  
3 ants.

4 We advised field Legal Services lawyers of the steps  
5 that could be taken to seek implementation of that subsidy.  
6 HUD declined to implement the subsidy. Eventually a total of  
7 40 lawsuits were brought on the issue. All of those lawsuits  
8 were successful.

9 HUD petitioned for certiorari. Certiorari was grant-  
10 ed making us more than a little nervous, having won all 40  
11 cases below. The matter went to the Multi-Family Task Force  
12 of this group of Legal Services Housing attorneys. The Task  
13 Force approached HUD seeking to negotiate a settlement.

14 On December 19th, oral arguments in the Supreme Court  
15 having been scheduled for January 9, we received a phone call  
16 from HUD saying that they agreed to the terms of settlement  
17 that we had proposed that we would execute of memorandum of  
18 Understanding with HUD which would look toward the distribution  
19 of 60 million dollars to a class of 229,000 tenants in HUD sub-  
20 sidized housing and would settle 40 pending cases.

21 At the same time, Congress was considering amendments  
22 to the operating subsidy provision. We urged Congress to str  
23 strengthen the mandatory language of the operating subsidy  
24 legislation to ensure that no further disputes could arise abou  
25 whether or not HUD was obliged to make the subsidies available

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1 And we were successful in that attempt.

2 There are a number of other examples but I think that  
3 the appropriate thing for me to do would be to conclude this.

4 MR JONES: Paul Nathanson, National Senior Citizens  
5 Law Center.

6 MR NATHANSON: Thank you, it is a pleasure to be  
7 here and I too came out of private practice. I used to be a  
8 Tax Attorney with the Los Angeles Law firm of O. Melvin and E.  
9 Myers and found as I was at that firm as I started a pro bono  
10 project for the elderly poor in Los Angeles that at some point  
11 it overwhelmed me and I just had to get into Legal Services.

12 I think that it is important to point out to many  
13 of you that one of the added strengths of the Support Centers  
14 as a place within the Legal Services community is that they  
15 may well provide a place for expertize from the private sec-  
16 tor, from the private legal services or from the private legal  
17 Bar and also a place where the kind of experience that attor-  
18 neys in the Legal Services community get after several years  
19 can be utilized and provide a placement for those attorneys who  
20 after two or three years out in the field are looking for a  
21 way of expanding and utilizing the training that they have had  
22 out in the field.

23 We do many of the same types of activities as the  
24 other Centers. I would like to take just a couple of moments  
25 of your time to perhaps give you a flavor for the particular

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1 clientele with which we deal.

2           The elderly comprise approximately 17 to 20 per cent  
3 of the poor, within the United States. They comprise approxi-  
4 mately 20 per cent of all people over the age of 65 in the  
5 United States are poor and to perhaps draw that a little more  
6 graphically, 80 per cent of all single, Black women over the  
7 age of 65 are poor. Four out of five. So we are dealing with  
8 a particular client group, a group that is confronted on a  
9 daily basis with a complex set of statutory and regulatory en-  
10 actments.

11           A recent House study -- House Senate Special Committ  
12 on Aging show at least 50 special programs -- Federal programs  
13 alone -- designed to benefit and impact upon the lives of the  
14 Nation's elderly.

15           On the other hand, this particular group is also  
16 particularly reluctant to utilize the legal process, to avail  
17 itself of the rights that have been granted by Congress and by  
18 even favorable Court decisions.

19           Taken against that background a lot of the efforts  
20 of Legal Services attorneys in this field really focus, often  
21 time, on trying to humanize that bureaucratic system. Trying  
22 to force, perhaps, a governmental bureaucracy that has been  
23 told by the Congress to provide certain benefits to the elder-  
24 ly, to respond to that group in a human way. So that several  
25 of the cases that have come down have revolved around trying

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1 to provide the Goldberg versus Kelly kind of due process  
2 rights to individuals with respect to Civil Services pensions  
3 railroad retirement pensions and Social Security pensions and  
4 I might add that we have been successful in that arena.

5 Very quickly the kinds of substantive areas which  
6 we concern ourselves with revolve around guardianship and  
7 conservatorship matters. We had a survey done recently --  
8 actually several years ago -- in Los Angeles showing that in  
9 less than 2 per cent of the guardianship and conservatorship  
10 cases, where some very substantial rights are being adjudicated  
11 really basic freedoms, less than 2 per cent of those cases  
12 were individuals represented by counsel.

13 And when you combine that with a study that was done  
14 in Ohio several years ago, showing a .942 correlation between  
15 being represented at one of these hearings and not having a  
16 guardianship or conservatorship declared, I think that you  
17 can see the significance of legal representation on an indivi-  
18 dual basis and hopefully state by state the kind of provision  
19 of right to counsel that we would like to see happening in the  
20 guardianship and conservatorship areas.

21 We are also involved in nursing homes, in -- as I  
22 mentioned -- public pension questions, the area of private  
23 pensions, as I said that was one of the areas that I worked in  
24 in private practice, it seems to try to take a look at it from  
25 the other side, on behalf of the intended pension plan bene-

1       ficiaries, once I found myself in Legal Services.

2               The areas of discrimination in employment, mandatory  
3 retirement have received a good deal of attention. Certainly  
4 from the Legal Services community in the last several years  
5 and all of the health programs, Medicare, Medicaid taken to-  
6 gether could probably -- and they do -- provide a good deal  
7 of work for those focusing on the field of legal problems of  
8 the elderly.

9               Very briefly what we do at the National Senior Citi-  
10 zens Law Center revolves around some basics that really have  
11 been mentioned already by each of the others. We assist lo-  
12 cal programs with their litigation. The kind of involvement  
13 that we have with respect to each of the other substantive  
14 areas I mentioned, really will vary depending on what the re-  
15 quest is.

16               It may be that a local attorney is really asking jus  
17 what is the law of Social Security, how can you point us in  
18 the right direction. Or it may require writing a legal memor-  
19 andum or as the ultimate it might involve becoming co-counsel  
20 in the case with the local Legal Services program.

21               What we are able to do because we are focused on  
22 certain substantive areas is hopefully, to act as a kind of  
23 go between to provide pleadings in cases that have already  
24 been filed to an attorney in New York or in Florida that is  
25 considering the same kind of action. We can then provide the

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1 pleadings and hopefully save some time and some work on the  
2 local level.

3 One of the major activities that we have gotten in-  
4 volved in is the dissemination of information about legal hold-  
5 ings, if you will or legislative, judicial and administration  
6 promulgations.

7 So that we put out a weekly Washington Newsletter,  
8 we put out a Nursing Home Law Newsletter on a monthly basis  
9 and then in addition we have ad hoc mailing on the issues as  
10 they arise.

11 And I have put together a packet for each of you  
12 with examples of each of those newsletters, although I hope  
13 that you all get it. We try to keep the mailing list up to  
14 date so that Board members will receive that newsletter.

15 We think that it is very important, especially taking  
16 this client group that is reluctant often times to avail them-  
17 selves of what has been granted by legislative, regulatory or  
18 judicial action, to inform people of their rights, but actual-  
19 ly informing their audience, which is the audience for our  
20 newsletters.

21 I sat in a hearing in the U.S. Senate, Special Commit-  
22 tee on Ageing several months ago next to an individual -- the  
23 hearing happened to be about women and Social Security, sex  
24 discrimination in Social Security, -- next to a gentlemen by  
25 the name of Weisenfeld, who was the main plaintiff in a Sup-

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1 preme Court case, Weisenfeld versus Wineberger, which had de-  
2 cided that widowers with children in custody were entitled to  
3 have the same sort of benefits as widows with children in  
4 their custody.

5 I cannot report a success in that one, it was not  
6 our case. But nevertheless, I sat next to him and he said he  
7 had won that case eight months ago and I am still not in the  
8 computer.

9 And I think that crystalizes the fact that when you  
10 win the case, often times it really doesn't mean a hill of  
11 beans out on the street. It is important to be watching that  
12 process at the various levels.

13 What about the thousands of individuals who are  
14 similarly situated to Mr Weisenfled but who will never hear  
15 of the case of Weisenfeld versus Wineberger.

16 More importantly, what we also found was a striking  
17 ignorance on the part of a large percentage of the legislative  
18 staff as to what was going on in Court decisions. And on the  
19 one had they were sitting dealing with legislation to affect  
20 the Social Security, they were as conversations turned out in  
21 that hearing, very willing, having heard that Weisenfeld had  
22 been decided by the Supreme Court to in effect say, well the  
23 sex discrimination issue can be dealt with by the Courts, we  
24 don't have to worry about it with legislative enactments any-  
25 more. Which is totally contrary to the situation at the time.

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1 In point of fact, the Solphey Decision which had  
2 come down from the Supreme Court making it even more difficult  
3 ever to procedurally bring a Weisenfeld case, had come down in  
4 the intervening time.

5 I guess what we are able to do is to be on top of  
6 the substantive issues for all of those arenas.

7 In addition, as I have shown in the comments, legis-  
8 lative and administrative representation that we try to help  
9 Legal Services attorneys if they are interested in behalf of  
10 their clients in providing testimony, being in touch with what  
11 is going on in Washington, again from an informational stand-  
12 point, putting together panels of people on behalf of their  
13 clients who would like to make presentations or are asked to  
14 testify before Congress or state issues also.

15 And on request we will testify if we are asked as  
16 experts to come in and talk about our special client group. A-  
17 gain with clients who have these kinds of problems and on whose  
18 behalf we are ready to speak.

19 One added thing and I know the time is going, we had  
20 tried very much to serve as a bridge between the aging com-  
21 munity on one hand, which has a whole network of advocate and  
22 resources available and the Legal Services community. By hav-  
23 ing so to speak, a foot in each camp, I think that we have been  
24 able to bring direct benefits to the Legal Services community.

25 For example, many cases in the area of age discrimina-

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1 ation or private pension or public pension litigation require  
2 expert witnesses who we are in touch with, through the aging  
3 network contacts.

4 Actuaries, for example in pension litigation or as  
5 experts in environmental issues affecting the nursing home  
6 problems.

7 We are able to bring them more into touch with local  
8 Legal Services attorneys who then can utilize their expertise  
9 in their own litigation. I think that I have probably gone over  
10 time and I am very ready to answer any questions.

11 MR CRAMTON: Do members of the Board have questions?

12 MR BROUGHTON: The gentleman that just spoke -- when  
13 and this is something that we hear a lot -- once you have suc-  
14 cess in a litigated case -- you mentioned Weinfeld and yet  
15 eight months goes by and the individual still does not get  
16 implementation of the relief that he finally got after a  
17 struggle, why is that?

18 Is that because the Government agency still resists  
19 and when a decision is decided that benefits and individual  
20 litigant, has an established principle that will be of benefit  
21 in the area that you are in of thousands of elderly citizens  
22 why doesn't the agency itself publicize it?

23 (Laughter)

24 MR NATHANSON: I think in one level it is --

25 MR BROUGHTON: Is that in violation of the bureauc-

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1 racy standard?

2 MR NATHANSON: Almost. I think that what you have--

3 MR BROUGHTON: You are dealing with citizens, you're  
4 dealing with taxpayers.

5 MR NATHANSON: There are several levels of answers  
6 to that. One is that a Congressman can one day vote for an  
7 authorization for benefits and go out and tell his or her con-  
8 stituency the next day that he or she has done it and the fol-  
9 lowing day come back and not vote for a appropriation that  
10 would really carry out the authorization and therefore the  
11 agency is forced to keep people off the rolls and to try and  
12 not expand -- really allow people to be on who really are eli-  
13 gible. That is one level of response.

14 Another level of response is that you are dealing  
15 with giant bureaucracies that take time to move. As you can  
16 tell, I am giving them all the benefit of the doubt that there  
17 is no evil intent.

18 I think that that is a continuing problem and the  
19 legal expertize is needed on an on-going basis to make sure  
20 that we go in for contempt orders, sad that this has to happen  
21 but --

22 MR BROUGHTON: Well, I am sure that this is being  
23 overly simplistic. All agencies have a vast army of public  
24 information services and it always has amazed me that once a  
25 decision -- either the result of a court case or not is made

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1 and it has a benefit or establishment of principle that many  
2 others in the same category could get the benefit of -- it  
3 seems to me that their responsibility should be to get the  
4 word out to the whole country.

5 MR. NATHANSON: Let me give you one example and I am  
6 sorry to monopolize the conversation -- the SSI Claims Manual  
7 which is the basic document that is used in the local district  
8 offices to deal with the Supplemental Security Income Program,  
9 which is a federalized program for aged, blind and disabled  
10 individuals -- a welfare program -- used to say in the manual  
11 itself, in describing a 100 dollar emergency advance payment  
12 which was a thing that you could get when you walked in the  
13 door if you looked like you were going to qualify -- in des-  
14 cribing that payment and how it worked to the local district  
15 office the official promulgation said don't tell them about it  
16 unless they asked.

17 MR. FREEDMAN: Maybe just an example too, of the type  
18 of problem that goes on in a case that has become rather famous  
19 Edelman against Jordan, which the Supreme Court held the sov-  
20 ereign immunity part as a -- the payment of retroactive welfare  
21 payments when it is determined that a state had acted improv-  
22 erly. The sovereign immunity would require the payments of  
23 any back benefits.

24 When that case went back down to the court, the lower  
25 court said, well in that case, we won't require any pay out of

1 state monies, but we will require the state to send out notice  
2 to people that they do have a possible claim that they should  
3 pursue through administrative hearings.

4 The state has resisted sending out that notice, even  
5 though there is no longer any issue of their liability for the  
6 benefits. It has resisted sending out the notice and the Sup-  
7 reme Court has again issued certuirari to determine if the  
8 court even has the power to determine that a notice to people  
9 of entitlement be sent out.

10 So agnecy resistance of telling people about court  
11 victories is enormous.

12 MR BROUGHTON: Well, I heard on the radio this  
13 morning that President Carter was going to appear before the  
14 National Press Club today and unveil his recommendations for  
15 revision of the Civil Service System. Maybe that will help.

16 (Laughter.)

17 MR CRAMTON: You talked a great deal about your very  
18 interesting substanative activities and it is very enlightenin  
19 but I would like you to move a little bit to respond to -- to  
20 direct yourself to matters in which the Board has responsibil-  
21 ities.

22 Do you have any problems with the Corporation? Is  
23 the Corporation treating Support Centers properly? Are you  
24 getting sufficient support -- all of our regulations adequate  
25 and appropriate?

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1 (Laughter.)

2 MR CRAMTON: It is a very open ended question, but  
3 what is it that you would like to tell the Board about the  
4 Corporation's dealings with Support Centers?

5 MR GOMEZ: I would like to say something. Look at  
6 the size of Migrant Legal Action and I think that it is a case

7 MR CRAMTON: Mel, would you get the door, please.  
8 Excuse me, we are getting some sound system from outside.

9 MR GOMEZ: You see that from 1975 Legal Services  
10 was funded at approximately 76 million dollars. In 1978 it is  
11 funded at 225 --

12 MR CRAMTON: 300 per cent increase.

13 MR GOMEZ: Right, 300 per cent increase. Now we  
14 have a situation where support is not just National Support.  
15 Support is on a state level on the local level. But it is  
16 also on the National level and we are in a situation where  
17 because of some trepidations of conservative reactions that  
18 may be from Congress or from some concern among previous Board  
19 members, what is this role of back-up Centers that they have  
20 been kept -- what I would consider -- at a status quo situa-  
21 tion.

22 MR CRAMTON: How much has your appropriation in-  
23 creased in that period?

24 MR GOMEZ: We are 485 right now. In 1975 we were  
25 at about 429.

1 MR CRAMTON: Inflation increments, but nothing more.  
2 Is that the experience of all of you, fundamentally?

3 MR JONES: That is generally true.

4 MR CRAMTON: Just inflation increments in the last  
5 three years.

6 MR FREEDMAN: And from 1971 to 1975 there were not  
7 even those.

8 MR CRAMTON: So you all agree that that has been a  
9 very serious problem, in terms of your operations?

10 MR NATHANSON: Well, without question. The fact is  
11 that if on the one hand the field is expanding to a large ex-  
12 tent it should mean that our demand is expanding with the same  
13 static budget.

14 Again I can just speak for the area in which we are  
15 involved, the area of the elderly. We are constantly trying  
16 to sensitize the Legal Services community in the field to  
17 take more elderly clients to represent that client group and  
18 it really is difficult to do with the budget that has been  
19 basically static since 1972.

20 To answer your question from my standpoint, I think  
21 that it is important -- and going back to the whole reason for  
22 us being here -- for you to see that we are lawyers, we, I  
23 think do good work, and that the Board should become aware  
24 of the fact that we probably do not have horns and tails and  
25 are an integral part of the Legal Services community.

1 MR CRAMTON: What about the general coverage of  
2 Support activities. You have gone into the volume of money  
3 that is provided for your individual Centers. Presumably other  
4 Centers can say the same thing -- that is they have grown as  
5 the demand in the Legal Services community for Support and  
6 back-up has increased.

7 But are there areas or gaps in the 13 Centers? Are  
8 there some areas either in subject matter terms or in terms of  
9 constituencies like migrants or elderly that are kind of left  
10 out of the -- should this Board and the staff address them-  
11 selves to the notion -- should some additional Support Centers  
12 be created? If so and in what areas?

13 MR GOMEZ: I would like to say something else on  
14 that. In terms of the new Centers that should be created, I  
15 think that -- I mentioned in my presentation, I think that in  
16 Legal Services that there has been an emphasis on urban ser-  
17 vices and I think it was the natural outgrowth of trying to  
18 get the most for your money.

19 It was probably a good thing to do, because Legal  
20 Services was first set up politically, it was not as much ac-  
21 tivity as there may be now.

22 But, each of the Centers has that on-going pressure  
23 to be more urban oriented than -- just from the fact that  
24 most of the programs are in an urban area.

25 So in terms of rural kinds of needs, I am not sure

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1 whether there needs to be a rural Center, but there need to be  
2 a --

3 MR CRAMTON: More emphasis on rural legal rights.

4 MR GOMEZ: It's not something -- as Dave Madway  
5 pointed out there are rural housing issues that the Housing  
6 Project has addressed, but there is a limitation as to how  
7 far they can go.

8 Another area that I can see is immigration and ob-vi  
9 vious need for immigration and some kind of Support. Whether  
10 it is done on a national level or on a regional basis. I  
11 think in terms of prison rights and I think that there may be  
12 a variety of other areas.

13 MR CRAMTON: What about the state Support Center  
14 concept, like the Western Center on Law and Poverty or the  
15 Gulf in Upstate New York as an alternative form of providing  
16 regional Support that may cut across all subject matter areas  
17 What about the relationship of that to --

18 MR NATHANSON: I don't see it as an alternative, I  
19 see it as an integral part of more effectively delivering ade-  
20 quate, high quality legal services.

21 And what we have been seeing in our practice -- I  
22 can't speak for us, but we have discussed it among ourselves --  
23 that more sophisticated the programs in the field often times  
24 the greater use they make of our services, because they really  
25 are able to utilize -- present the question in a way that can

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1 tap into the kinds of services that we can provide.

2 I think that we need all kinds of -- you know given  
3 an inadequate coverage to slice it several different ways is  
4 probably very healthy.

5 MR MADWAY: I think that there is another point to  
6 be made here, too. To a large extent we are limited to focus-  
7 ing on national issues. One of the real virtues of a network  
8 of state Support Systems is that there can be a great deal  
9 more attention directed to state problems. Problems which --

10 MR CRAMTON: Which may be more important from the  
11 point of view of the poor people, in a particular community.

12 MR MADWAY: That may be true and that is a very im-  
13 portant aspect.

14 MR JONES: There is one thing. The Support Centers  
15 came to us last year because of the dissatisfaction with the  
16 Floor funding to them because of a variety of reasons and ob-  
17 viously it is difficult to work out a formula approach and be-  
18 side the Board is getting bored with formula approaches, and  
19 a task force was formed of Support Center people.

20 We went through a series of meetings and one of the  
21 interesting things and interesting conclusions that was come  
22 to was that you cannot use the Support in a vacuum.

23 And when you talk about the national Support Centers  
24 and you try and formulate a rational policy for helping them  
25 keep up with the expanded services and the demands on their

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1 Centers, you have to look at all of the support that the Cor-  
2 poration was involved in. In the state units, joint efforts  
3 that have been undertaken in some states. The training that  
4 goes on through the Corporation and the activities that go on  
5 through the Research Institute.

6 And that whatever we do, in terms of increasing  
7 support to the national Support Centers is going to have to  
8 depend on the Corporation articulating an over all policy that  
9 addresses that whole idea of support and all of its aspects  
10 from training to production of manuals to reproduction of  
11 pleadings to providing assistance as co-counsel and so forth.

12 So that the recommendation that came from that par-  
13 ticular group was that the Corporation do precisely that. We  
14 have begun to undertake that with a view toward attempting to  
15 define the issues. To see how best we can deal with the situa-  
16 tion in its totality.

17 There is no question and there will get no argument  
18 certainly from the staff that there is a need to begin to ad-  
19 dress these increasing demands for the services to insure that  
20 they continue the kind of work that they have been engaged in.

21 MR CRAMTON: Mr Trudell?

22 MR TRUDELL: I think that it is pretty hard to ar-  
23 ticulate any kind of policy until you have been informed. I  
24 don't know what has happened in the past but in terms of Board  
25 members being apprised of what the Support Centers are all

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1 about in terms of the budget size of the delivery system, the  
2 service areas, the staff -- the size of staff, how they are  
3 governed -- the training functions. A lot of things that you  
4 people have addressed.

5 The part that is missing is the recipient's view.  
6 Are the Centers responding to their needs and do they really  
7 give them the attention that they are entitled to and in terms  
8 of rural areas, -- I don't know where most of these Centers  
9 are.

10 I assume that most of them are either in D.C., Boston  
11 L.A. or San Francisco.

12 MR CRAMTON: There are some major cities that you  
13 missed -- New York --

14 MR TRUDELL: Both coasts, with the exception of the  
15 Indian program in Boulder --

16 MR JONES: There is a law Center in St. Louis.

17 MR TRUDELL: I think that hopefully the Board will  
18 begin to be apprised of what the various Centers are doing.  
19 And a point that was brought out last night, in terms of --  
20 you make the grant and you monitor the grant and you evaluate  
21 the grant all in-house.

22 And it is pretty hard for a Board if they are going  
23 to stay uninformed to articulate any kind of policy.

24 MR CRAMTON: Do all of the Support Centers have gov-  
25 erning boards, composed of one-third eligible clients?

1 MR MADWAY: The Housing Law Project, having just  
2 seperated from the University is in the process of structuring  
3 a board.

4 MR JONES: The Support Centers were and have been  
5 much to the chagrin of some of the people of the table the  
6 subject of a substantial number of studies.

7 (Laughter.)

8 MR JONES: Beginning with the --

9 MR BROUGHTON: If you had all of the money that has  
10 gone into the studies you would be in good shape.

11 (Laughter.)

12 MR JONES: I was not in on that decision.

13 MR BROUGHTON: I realize that. Some of them were  
14 made long before you appeared on the scene -- I mean some of  
15 the studies.

16 MR JONES: But we can make a whole series of materia  
17 and indeed, for the early years of the Corporation a regular  
18 report on the Support Centers activities was made by the Presi  
19 dent of the Corporation to the Board.

20 I did not mean to suggest that I was proposing an-  
21 other study of the Support Centers. It seems to me, however,  
22 that it is important that we being to articulate a policy that  
23 goes to Support as a whole and I quite agree with the state-  
24 ment that you have to know the various components so that you  
25 can be involved in the policy making.

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1 MR TRUDELL: Personally, I think that it is needed  
2 in terms of a Support Center for various areas. My personal  
3 experience in terms of being exposed to the Indian programs,  
4 you talk to the programs that are funded and ask them is the  
5 Support Center really helping you? and it may be changing now,  
6 but for quite some time, there was more of them saying we  
7 don't know what they are doing.

8 So then you begin to wonder, should they have the  
9 grant? And if there is an alternative, then let's look at the  
10 alternative. Another consideration is you have a number of  
11 Support Centers. Is there any relationship between them, other  
12 than receiving each other's newsletters and what have you.

13 You take the migrant area, for instance, I am sure  
14 that there are a lot of elderly migrant people. Do they really  
15 benefit from your particular project. I don't know, this is  
16 the -- it would be helpful in the future, I think, I personally  
17 would appreciate receiving even a one page profile, so that  
18 you don't have to tell us all of the programmatic things about  
19 the program, you can get right to the issues.

20 Because, the Chairman has asked, you have told us  
21 what you are doing but let's hear some of the problems.

22 MR JONES: They all have -- I guess, do you all have  
23 handouts for the Board?

24 MR GOMEZ: Not today.

25 MR JONES: There are some handouts and I am sure tha

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1 you will receive others from them.

2 MR TRUDELL: I am not asking to be swamped with  
3 paper work. I think that being a little more informed, I think  
4 that we can give more assistance to you.

5 MR CRAMTON: Mr Ortique.

6 MR ORTIQUE: Dick took one of the questions away,  
7 but I will take his question one step further. What about  
8 conflicts between you -- elderly, elderly migrants for example  
9 or certainly in the Housing and Urban Development Field there  
10 must be an elderly - housing conflict there, somewhere along  
11 the way. How do you handle that?

12 MR MADWAY: I don't really recall any instances of  
13 conflict. There have been instances where we have worked to-  
14 gether on issues, where we have attempted to coordinate with  
15 one another in order to achieve a generally felt objective.

16 MR ORTIQUE: But Mr Freedman said that he has this  
17 marvelous library that carries all of these things that he  
18 has indexed and can put his fingers on things, what kind of  
19 feed-back do you get from the field, where you can capitalize  
20 on what they have done at the local level in terms of winning  
21 cases, developing what might be a strategy at the National  
22 level, -- which you would be the guys to do that as opposed to  
23 some guy in Oklahoma writing to a guy in Louisiana.

24 MR NATHANSON: I have another hat. I am the Chair-  
25 man of a group called OLSBAC, which is the Organization of

1 Legal Services Back up Centers which does meet periodically  
2 just on one level of information exchange. To get all of the  
3 Back-up Center's Directors and their staff together and share  
4 information.

5 You have got to do it on various levels, you mention  
6 the newsletter as not the only means. It certainly isn't the  
7 only means, but it is a beginning. You can at least apprise  
8 other people of what you are doing.

9 We all exchange our quarterly activity reports with  
10 each other so that the litigation docket that each of us has  
11 is available to all of the others.

12 If you start from the premise that there are in-  
13 sufficient resources out there, that even though you have a  
14 Health Law Center and an Elderly Law Center, it might well be  
15 that if everyone were fully funded to do everything that was  
16 needed there would be overlap. But if you start from the  
17 actual premise, I think you come quickly to realize that the  
18 main thing that we ought to be doing is sharing information,  
19 working together, if we are doing something jointly, but more  
20 or less making sure that we are not overlapping and it really  
21 hasn't been all that hard.

22 MR ORTIQUE: Does your organization then take recog-  
23 nition of major emphasis shifts? For example, if President  
24 Carter develops the program on migrants that we have been read-  
25 ing about -- where if you have been here five years you can do

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1 this, if you have been here ten years you can do this that and  
2 the other.

3 MR NATHANSON: You mean as an organization? OLSBAC  
4 doesn't get into these substantive issues, but individually  
5 certainly we try, as -- let's say a Senior Citizen's Law Center  
6 using a Board which has representation from the Legal Services  
7 community, from the aging community, they try to keep -- and most  
8 importantly really, because we don't do intake, we don't have  
9 clients walking in the door with real live problems, it is a  
10 very hard question.

11 And you try to come together with a blend of the  
12 Board, that hopefully speaks for various client segments and  
13 you get that input and what you get on the phone and in the  
14 mail.

15 If a Legal Services lawyer calls you with a particular  
16 problem that means, by definition that it is a problem of some  
17 person out in the community and you try to blend that together  
18 and come up with your priorities.

19 We have just determined, for example, in answer to  
20 the Chairman's earlier question, that the whole area of Social  
21 Security, unfortunately is really undealt with -- or in a very  
22 small way being dealt with by Legal Services community. We  
23 don't have the resources to do it, but we have articulated it.  
24 And we hope at some point to see a way of addressing that by  
25 the Legal Services community.

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1           We are talking about refinancing Social Security,  
2 you can pick up a paper every day and there is a Social Secur-  
3 ity issue in it and it has been articulated by the field as a  
4 felt need, but we just don't have the resources to address it.

5           MR CRAMTON: What portion of your activities do you  
6 direct toward legislative and administrative representation as  
7 distinct from court litigation and opinions and advice to the  
8 people in the field?

9           MR GOMEZ: I think that varies from program to pro-  
10 gram. Like in Migrant Legal Action program, we have one attor-  
11 ney that is spending his principal time or at least 60 per  
12 cent of his time on legislative matters, at the requests that  
13 come to the program to work on legislative matters.

14           Each of the attorneys have substantive matter re-  
15 sponsibilities, so that for instance, Congressional committee  
16 may ask for assistance from Migrant Legal Action Program,  
17 which it did in 1974, to rewrite the Farm Labor Contractor  
18 Registration Act.

19           The attorney that is litigating in that area as well  
20 as the attorney doing general legislative work, would work on  
21 that particular piece of legislation.

22           Now, I would say that in terms of actual activities,  
23 to be quite honest, I think that it would be around 5 per cent  
24 of our actual budget, if it is that much, but it varies from  
25 time to time during the year.

1           We are registered as a lobbyist here in D.C. which  
2 when you are at that level, is a question whether you really  
3 need to register or not.

4           Now, I think the other Centers would vary they may  
5 or may not be at the same level.

6           MR NATHANSON: I think that our Center probably does  
7 given the time devoted to the newsletter, it depends on how  
8 you slice legislative work -- it's hard to do it, but I would  
9 say that we are in the 10 to 15 per cent category -- we have  
10 an office in Washington D.C. -- but if you talk about cutting  
11 it down to how often do we show up on the Hill, it is probably  
12 a very small percentage.

13           MR CRAMTON: My question is motivated by a suspicion  
14 that relative to high quality private lawyering -- for private  
15 clients, but legislative and administrative activities -- we  
16 are the most starved of all, in the Legal Services field.

17           And that it is much less of it is done than one might  
18 expect in terms of dollars returned.

19           MR FREEDMAN: I think that is true, but it also has  
20 to be recognized that it is somewhat seasonal, depending on  
21 the Administration. For example, we found that under the prior  
22 Administration our representations before the Federal agencies  
23 went unheeded and it really was a waste of resources to use a  
24 13 cent stamp many times to write.

25           Under the current Administration, we were asked by

1 the new Secretary of HEW for an itemization of things that he  
2 could do to address the problems that our clients had had in  
3 recent years that could be dealt with within the Agency and a  
4 substantial flurry of activity followed that on many fronts.

5 So there is that kind of difference depending upon  
6 the responsiveness of the Agency.

7 MR CRAMTON: I gather that contracts under which you  
8 are operating are all contracts that are consistent with the  
9 Green Amendment as interpreted by the Board -- that is, they  
10 continue to prohibit activities other than in connection with  
11 representation of eligible clients. Is that correct?

12 MR NATHANSON: That's correct.

13 MR MADWAY: That's correct.

14 MR CRAMTON: The statute, I gather, no longer re-  
15 quires that restriction. Should it be changed?

16 MR FREEDMAN: I don't think that there is any ques-  
17 tion that it should be changed. For example, --

18 MR CRAMTON: Is OLSBAC going to get a proposal to-  
19 gether and submit it to the staff so that the Board can con-  
20 sider the question?

21 MR BROUGHTON: When you said changed -- what do you  
22 mean changed?

23 MR CRAMTON: I don't know what their proposal would  
24 be -- I am just raising the question that the present statute  
25 permits those activities which were prohibited before and which

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1 continue to be prohibited by the contracts under which they  
2 are operating. And it seemed to me that the Board ought to be  
3 in a position to -- if they think that this interferes with  
4 their activities to have them tell the Board in what way it  
5 does interfere with their activities and what they would do --  
6 or how the contract could be changed and in what way.

7 MR BROUGHTON: Are you asking them for suggestions?  
8 In view of the fact that the Green Amendment restrictions have  
9 now been lifted?

10 MR CRAMTON: That is precisely the question. That  
11 doesn't mean that we ought to respond, but I think we ought  
12 to listen to what they have to say.

13 MR JONES: We have received from OLSBAC, which is  
14 the association of the Support Centers request to be permitted  
15 to do some of the things that they are no longer prohibited  
16 from doing.

17 We have responded, by suggesting that that was an  
18 issue that we would have to bring before the Board. That it  
19 also seemed to us that since we were in the midst of looking  
20 at the overall Support effort -- in the broadest sense of the  
21 word, -- that we ought to look at those functions in terms of  
22 overall support.

23 And that that would be helpful in them making a re-  
24 commendation to the Board. It is clear from the four who are  
25 here and I am sure that there are other numbers, who if they

1 were here, it would be a unanimous recommendation from them to  
2 the Board that those restrictions be lifted.

3 It seems to me that that may be simplistic and it  
4 may be helpful if each one of them explains briefly to you  
5 what they feel the advantages to be gained for the clients  
6 and the programs that they deal with.

7 MR BROUGHTON: Before they do that, Mr Jones and  
8 I am interested in what they say, is this what you had in mind  
9 on the agenda book on page 3 in the Support Center Section --  
10 the memorandum from Mr Ehrlich -- the Corporation staff is  
11 currently considering whether the arrangements of the various  
12 Support Centers should be expanded and so forth and so on --  
13 is that a part of that --

14 MR JONES: Right.

15 MR BROUGHTON: Fine, thank you.

16 MR MADWAY: With the enormous growth in the staff  
17 of the field programs, it is critical that the Centers or some  
18 one else begin the process of preparing up to date manuals for  
19 field lawyers.

20 Under the Green Amendment restrictions we were bar-  
21 red from doing that. It is a project that the Housing project  
22 has got to undertake rapidly. We have a manual that was pro-  
23 duced prior to the Green Amendment updated annually until 1973  
24 at that point the Housing Act changed so significantly that  
25 we can no longer update it. The process has to be started aga

1 MR ORTIQUE: Paul don't you have in there something  
2 on Social Security that is updated, could be put out and the  
3 field is asking for it, but there is just no money to print  
4 it?

5 MR NATHANSON: Well, there are some problems with  
6 the manuals that do exist. Yes we have done an SSI manual,  
7 which is in it's second printing.

8 MR CRAMTON: Why can't the Research Institute do  
9 that?

10 MR NATHANSON: Well, they wouldn't do the printing.

11 MR CRAMTON: Well, I think that they would -- the  
12 Corporation itself.

13 MR NATHANSON: The Clearinghouse would be doing the  
14 printing -- as I understand it there would be possible prob-  
15 lems or has been a problem with the Clearinghouse not having  
16 available enough dollars to print it.

17 MR CARTER: We are doing that, it is just a problem  
18 of priorities. There is not enough money to do -- there is  
19 a whole list of things that the Centers and some of the state  
20 Support Centers would like to do, and we are setting some  
21 priorities on this.

22 Some have been printed, it is not something that --

23 MR ORTIQUE: Let's stop right there. When you talk  
24 about we are preparing priorities, Dick, that bothers me, be-  
25 cause sometimes we prepare priorities over a long period of

1 time and you don't get it done.

2 I want to know do we have up to date manuals that  
3 the field needs and that are worthy of getting out to the  
4 field, immediately and if so, what is the hold up?

5 MR CARTER: In terms of those that are done, yes,  
6 those are going out-- a number of them have gone. We are  
7 putting together new ones though. We

8 We are currently working on a joint project with  
9 the Research Institute, the Center's are participating --  
10 Paul's Center, Henry's Center in new SSI -- that hasn't been  
11 prepared yet, that is being prepared.

12 MR ORTIQUE: And when it is prepared we will go  
13 ahead, we will have the money.

14 MR CARTER: That is one of the commitments that we  
15 have made this year.

16 MR ORTIQUE: We practicing attorneys know that if  
17 you can put you hands on something in one single volume, it  
18 is much better than ripping all over a whole library and running  
19 down the --

20 MR TRUDELL: Are these materials used in the train-  
21 ing of Reggie's and some of the field attorneys?

22 MR MADWAY: We tend to use the packets that we have  
23 developed when we/hired by the Corporation to put on training.

24 MR CARTER: We are always preparing new things. For  
25 example, we are doing a series of seminars with the Housing Law

1 Center and lawyers in the field on Community Development Block  
2 grants.

3 And the material including a workbook, are being  
4 prepared in conjunction with that training. It doesn't wait  
5 on any priority systems with the manuals. It will go out, it  
6 will be available to the people who don't go to the seminars  
7 as well as those who do.

8 The same sort of thing with materials for the Migrant  
9 Legal Action project. We are running a series of three dif-  
10 ferent kinds of traing that they are involved in and Raphael  
11 is Chairman of our Advisory Committee on Migrant training and  
12 we have done one thing on planning for the new Migrant pro-  
13 grams, the new components are waiting for money. Last week  
14 ~~there was~~ Another thing that he mentioned -- just last week,  
15 for expereince migrant lawyers and then another series in  
16 April for new attorneys and paralegals in the migrant program.  
17 And in each of these there are materials that go with those.

18 Some are more extensive than others. There were some  
19 substanative materials that were done in conjunction with  
20 Raphael's Center, that were distributed during that training  
21 and are available to others who may not have been able to go  
22 to the training.

23 MR CRAMTON: Mary Ellen Hamilton .

24 MS HAMILTON: I would just like to say to Dick and  
25 to the Centers there is a lot of programs expanding in areas

1 that they have never been in before. We have not as a rule  
2 ever had new material. I have been searching for materials  
3 for new areas. Call your office -- can't get any.

4 In Legal Service newsletter about some of this  
5 material where it is and you can put your finger on something  
6 and know where you can get it, it is much easier than running  
7 around looking for it and people who have never been involved  
8 in these things before, like mobile homes -- different things  
9 I've never been involved in that before. It is something new,  
10 completely different that we are running into.

11 It expands the program and I think that when you  
12 just start touching base on the new programs what you are ex-  
13 panding to what you are doing and now that I am in all the  
14 way in Community Education, I need this material.

15 MR CRAMTON: Mr Nathanson.

16 MR NATHANSON: I think that it is really important  
17 to focus, in terms of the Green Amendment provisions being  
18 lifted, that initially we are not talking about reallocation of  
19 resources, we are talking about being able, within our project  
20 to be able to make the decision, if on an ad hoc basis it is  
21 important to go into Louisiana and call in attorneys from --  
22 and paralegals from Mississippi and Alabama to a training --  
23 do it on an ad hoc basis as an issue comes up.

24 We would like to be able to do that. Have the flexi-  
25 bility in our existing grants for that. But I think that it

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1 important for the Board to differentiate between -- as I said  
2 resource allocation problems, which the Corporation is address-  
3 ing in the long run and the more short range flexibility ques-  
4 tions where we are not asking for more dollars, we are asking  
5 to provide better kinds of Support services to programs in the  
6 field.

7 MR CRAMTON: Mr Engelberg.

8 MR ENGELBERG: Charles or one of the panelists --  
9 where are you in terms of your negotiations on the change in  
10 the contracts. I assume that what, new contracts have already  
11 gone out consistent with the Green Amendment contracts -- I  
12 am just confused.

13 MR JONES: Yes, all of the contracts that presently  
14 exist have the limitations that were imposed by the Green  
15 Amendments.

16 MR ENGELBERG: When was the last grant cycle that  
17 those contracts would have applied to?

18 MR CRAMTON: January.

19 MR ENGELBERG: And so you are still under --

20 MR JONES: The new grant cycle will be next January.

21 MR ENGELBERG: All right, but are the back-up Cen-  
22 ters asking that the contracts be changed prior to next January  
23 and if so, what is your attitude in terms of time and so on.

24 MR JONES: Well, even if you go to the issue that  
25 Paul raised, and let me say this, I think that there are valid

1 reasons why some of the restrictions ought to be lifted. But  
2 it seems to me that there is the other issue that is that it  
3 is essential that the Corporation develop an overall policy  
4 for Support and insure the coordination.

5 For example, I have no question in my mind that any  
6 one of the judgments of the Support Center might be valid in  
7 terms of ad hoc training sessions. But it is important given  
8 the scarcity of resources -- even for them, in terms of alloca  
9 tion of resources -- to be sure that they are aware of what  
10 else may occur.

11 For instance within one of these state groups. As  
12 far as I am concerned the reality is that we have tended to  
13 use the people with expertize to provide the training. As  
14 David suggests Dick will put on a training event in Housing  
15 and he will use the expertize in the Housing Law Center.

16 If a training event occurs dealing with elderly  
17 or with migrants as they have occurred, expertize will be  
18 used.

19 There is also a need for some overall policys, not  
20 only in terms of allocation of new resources, but just the  
21 use of the exisiting resources.

22 I don't think that there is any great disagreement  
23 between us, but clearly it is one more thing that the Corpora  
24 tion must do. Not to delay making the decision but because  
25 when a decision is made all of the pieces ought to be there.

1           It seems to me that a lot of decisions that we made  
2 we made because we had to, usually. Now we ought to look and  
3 see how all of those things are going to impact on each other.  
4 A sound policy ought to be made -- not to lock us in forever,  
5 but at least so that we know where we are at this point so  
6 that we can make intelligent choices.

7           MR CRAMTON: Do I understand that what you are sayin  
8 is that there are negotiations or discussions underway between  
9 OLSBAC and the staff and that at some point various options  
10 will be presented to the Board for discussion?

11           I hope that they will be presented as options in  
12 which there are alternatives were there are advantages and  
13 disadvantages. Rather than saying we have negotiated this  
14 arrangement with the Support Centers and here it is take it  
15 or leave it.

16           MR EHRLICH: I understand the point. We don't know  
17 enough now about the kinds of things that I'd want to know  
18 about the scope of the range of policy other than general  
19 areas. I would like to do that. But it may be one area, lik  
20 training, that it is very clear to Support Centers and quite  
21 clear to Dick Carter and to Charles what a sensible approach  
22 is.

23           MR ENGELBERG: Does OLSBAC have a schedule in mind  
24 by which they would like the staff to come to grips with this  
25 Again, from what Roger says --

1 MR CRAMTON: Yesterday.

2 (Laughter.)

3 MR ENGELBERG: You are all working together, there  
4 is no real dispute at this point --

5 MR NATHANSON: Well, we are not sure that there is  
6 a dispute -- we don't know --

7 MR CRAMTON: Just on principle and execution.

8 MR ENGELBERG: It sounds to me that you are not  
9 quite ready yourselves with a package as to what you would  
10 like to see done. I am talking about the group of Support  
11 Centers.

12 MR FREEDMAN: I can speak individually, in that I  
13 made a request on behalf of our Center that the language of  
14 our contract be changed to reflect the language that Congress  
15 adopted in the Act in 1977. And at the moment, as I under-  
16 stand the position of the Corporation staff, is that that is  
17 a matter that will be considered with the long range broad con-  
18 sideratons overall Support activities.

19 Now that long range consideration is something that  
20 the Support Centers are pressing for for the past year and  
21 we're very supportive of it. And indeed one reason we are  
22 pressing for it is that we are told that one of the considera-  
23 tions for funding levels depends upon having a rationale for  
24 the whole Support effort and we accpet that and think that it  
25 is possible for the Board to move forward.

1 I am concerned though that the relatively simple  
2 question of whether the resources that we already have could  
3 be allocated to specific training activities or preparation  
4 of specific manuals or matters that might fall within the  
5 research that Congress authorized, cannot even be considered  
6 by our own Board and with our own resources, until this long  
7 term process goes on.

8 And it really seems to me to be very separate. The  
9 Corporation is not committed forever to allowing us to do  
10 training, if their long range for training would say that we  
11 shouldn't do it, but the facts that our contract would be modi-  
12 fied now to permit us to do it with our existing resources.

13 MR ENGELBERG: Have any of the Board members visited  
14 any of the Support Centers?

15 MR NATHANSON: I am pleased to say that I have one  
16 on my Board.

17 MR EHRLICH: What I meant in response was not that  
18 we need to hold up on any issue until we decide every issue,  
19 but rather I thought that the Board would want some indication  
20 of the kinds of activities that were being proposed from the  
21 various Support Centers that weren't heretofore undertaken,  
22 such as the kind of training you suggested. And that we would  
23 come back to the Board with the kinds of activities that were  
24 being proposed by each of the Centers. And I realize that you  
25 can't always be exact, because you don't know what is coming.

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1           And some indication by the staff the degree to which  
2 we saw concern for complications if any, in terms of coordina-  
3 tion. I would seem to me that the Board would want that kind  
4 of indications before it --

5           MR CRAMTON: I think that the Board would like to  
6 talk about the question before the staff changes the contracts.

7           MR JONES: We can't change the contracts. We are  
8 fixed by policy already established by the Board.

9           MR EHRLICH: We don't have any question about chang-  
10 ing -- doing that, but I think we can get some fairly specific  
11 indications of the activities within the existing budgets that  
12 each of the Support Centers would like to do and we can take  
13 that and this analysis, coordination, issue and come back to  
14 the Board and you can say what you will.

15           MR CRAMTON: Well, if you and others think that that  
16 is relatively easy and --

17           MR EHRLICH: Well --

18           MR CRAMTON: We can consider it at an early Board  
19 meeting, --

20           MR ORTIQUE: But there are certain aspects of what  
21 they would like to do that should be relatively easy. For ex-  
22 ample the matter of training -- if we change the contract, what  
23 we'll do is just make honest folks out of the various back-up  
24 Centers because they have been getting the requests to appear  
25 at training sessions and they really are the ones who are doing

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1 the training, who render that service.

2 MR JONES: There is a distinction, obviously -- the  
3 one is an event that is scheduled, paid for, arranged for lo-  
4 gistically and otherwise by the Corporation --

5 MR ORTIQUE: That's right.

6 MR JONES: -- and you clearly use the resources of  
7 the Support Centers -- I would think that you would want us t  
8 comment --

9 MR ORTIQUE: Absolutely because from their over-  
10 view the materials that that are flowing into them, may not  
11 necessarily be flowing into the Corporation and they might be  
12 I say might be in a better position to suggest to the Corpora  
13 tion that you need more of this. -

14 For example, I would be certain that we need more  
15 of elderly training in the -- on the East Coast, New York City  
16 and out there in California than we might need in -- I should  
17 have said Florida first -- than we would need in some of the  
18 other places.

19 I for example, know that Dick Trudell raised the  
20 question a while ago about Native Americans -- I know, because  
21 I attended a conference where there were numbers of persons  
22 who were concerned about Native American elderly in Northern  
23 California, to my great surprise. But there were numbers of  
24 those people up there from that point of view.

25 Then of course you get into the Housing situation

1 down there in Texas and I am sure that the Housing group  
2 could do a much better job than we tried to do -- Mary Ellen  
3 you recall about two years ago down there, in housing.

4 So that when I said let's make ourselves honest, I  
5 really mean let's do the best job possible, whether it is  
6 coming up from the Support Centers or going down to the Support  
7 Centers.

8 MR CRAMTON: Are there more questions?

9 MR BROUGHTON: I have one question Mr Chairman and  
10 that is do you consider that you are really national in your  
11 service? I have heard, I am not able to document this, I  
12 have heard from some of the project people that perhaps the  
13 Support Centers gravitate too much in the immediate area where  
14 they are located. Is that a problem? And I can see that that  
15 would be a two way situation, really, I am just curious to  
16 know that.

17 MR NATHANSON: It is possible that that can be a  
18 problem depending on the kinds of services that you are talking  
19 about. We have an Office in Los Angeles and a Washington of-  
20 fice, so we are able really to cover both sides of the coun-  
21 try.

22 But we are not able on a daily basis to appear in  
23 court in Chicago and so that the extent that day to day over-  
24 seeing, at least with our present travel budget, day to day  
25 overseeing of litigation is required the odds are that a case

1 which has some significance for across the country may well b  
2 brought in California, as opposed to Washington.

3 But the telephone and the mails are available and  
4 we really have no problem with that. I would like to point  
5 out to you, though, that the Corporation has looked at this  
6 and has talked to us about that and we are discussing trying  
7 to expand those kinds of service.

8 MR BROUGHTON: Aside from litigation do you consider  
9 that your requests for research on a particular point or in-  
10 formation whatever -- pleadings -- do you consider that that  
11 is really national in scope or do you get inquiries from pro-  
12 ject directors --

13 MR FREEDMAN: Absolutely. In fact, I think that is  
14 why most of the Centers try to resort more and more to mailing  
15 on all of the programs, so that we are able to get information  
16 out to everyone responding to the types of requests that we  
17 get.

18 And I know that the question comes up often and we  
19 have gone through our correspondences and our logs of phone  
20 calls and it is absolutely no question that we are giving as  
21 much service in places like Idaho and California as we are  
22 along the East Coast.

23 MR BROUGHTON: Do you consider that you have a  
24 close relationship with and you are being monitored or super-  
25 vised -- however you might express this as far as the LSC of-

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1        fice in Washington is concerned?

2                MR NATHANSON: Well, the way the set up is right now  
3 I think that it is mentioned in the materials that we are real-  
4 ly monitored on an on-going basis by the Regional offices as  
5 opposed to the Washington office.

6                MR BROUGHTON: And you consider that you do have a  
7 close relationship with the Regional?

8                MR NATHANSON: We may disagree at times.

9                (Laughter.)

10               MR CRAMTON: One of Mr Broughton's questions suggeste  
11 one other and it is also suggested by some remarks this morn-  
12 ing by the problems of monopoly in particular areas in the  
13 delivery of legal services.

14               In a sense each one of your organizations in subject  
15 matter and in constituency has a national monopoly. Would it  
16 be desirable to set up more competing organizations or to have  
17 direct funding to programs in order to take appeals.

18               The problem is that if you have -- if a Legal Ser-  
19 vices program has a particular case that they think is impor-  
20 tant and that it deserved appellate litigation in a test case  
21 and they happen to go to one or the other of you and you've  
22 got other priorities you don't think that it is all that im-  
23 portant or you are not as interested in it and the like and  
24 that is the end of the road for them, right? They don't have  
25 any other alternatives.

1 MR FREEDMAN: It might be the end of the road in  
2 terms of the National Support Centers, it certainly is not  
3 the end of the road in terms of them pursuing it to the high-  
4 est level.

5 It sometimes disappoints us to realize that in the  
6 early days of Legal Services we were involved in much of the  
7 litigations that went up to the United States Supreme Court,  
8 but now most of the cases that go up to the Supreme Court are  
9 cases that are handled by the local programs and taken up  
10 there.

11 MR JONES: This isn't an alternative to that. They  
12 don't take over the appeal. I think that is

13 MR NATHANSON: I think what is really exciting is  
14 that -- at least the way that we view our role -- I think  
15 that the other Centers also -- hopefully we can facilitate  
16 some of that exciting worthwhile rewarding litigation at the  
17 local level so that you will see field attorneys staying there  
18 longer and staying there in the Legal Services community long-  
19 er.

20 If we as Support Centers are able to provide them  
21 with materials, with the pleadings, with the manuals, with the  
22 ideas on some cases that we are aware of around the country  
23 and thereby allow them, every once in a while to take one of  
24 these cases -- you know we are all human beings -- they might  
25 well like to take to expand their own knowledge and expertize,

1 I think that we are really providing a service.

2 MR CRAMTON: Then you view yourselves as facilitator  
3 and not gate-keepers.

4 MR FREEDMAN: Absolutely, and of course, most of  
5 the state centers will provide another resource, to the local  
6 programs if they need additional counseling.

7 MR MADWAY: Also, especially useful is the develop-  
8 ment of specialist units within field programs. It is a lot  
9 easier for a back-up center to relate to a specialist's unit  
10 than it often is to relate to individual field attorneys. The  
11 are tremendous facilitators for our service.

12 MR TRUDELL: Another part of Roger's question,  
13 though is that you make reference to making it fairly attrac-  
14 tive for field attorneys in the field, what is the retention  
15 like in the Support Centers, in the terms of attorneys.

16 MR NATHANSON: We can each speak for ourselves. I  
17 think that the statistics are very good. We have very high  
18 retention and are able to -- I know that in each of our Center  
19 we've got -- I know I've got almost the same attorneys which  
20 started with the program in '72.

21 MR CRAMTON: What are the salary ranges in the Cen-  
22 ters?

23 MR ORTIQUE: I know he's glad you asked him that.

24 (Laughter.)

25 MR ORTIQUE: They're lower than they are over across

1 the street with the Legal Services Program.

2 MR CRAMTON: That is one reason I asked. I wondered  
3 if there was some concern about this comparability program?

4 MR NATHANSON: Well, I think that it's very diffi-  
5 cult. I am very glad that you asked, because I think that  
6 there is a general view in the Legal Services community-- ob-  
7 viously you all are more familiar with those issues -- but in  
8 the Legal Services community there is some view that really  
9 are the fat cats of Legal Services.

10 We have high budgets, we have high salaries --

11 MR CRAMTON: You mean at the Centers?

12 MR NATHANSON: Right at the Centers.

13 MR CRAMTON: And the Corporation is the fattest  
14 fat cat of all.

15 (Laughter.)

16 MR NATHANSON: I can only speak for my Center -- we  
17 have attorneys who have been out of law school for ten years  
18 earning 22 or 23,000 dollars who could, in point of fact,  
19 walk across the street to perhaps to a local program and earn  
20 more.

21 And I am not saying that that is fair or unfair, I  
22 am saying that that is a fact. They stay because they like  
23 the work and because there are other rewards.

24 MR ORTIQUE: Mr Chairman, I know that Mr Veeney  
25 got a resolution and an award, but he has been trying to get

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1 our attention -- I don't know Berney if they are trying to  
2 tell you something or not.

3 MR VEENEY: I am somewhat concerned that this after-  
4 noon's conversation makes it sound that the Support Centers  
5 are the lawyers for lawyers with clients and I just want to  
6 comment to the Board that we have seen the client community.

7 Over the last couple of years a growing effort on  
8 the part of the Support Centers 1) to aggressively reach out  
9 for clients to on the board 2) to try and educate the client  
10 community and 3) very open to the feedback of the client com-  
11 munity about their level of their performance in the issues  
12 that they should be involved in.

13 I know that in the next couple of months one of the  
14 Support Centers and I think possibly two will hold priority  
15 setting sessions so that the kinds of things that they really  
16 address themselves to are not simply determined by the Legal  
17 Services programs, but will be determined by the clients per-  
18 ception of the Legal Services attorneys and the combined per-  
19 ception of what that particular Center should be devoting them-  
20 selves to.

21 It is not about their being lawyers for lawyers and  
22 their being isolated. Clearly there is a much, much closer  
23 affinity between the Support Centers and the client community

24 MR CRAMTON: Thank you very much for this most in-  
25 teresting and relevant presentation.

1 MR NATHANSON: May I distribute these to the Board?

2 MR CRAMTON: Sure. Can we take a five minute stretch  
3 before we go into the Regulations?

4 MR KUTAK: Why not.

5 MR CRAMTON: We will take a five minute break.

6 (Whereupon, a short recess  
7 was taken.)

8 MR CRAMTON: The meeting will resume. Could we have  
9 some order? Unless some member of the Board thinks that some  
10 other item has precedents, we will now return to Mr Kutak and  
11 the Committee on Regulations.

12 MR KUTAK: We are returning to what everyone has  
13 been eagerly awaiting. Continuation of our discussion of the  
14 proposed regulations.

15 MR CRAMTON: Could we have some quiet in the back  
16 of the room please?

17 MR KUTAK: As you will recall, just as we recessed  
18 we were in a discussion of the actions recommended by your  
19 Committee with respect to part 1614 and in order to re-focus  
20 your attention on that matter, I will remind you that the  
21 Committee recommended that in light of the action taken in the  
22 Legal Services Corporation Act Amendments of 1977, we proposed  
23 the repeal of Part 1614 as it now stands and the publication  
24 of an amendment to Part 1613 as it has already -- as the ori-  
25 ginal Part has been adopted.

Recalling that those two actions are before you, we

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1 realize that you haven't had the benefit of the analysis from  
2 Steve, with respect to our deliberations, I now turn to Steve  
3 for his comments and invite him to respond to any questions  
4 that you might have.

5 MR WALTERS: Just briefly, where we left off with  
6 Section 10 of the Legal Services Corporation Act Amendments o  
7 1977, repeals the restriction of juvenile representation pre-  
8 viously contained in Section 1007 (B)(4) of the Act.

9 It was the opinion of the Committee that in light  
10 of that action by the Congress that there was no longer a  
11 basis for Part 1614 of the Regulations which implemented that  
12 Section of the Act and therefore it should be repealed.

13 That action would also require an amendment to Sec-  
14 tion 1613.4 of the Regulations which governs the instances in  
15 which criminal representation may be provided by the program.

16 That Section presently refers to Part 1614 of the  
17 Regulations. The proposal of the Committee would eliminate  
18 that reference to Part 1614 of the Regulations and make the  
19 General Provision relating to instances in which criminal  
20 representation is permitted applicable to juveniles as well.  
21 And I would be glad to answer any questions that you might  
22 have.

23 MR KUTAK: If none then let's Mr Chairman look at it  
24 separately. I think that there is scarcely any concern that  
25 anyone has about a repeal of any regulation, whatever it is.

1 But in this event the repeal of a regulation because of the  
2 action of the Congress to the Amendments to the Act makes it  
3 self-evident.

4 So perhaps we might take these in that order and I  
5 suggest to make it easier for the Committee that we move the  
6 repeal of Section 1614.

7 MR SMITH: Second.

8 MR CRAMTON: It is moved by Mr Kutak and seconded  
9 by Mr Smith that we publish for Notice and Comment? -- a state-  
10 ment that Part 1614 is repealed? Right?

11 MR WALTERS: I don't think that you need to publish  
12 for Notice and Comment to repeal the regulation, I think that  
13 that would be effective on action by the Board.

14 MR CRAMTON: You are asking the Board to take effec-  
15 tive action in this case and not on the other in terms of re-  
16 peal of this particular rule.

17 MR ORTIQUE: I don't think that in view of the fact  
18 that Congress did what it did that we would have to give No-  
19 tice, but I sure wouldn't want it to be felt that it was policy  
20 that in any matters that we repealed that it would not be nec-  
21 essary -- unless somebody can find me some jurisprudence on it  
22 because I think that if this Board decided to repeal some of  
23 it's Regulations that the public certainly would have the right  
24 to comment on them.

25 MR CRAMTON: I think it's a case --

1 MR ORTIQUE: However, in this case, I think that you  
2 are absolutely correct.

3 MR WALTERS: In the event of specific Sections of  
4 a particular Regulation amounted to an amendment, in essence to  
5 the Regulation, certainly that would be published for Notice  
6 and Comment.

7 Since this is a repeal of the entire Regulation, I  
8 think that final publication --

9 MR CRAMTON: I think that I disagree with that pro-  
10 cedure. It does seem to me that Revis is right and that we  
11 ought to follow Notice and Comments procedures even for the  
12 repeal of a Regulation.

13 I say this in part because one point that I made  
14 about one provision of the repealer, at the Committee, which  
15 hadn't occurred to the draftsman, is now embodied in the sep-  
16 arate proposal that you are making about authorized representa-  
17 tion in 1613 and it also seems to me -- I have a quarrel with  
18 .7 -- the repealer of the limitation policy, which seems to  
19 me is a very wise policy in terms of the use of Corporation  
20 money and it ought to be preserved as a Corporate policy.

21 We may find that there are some people that 1) think  
22 we shouldn't repeal the Regulation, for one reason or another  
23 or 2) think that the one part or another of it ought to be  
24 preserved in some form and why not give the general public an  
25 opportunity to comment and have notice, before this action is

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1 effectively taken.

2 MR KUTAK: Mr Chairman, I would quickly recede on  
3 the matter, I thought that it was so self evident and it would  
4 be so commendable that it was just a matter of administrative  
5 convenience. But if anybody, particularly the Chairman would  
6 want to have the matter published for Notice and Comment, I  
7 will quickly withdraw our recommendation and I will link the  
8 two then -- that we will publish for Notice and Comment to  
9 repeal Part 1614 and the Amendment to Part 1613 with re -- as  
10 it affects the -- quick help me Steve -- as it --

11 MR CRAMTON: What you are essentially doing is pre-  
12 serving .6 "Continuity of Representaion" --

13 MR KUTAK: 1613.4, yes.

14 MR SMITH: I thought that was what I had seconded in  
15 the first place.

16 MR KUTAK: I was going to separate them, but --  
17 Everybody understands it -- at the request of our Chairman and  
18 joined by the Committee let's move that we publish for Notice  
19 and Comment the repeal of 1614 and the change to 1613.4.

20 MR SMITH: Second.

21 MR CRAMTON: All right, the matter is understood and  
22 it is before us for discussion, on the merits. Is there dis-  
23 cussion.

24 MS HAMILTON: Mr Chairman, if you get comments back  
25 are you bring it back to your Board?

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1 MR KUTAK: It will first come back to the Committee

2 MR CRAMTON: When Regulation proposals are put out  
3 in the Federal Register for Notice and Comments come in, they  
4 are analyzed by the staff, the staff distributes them to the  
5 Committee which discusses them and then it comes back to the  
6 Board, probably at the next meeting, if there is time in the  
7 interval -- maybe there isn't -- but if there is time to do  
8 all of that in the interval it comes back to the next Board  
9 meeting for formal action on the proposal.

10 MR BROUGHTON: Mr Chairman, I wonder however, if  
11 the lady had any comments to make now -- it's coming back, but  
12 it would save her time and it would save us time --

13 MS HAMILTON: I like to write it. I like to write  
14 the documentation.

15 MR CRAMTON: Well, I had a question about .7 that I  
16 why doesn't 1614.7 state a desirable policy about Corporation  
17 money? That is where there is a right to counsel and where  
18 funding is available, why should our scarce resources be made  
19 available and be applied to other areas?

20 MR WALTERS: This was discussed at the Committee  
21 meeting. And the feelings, at least on the part of the staff,  
22 was that the policy expressed in 1614.7 was at least partially  
23 expressed in the Priorities Regulation and which was required  
24 particular consideration of other sources of free or low cost  
25 legal assistance in the community.

1       The difficulty with an absolute policy of not using  
2 Corporation resources where there is a Right to Counsel and  
3 that applies to lots of areas beside juvenile representation  
4 applys to, is that in many instances the Right is a hollow one

5               It may be a high priority in a community for the Le-  
6 gal Services to be involved in that area regardless. Whether  
7 it is necessary to change the law or even simply to effectuate  
8 the Rights to Counsel.

9               And out thought was that that was an issue that  
10 could be addressed far better on the local level in setting  
11 the priorities rather than at the national level.

12              MR ORTIQUE: May I respond to that? I think that in  
13 a number of situations we see that Judges have the responsi-  
14 bility to appoint Counsel that if you don't have this pro-  
15 vision that they might not be reminded of the responsibility  
16 to look other than to the Legal Services program.

17              I know that this is very true in juvenile courts,  
18 where you insist that there be counsel and I just suspect that  
19 the Judges across the country -- my friends in California, for  
20 example tell me that where the Legal Services program can be use  
21 that Judges will tend to use Legal Services programs and find  
22 reason to use Legal Services programs.

23              MR WALTERS: The point is well taken, but that issue  
24 is addressed in another section of the Amendments to the Legal  
25 Services Corporation Act that states expressly that "attorneys

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1 employed by recipients shall be employed to provide legal assis-  
2 tance without compensation only when such appointment is pur-  
3 suant to a statute, rule or practice applied generally to at-  
4 torneys practicing in the Court where the appointment is made."

5 So with that amendment to the statute it is quite  
6 clear, in our view that Courts cannot discriminate against Leg-  
7 al Services programs and can't rely on Legal Services programs  
8 involuntarily to shift what is truly a local responsibility.

9 On the other hand --

10 MR CRAMTON: But they can refuse to appoint and then  
11 the program steps forward to meet the need which is not other-  
12 wise met, then that other regulation doesn't address itself  
13 to that aspect.

14 MR WALTERS: If it is consistent with local priori-  
15 ties to do that. Our note is that the programs on the local  
16 level can make a decision far better than we, whether as a  
17 local matter it is a need that they should address.

18 MR ORTIQUE: The only reason that you want it out of  
19 here is that it is redundant?

20 MR KUTAK: That's my point.

21 MR ORTIQUE: The situation -- the way that I am  
22 thinking, it is not redundant at all, it is there for double  
23 emphasis, or to underline it, to underscore it, to make it  
24 very clear and that sort of thing and I think that that sort  
25 of thing serves a very useful purpose.

1 MR KUTAK: And if so, Revius, then we have got to  
2 rethink and if there are comments to that effect, we have got  
3 to rethink to put it in the positive. Remember what we are  
4 trying to do here -- we are trying to liberalize the Right to  
5 Representation for juveniles. We are not trying to restrict  
6 the Right to Representation.

7 MR ORTIQUE: I agree.

8 MR KUTAK: See the whole idea of taking this thing  
9 out of here is to broaden the Right to Representation -- not  
10 restrict the right. And we want -- and if anyone thinks that  
11 by taking it out that would not broaden it enough, then we  
12 will do more, we want to get a priority above and beyond mak-  
13 ing it on a parity with all other Rights to Representation.

14 Let's consider that and we will do that in --

15 MR OTRIQUE: State it in the positive.

16 MR CRAMTON: But it is done primarily in making the  
17 Legal Services Representation more generally available in juv-  
18 enile crime situations. And that it seems to me is the policy  
19 question that the Corporation ought to face that has to do with  
20 allocation of money, it ultimately has to do, I think, with  
21 public acceptance of the program and its political viability.

22 And it is on that policy issue and that is why I  
23 don't accept the statement that is made in this proposal that  
24 just because the statutes change, this should be repealed and  
25 so on. I think that it is a little bit like the fact that the

1 Green Amendment language was changed, and it then raises a  
2 policy question for the Board as to whether the prior restric-  
3 tions should be continued or they should be changed.

4 Now maybe they should be changed, but I think that  
5 it's an important policy issue.

6 MR KUTAK: You have time to make that argument when  
7 we have our hearing, for the second time.

8 MR CRAMTON: No, I've made it.

9 MR ENGELBERG: Point of information -- it's a dumb  
10 legal question but in juvenile criminal type cases, does the  
11 Right to Counsel apply under -- in other words the Court must  
12 appoint Counsel.

13 MR WALTERS: Yes, when it is an adult type situation  
14 where they are accused of the crime. And what

15 MR ENGELBERG: And what Revius was saying -- at  
16 least I think that it was Revius -- was that it was very anala-  
17 gous to the whole criminal area where the local Courts will  
18 use Legal Services programs or the fear that they would use  
19 them as a dumping ground and thereby avoid there responsibilit

20 MR ORTIQUE: That's right and cost us more money.

21 MR WALTERS: There is an amendment to the statute  
22 that would prohibit -- which protects against that danger.

23 MR KUTAK: We must be compensated.

24 MR ENGELBERG: That Legal Services attorneys cannot  
25 be singled out.

1 MS DANIELS: It is important to distinguish between  
2 the protection we want Legal Services lawyers to have against  
3 being appointed. We requested that change in the statute spec-  
4 ifically to deal with the situation that Revius described, be -  
5 cause we realize that Courts were looking at the Corporation as  
6 a source of resources and saving municipal funds.

7 That situation has been dealt with in the statute  
8 and we are working with programs every day insuring that this  
9 comes to the Court's attention.

10 The other question though is the question of the  
11 power of Legal Services programs, voluntarily, to accept the  
12 client who walks in the door and says, "I want representation --  
13 I am faced with the threat of mental commitment. My state has  
14 a nominal Right to Counsel in such a proceeding, but my judg-  
15 ment -- this is a very rational person -- is that the Counsel  
16 available is entirely inadequate that the Court's don't appoin-  
17 or that the \$20.00 per case that they allow is not enough for  
18 good representation."

19 Legal Services programs are -- should be permitted  
20 to take such a case if that is consistent with the local pro-  
21 grams judgment on allocation of resources, because it is not  
22 just juvenile cases that come up, there is a whole range of  
23 cases in which there is statutory Right to Counsel.

24 MR CRAMTON: Is there further discussion on the mo-  
25 tion? Which is to publish for Notice and Comment the repealer

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1 of Part 1614 and the amendment in 1613.4. A1

2 (No response.)

3 MR CRAMTON: All those in favor please say aye.

4 (Ayes.)

5 MR CRAMTON: All those opposed, no.

6 (No.)

7 MR CRAMTON: We will have a show of hands. All those  
8 in favor -- Kutak, Ortique, Smith, Rodham, Esquer, Trudell,  
9 Engelberg and Worthy.

10 Those opposed -- Broughton and Cramton.

11 The motion carries.

12 MR KUTAK: Mr Chairman, if we may go back -- you will  
13 recall that we had a discussion on the Board this morning about  
14 the By-Law Amendment with respect to how much time should be  
15 built into our By-Laws with respect to Notice. We had -- with  
16 respect to the submission of the agenda.

17 We had a little meeting here after we recessed for  
18 lunch.

19 MR CRAMTON: A discussion, not a Committee meeting.  
20 You had a discussion.

21 (Laughter.)

22 MR KUTAK: We had a discussion and it was one. --

23 MR CRAMTON: But was it open?

24 MR KUTAK: Under the light over there and you had  
25 Counsel there and we had our President there and anyone that

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1 and anybody else we could get to stop and listen.

2 (Laughter.)

3 MR KUTAK: But they all wanted to do something bet-  
4 ter. And we were trying to figure out what the sensible thing  
5 to do here and the upshot of it was that we would make the no-  
6 tice -- we would send out the notice within the same period of  
7 time that we would publish it for official public attention.

8 But assume and understand that the President and  
9 the administration will strive to send out an informal notice  
10 a tentative agenda to the Board in advance so that they can  
11 react and make any comment to the President.

12 So we are going to change -- what Section is it,  
13 Steve?

14 MR WALTERS: 1601.15.

15 MR KUTAK: We can change it by simply striking 15  
16 and putting in 7.

17 MR WALTERS: It would be at the beginning of the  
18 third sentence and --

19 MR BROUGHTON: Slow down just a little bit -- 1601 --

20 MR WALTERS: 1601.15.

21 MR KUTAK: 1601.15 under Change -- here. And where  
22 it says 15 days we would say 7.

23 MR CRAMTON: In both places?

24 MR WALTERS: In both places, yes.

25 MR CRAMTON: And that is a Committee amendment, so --

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1 MR KUTAK: That is a Committee recommendation.

2 MR WALTERS: And a similar change to the Change of  
3 1601.16, which is on the next page, in lines 2 and 7.

4 MR CRAMTON: Now, is there a thought that there  
5 might be a circulation of a tentative agenda in advance of  
6 that to the --

7 MR KUTAK: To the members of the Board so that they  
8 might have an opportunity to react if they have any reaction  
9 or make any additions if they have any additions.

10 MR EHRLICH: What I did say was that I would con-  
11 sult with you about 10 days before the 7 day period started  
12 to run and send shortly thereafter a tentative listing of item  
13 and obviously any who have items that they would like to have  
14 on the agenda before that time, I hope that you will let the  
15 Chairman or me know. And after responses to those we will  
16 send out the final.

17 MR KUTAK: But technically speaking, the By-Laws  
18 would now read they would be in strict conformance with the  
19 Government in the Sunshine Laws, which has noted not less than  
20 seven days before the meeting. And as it was officially pro-  
21 mulgated for the Board, it would also be officially published  
22 for the public. With that amendment, Mr Chairman, we would  
23 move the adoption of the amendments to our By-Laws.

24 MR CRAMTON: These have gone through Notice and  
25 Comment?

1 MR WALTERS: They have been published thirty days  
2 in advance as required by the By-Laws. They would be effective  
3 immediately.

4 MR CRAMTON: And were there comments? There were no  
5 comments?

6 MR WALTERS: No.

7 MR CRAMTON: No one is interested in our By-Laws.

8 MR KUTAK: Steve?

9 MR ENGELBERG: I was going to second the motion.

10 MR CRAMTON: It has been moved by Mr Kutak and second  
11 ed by Me Engelberg that we adopt the By-Law changes, which  
12 have been previously published in accordance with the required  
13 procedures. Is there further discussion.

14 MR BROUGHTON: I have a question, again on this  
15 question of two thirds versus majority, we discussed that this  
16 morning and as I understand the Government in the Sunshine Act  
17 it says majority, whereas our By-Laws have said two thirds.

18 MR KUTAK: But we're open ended.

19 MR BROUGHTON: What?

20 MR KUTAK: But we are open ended, we could have  
21 closed it, theoretically for any reason, rather than for the  
22 limited reasons which the --

23 MR BROUGHTON: I know that but we are limiting --  
24 to comply with the Act we are limiting our basis for calling  
25 an executive session and yet we are making it easier to call

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1 for an executive session.

2 I'm wondering what the -- and maybe I didn't make  
3 this clear this morning -- I am wondering what the Committee's  
4 thinking was, other than the fact that the Act itself uses  
5 the majority rather than two thirds.

6 MR KUTAK: Believe me Mel, that is the only reason.  
7 We were tracking the spirit of the -- and the substance of the  
8 Act, as a matter of fact to conform because reading the Act in  
9 its entirety and hopefully reading the By-Laws in their en-  
10 tegrity one sees now, that there is now to be just a very re-  
11 stricted and specific reason for a closed session and other-  
12 wise everything is open.

13 MR CRAMTON: Another reason for the majority, I  
14 might say, rather than the two thirds is that we have always  
15 voted on executive sessions as matters have come up at the  
16 meetings, in which people have been here. And you -- the  
17 issue came up and there was an immediate vote.

18 This vote is going to be a vote by notation and --  
19 or by conference call or something well in advance of the  
20 meeting and without the opportunity to discuss and so on.

21 It may be difficult to reach people, some people  
22 may not be available and answer the mail and I think that it  
23 would be a great mistake under these circumstances to retain  
24 the two thirds as against the majority. It is going to be  
25 difficult enough under the procedures in advance of a meeting

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1 and without the opportunity of discussion to get a bare maj-  
2 ority of an 11 member Board.

3 MR ORTIQUE: Why would you want --

4 MR CRAMTON: Why would you want an executive session?

5 MR ORTIQUE: No, not why would you want an executive  
6 session but why would you ever want to try to hold an execu-  
7 tive session either by telephone or by notation.

8 MR CRAMTON: No, you don't hold it be that, you have  
9 to vote to call it because it has to be indicated on the agenda  
10 in advance of the meeting.

11 So for example, if we were to be involved in a search  
12 for a new President and we wanted to have a discussion at a  
13 particular Board meeting in which there was going to be a con-  
14 fidential executive session by the Board in which we were talk-  
15 ing about various candidates that were under consideration,  
16 clearly an appropriate subject for an executive session I  
17 think in everybody's mind, the procedure would have to be --  
18 that when -- prior to the public agenda being mailed out on  
19 the meeting one item on the agenda would be Presidential Search  
20 discussion of Presidential Search -- or whatever it was and  
21 then this would be closed pursuant to vote already taken by  
22 the members of the Board to hold an executive session. Am I  
23 not correct?

24 MR WALTERS: Exactly.

25 MR CRAMTON: And to require two thirds in that set-

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1 ting would be difficult.

2 You can't just come to the meeting and say let's  
3 hold an executive session.

4 MR EHRLICH: You could have used another example.

5 MR CRAMTON: The President said that I should have  
6 picked a better example but that seems to me to be the most  
7 compelling one that will arise at some time, presumably under  
8 the hundred years of history of the Legal Services Corpora-  
9 tion.

10 (Laughter.)

11 MR KUTAK: It was suggested and I would willingly  
12 take in the example of replacing the Chairman of the Regulation  
13 Committee.

14 (Laughter.)

15 MR CRAMTON: That we can do in an open meeting.

16 MR KUTAK: Is there discussion? May we call the  
17 question?

18 MR CRAMTON: Are you ready for the question?

19 (No response.)

20 MR CRAMTON: All those in favor please say aye.

21 (Ayes.)

22 MR CRAMTON: All those opposed, no.

23 (No response.)

24 MR CRAMTON: It is unanimous. The transcript of  
25 the record will indicate that all of the Board members unani-

1 mously supported the recommendation.

2 MR KUTAK: Mr Chairman, the next meeting of our  
3 Regulations Committee is scheduled for April 6th, 1978. Until  
4 a few minutes ago, it was scheduled for Atlanta, Georgia, there  
5 has been some indication and realization that this would be a  
6 tremendous imposition on one or more of our newest members  
7 because of the great distance that they have to travel and  
8 I take cognizance of that.

9 So, what we will do is communicate this afternoon or  
10 sometime while we are together to find an appropriate loca-  
11 tion.

12 MR SMITH: Omaha.

13 MR KUTAK: Omaha has been suggested but in any  
14 event we will at that time consider further changes in our  
15 Regulations, which have been made necessary, again, by the  
16 amendments Act of -- the Act Amendments of 1977.

17 Such as the requirement that one third of the pro-  
18 grams governing Board consist of eligible clients, new language  
19 concerning the treatment of public benefits cases, as fee  
20 generating and possible change to the eligibility regulations.

21 I also want the public to know and the colleagues to  
22 know that we still have ahead of us comments to consider with  
23 respect to Part 1606, which is the Part relating to termina-  
24 tion and denial of refunding and to Part 1623 which is suspen-  
25 sion. They are kind of back to back issues.

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1           And again, of course, address the issue as to wheth  
2 er there should be a Regulation implementing the new statutor  
3 language regarding organizing activities, at matter which is  
4 out now for general discussion to the group at large. Steve?

5           MR ENGELBERG: Yes, Bob, will the Committee members  
6 get before the meeting some sort of material or the proposed  
7 Regulations that will be considered?

8           MR KUTAK: You bet.

9           MR CRAMTON: You will get a big packet of stuff from  
10 Steve.

11           MR KUTAK: You will be fully briefed, in advance  
12 by document and by summerizations, unless they are themselves  
13 so important as to be left intact, the complete statements are  
14 sent in and comments.

15           We still have something to go. I remember telling  
16 the group once before of a colleague that said when I asked  
17 for a motion to continue, said that he wanted to try the case  
18 some time before he died or shortly thereafter.

19           (Laughter.)

20           MR KUTAK: I would like to get through these regula-  
21 tions some time before I dies or shortly thereafter. But we  
22 do have a few other assignments to face. Frankly, we have to  
23 reexamine the whole issue of eligibility, in light of various  
24 issues that have arise during the last year. Certain matters  
25 with respect to the implementation of the Rehabilitation Act.

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1           And of course, my long dreamed for ambition that  
2 once we get through all of the separate Regulations, we have  
3 a breather and try to reexamine the entire set of documents to  
4 be stylistically as well as substantively a model act of Re-  
5 gulations for a public Corporation.

6           We only have, by my reconning, two meetings but the  
7 past being any prologue, maybe we have one or two more than  
8 that.

9           But in any event, I am anxious to work at a forced  
10 march because I would like to feel that my colleagues have  
11 been left somekind of completed document, not to mention the  
12 field as quickly as possible.

13           So we will meet on April the 6th in contemplation of  
14 our meeting in May and we will meet probably again in contem-  
15 plation of our July meeting and they are work-outs, but we  
16 welcome you on board.

17           MR CRAMTON: The President and I have conferred about  
18 another subject in which I think we would like to have the  
19 Committee take a look, Mr Ehrlich.

20           MR EHRLICH: As new Board members know, in connec-  
21 tion with the confirmation process, questions have been raised  
22 about whether or not there should be a Board policy concerning  
23 Board member involvement in lawsuits in which Legal Services  
24 lawyers are involved in as Counsel on the other side and re-  
25 lated matters to that.

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1 I think that it would be appropriate if the --

2 MR KUTAK: We'll take a look at that. All I need  
3 is another regulation, but we'll take care of it.

4 (Laughter.)

5 MR CRAMTON: It would be a By-Law. The question is  
6 whether 1) it is needed and maybe if the staff prepared a mem-  
7 orandum for the Committee and the Committee discussed it then  
8 the Board could usefully discuss the question. And decide  
9 whether it would be appropriate.

10 MR ENGELBERG: The second aspect, as I understand it  
11 Tom is having to do with local Board members, whether there  
12 should be Regulations concerning special conflicts on the part  
13 of local Boards.

14 MR KUTAK: And I observed earlier, Steve, I know  
15 that in the minutes, having not been at the last meeting, I  
16 didn't partake in that discussion, but I note that there was  
17 a request that the Committee also consider this matter of  
18 whether the By-Laws or Regulations need to be changed with re-  
19 spect to the problems of conflicts between poverty groups in  
20 the same community. We'll have to wrestle with that, too.

21 But I hope that the agenda doesn't keep elongating  
22 but we can finally get to the end. Thank you, Mr Chairman,  
23 that is the end of the report.

24 MR CRAMTON: Thank you very much. We now come to  
25 item 4c. Report of the Committee on the Provision of Legal

1 Services. Mr Ortique.

2 MR ORTIQUE: Where are my support people?

3 MR CRAMTON: There is one of them. Mr Bamberger --  
4 who else are you looking for? Ms Sard.

5 MR ORTIQUE: I knew that you needed some help, Clint  
6 that's why I --

7 MR CRAMTON: Have all of the Board members met Bar-  
8 bara Sard?

9 MR ORTIQUE: Well, the Committee on the Provision of  
10 Legal Services met last night and you have got two items on  
11 your agenda, but we thought that in view of the fact that the  
12 Committee is now composed of three new persons, that we ought  
13 to have a report with reference to our Alternative Delivery  
14 System, as a part of the Provision of Legal Services meeting  
15 and we went through an historical summary with reference to  
16 the work of the Institute and where we were at that time and  
17 I suppose Clint could comment on that, very briefly, just for  
18 the general information of the entire Board.

19 And then of course, we dealt at considerable length  
20 on the Report on the Quality Improvement Incentive program,  
21 which as you know is the expenditure of the remaining 4 mil-  
22 lion dollars and the study of the needs of poverty groups as  
23 required by the Amendments to our Act.

24 Both of which are on going programs in view of the  
25 fact that you have in the latter situation, a deadline that

1 has been set by the Congress.

2 I would now yeild to Clint to make a sort of brief  
3 summary statement with reference to all three of these and the  
4 I am sure that Barbara would want to report on the Quality  
5 Improvement program. And Mr Housman has come in and he will  
6 report on the Study of the needs of poverty groups.

7 MR BAMBERGER: With respect to the Delivery System  
8 Study, there was really nothing added to what is know by the  
9 Board members and with your permission, Revius, I would like  
10 to move to the two things that we do want to call the Board's  
11 attention to, that is the Quality Improvement Project, which  
12 is the expenditure of the investment income.

13 You have in your book two things. One is a two and  
14 one half page report of what has been done by the staff since  
15 the last Board meeting and attached to that is the sollicita-  
16 tion for grants.

17 You will recall that this is the 3.2 million dollars  
18 of investment income that remains after the Board's allocation  
19 of the million dollars for the Educational Loan Repayment Plan

20 The solicitation was prepared by the staff, having  
21 in mind the action and comment by the Board at the October and  
22 December meetings. The solicitation was reviewed by all the  
23 members of the Committee on the Provision of Legal Services  
24 and it has been mailed out. It was sent to all Legal Services  
25 programs, all offices of those programs, to the Chairpersons

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1 of the programs and in addition, just over 1500 descriptions  
2 of the solicitation were sent to Bar organizations, client  
3 organizations, law schools and others. A press release was  
4 sent to hundreds of law related publications, we have received  
5 400 requests for solicitations as a result of that mailing.

6 The time table now is that by March -- proposals  
7 for grants are to be submitted by March the 17th. We hope  
8 that we will make a preliminary selection of grants in May and  
9 thru May and June we will refine those grants, we will negoti-  
10 ate with the grantees to make modifications that we might want  
11 and we hope to make the grants in July.

12 During all of that process we will work closely with  
13 the Committee on the Provision of Legal Services. The Board  
14 authorized an expenditure of 200,000 a year for the adminis-  
15 tration of this project, I think that we will be well below  
16 that. Yesterday was the last day for receiveing applications  
17 for people to come on board and help us do that work and we  
18 hope to have someone there to do that soon.

19 MR KUTAK: Forgive me all, I went through this mat-  
20 erial and again, I realize that I missed the last meeting and  
21 therefore I bring this up reluctantly, but I read that solici-  
22 tation proposal material and I said to myself that gosh, I  
23 haven't been so depressed and so discouraged after reading a  
24 solicitation -- that I don't know whether I would have tried  
25 to gear up for it.

1 I was so overwhelmed by its lack of pazazz --

2 (Laughter.)

3 MR KUTAK: I just worry and I want to put it on the  
4 table -- I promise you you won't hear it again, but I just  
5 worry that when our organization -- it reads like a Department  
6 of Defense specification for widgets.

7 (Laughter.)

8 MR KUTAK: And I know that I am in deep water with  
9 so many of my friends, but I raise the plea that we simplify  
10 that we don't go through this -- if there is any way to avoid  
11 it -- the tremendous bureaucratic connotations that this has.

12 It just seems to me to be uncharacteristic of what  
13 I hope to be a bright, energetic, crisp and imaginative or-  
14 ganization.

15 It really reads like we were trying to give some  
16 specifications for some widgets, rather than some bright ideas  
17 for legal services. And I don't -- maybe because I am not  
18 aware of all of the constraints on my colleagues, maybe because  
19 of all of the pressures in government for touching all of the  
20 bases.

21 But I think that we -- it is something that is very  
22 uncharacteristic -- usually you are handed a memorandum sum-  
23 marizing things like this. But I really read everything from  
24 the beginning to the end and I was turned off. And I just  
25 wondered how can we turn people on to these things in a way

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1 that makes them feel that we are appealing to the best and  
2 the brightest.

3 That is an unfortunate -- through this kind of a  
4 call. A call for not a bunch of documents that constitute an  
5 exercise in Xerox -- but a call for an exercise in imagina-  
6 tive and resourceful ideas.

7 MR CRAMTON: It sounds to much like a Municipal  
8 Bond Document?

9 MR KUTAK: Oh, it does.

10 (Laughter.)

11 MR ORTIQUE: Did you think that maybe we would have  
12 4,000 rather than 400.

13 MR CRAMTON: As a former reader and writer of  
14 indentures, I take umberage with your statements.

15 (Laughter.)

16 MR KUTAK: As a present writer and reader of them.

17 MR BAMBERGER: I also take responsibility for it  
18 looking like a -- if you know the language -- you would say  
19 an RFP for widgets. And I guess --

20 MR KUTAK: How do we fight it?

21 MR BAMBERGER: I'll tell you in my own view but I  
22 don't know how we fight it. I think my concern Bob, was that  
23 this has been the subject for two rather extensive discussions  
24 for the Board in meetings and that we wanted to be sure that  
25 we put out a solicitation that followed as closely as possible

1 the language that had been approved and read by the Board.

2 MR CRAMTON: That is true that the Board discussions  
3 forced the staff to elaborate and elaborate and offer more al-  
4 ternatives -- we share a substantial responsibility.

5 (Laughter.)

6 MR KUTAK: You weren't including me?

7 MR CRAMTON: Well, you attended the first one but  
8 not that second one.

9 MS SARD: The other thing that I think that I can sa  
10 having now talked to some 300 people over the phone with ques-  
11 tions is that even though the form may -- you may find it  
12 depressing, I don't think that it is having that effect on  
13 people. I think that people are taking it as an opportunity  
14 to really try to get their creative activities across and to  
15 have an opportunity to do them.

16 They groan at the paper, sure and some of the prob-  
17 lems, but if we get anything like the number of applications  
18 we are going to get, I think, and we are going to be able to  
19 fund only a sixth to a tenth of them, we have to have a way to  
20 make some real choices.

21 MR KUTAK: I know that it is easier to sit on the  
22 sidelines and complain than to be in the front lines, but --

23 MR BAMBERGER: Did you read this letter. Ther real  
24 concern was that I think the Board did want a good deal of  
25 specificity and I did not want the document to go out and some

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1 one on the Board say that it did not incorporate the words  
2 that they had considered with such --

3 MR CRAMTON: Ms Bedell would like to comment.

4 MS BEDELL: It is very good of you to let me comment  
5 and to let me be here. I want to say --

6 MR CRAMTON: Open to the public.

7 (Laughter.)

8 MS BEDELL: With my mouth shut I am welcome -- but  
9 now you gave me a chance and I am going to take advantage of  
10 this opportunity.

11 We weren't turned off by the materials, but that is  
12 because of the outstanding staff we have in New York, we don't  
13 get turned off easily. But we were puzzled, we wanted to win.  
14 We have an exciting project, we think that it ought to be going  
15 on further and we wanted to present it in such a way as to  
16 have a chance and you know, I am a tennis player and when I  
17 get on the court I want to know, I am supposed to stand in  
18 this court and if my ball goes in well then I get 15 points  
19 and if it doesn't go in I get love.

20 And I won't settle for love on behalf of Legal Ser-  
21 vices in our project, which is a pioneer project for battered  
22 women in the way that we have set it up.

23 And I want to know what interests you so that we do  
24 not put you and the staff with our material and that is the  
25 problem that I can see in the way that it was presented.

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1           That there is no way that we can know whether we  
2 are giving you the material that can induce you to take an  
3 interest and give us a chance at winning.

4           Now I want to say that I spend my own money and I  
5 am a stingy Hungarian that doesn't spend their money, to come  
6 down here, just to be able to get some light on this subject.

7           I asked to speak to Mr Ehrlich, I asked to speak to  
8 Ms Sard and the answer always was, well, I cannot tell you  
9 more and I wonder whether somebody on the Board would take up  
10 the cause of telling me what I tell me staff, particularly  
11 Jane Bloom, who has put in an application in a different con-  
12 nection, is if you do so and so and such and such in this  
13 aspect of the project, you have a chance to win.

14           And I thank you very much.

15           MR ORTIQUE: Well of course, we issued the criteria,  
16 you saw that?

17           MS BEDELL: Yes, indeed I did.

18           MR ORTIQUE: And then you say that you followed that  
19 up with a phone call and somebody said that they couldn't tell  
20 you anymore?

21           MS BEDELL: Well, you know it's not very clear.

22           MR ORTIQUE: Have you raised specifically -- asked  
23 somebody to give you an example of an innovative project that  
24 we may have going on already in some part of the country?

25           MS BEDELL: I wasn't so smart as to ask that question.

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1 but that would be a good question. I hereby adopt it and I  
2 am going to ask it.

3 (Laughter.)

4 MR ORTIQUE: It just seems to me that --

5 MS BEDELL: A little free legal advice, that is all  
6 that I am asking.

7 MR ORTIQUE: I would just make sure that -- and they  
8 may have told you that, but I am sure that somebody here will  
9 tell you what they -- what we are looking for.

10 MS BEDELL: I can have that in writing.

11 MR BAMBERGER: Let me say that I will say what ob-  
12 jectives we are looking for, but the purpose of this project  
13 is to stimulate thinking from people in the programs and I  
14 think that it would be counter to that effort, if we as the  
15 Corporation began to say well, if you do a, b, and c, you will  
16 get funding.

17 We set out the criteria -- the value judgments that  
18 will be made, but I will not say to anybody if you send that  
19 application in it will be funded and that is sometimes the  
20 questions that we got.

21 MR ORTIQUE: No, Clint, I am sure that this lady  
22 would not ask that, but item number 2 -- replicability and it  
23 says, "Proposed activity should be adaptable to a range of  
24 other communities." Maybe the lady doesn't know what that  
25 means. Maybe she is confused on that point. It would seem t

1 me that somebody would be able to tell her what that means  
2 and give her an example.

3 It would be counter-productive if we were to tell  
4 you that if you comply with a,b,and c, because somebody will  
5 quickly tell us, I have complied with a,b, and c and I still  
6 didn't get any money and that of course --

7 MS BEDELL: Oh, we have out project, we don't need  
8 ideals, we just need methods so that we should know that the  
9 decision is not going to be made on a standard that we cannot  
10 comprehend.

11 It is that old arbitrary business -- the zoning  
12 board of appeals has to list certain standards by which they  
13 come to a decisions -- Courts, in New York State anyway, have  
14 to say well, we came to the decision on the basis of so and  
15 so.

16 And that is not the Court telling me how to run my  
17 case -- no Court can ever tell me how to do anything anyway  
18 and I don't want that. What I want to know is what will make  
19 their heads work.

20 MR ORTIQUE: Well, of course, if you ask me that  
21 question in one context, I would have to say that it would be  
22 counter-productive for us to tell you what would make their  
23 heads turn. On the other hand, I think that if you asked  
24 specific questions about the criteria, that I am sure that the  
25 would be glad to answer that.

1           Because what will make their heads really spin, will  
2 get you some money.

3           MR CRAMTON: One probelm on the question that I  
4 think what we are addressing ourselves to is essentially the  
5 criteria that are listed and the extent -- how meaningful they  
6 are.

7           One of them for example, "evaluation" all it says  
8 is "Adequacy of methods proposed by applicant to describe,  
9 analyze and evaluate its activities." I assume that we are  
10 not talking about social clients inquiries that what is called  
11 for in terms of evaluation is going to be substantitally less  
12 than we built into the Alternative Delivery Systems Study or  
13 that the social scientists would want to build in to a program

14           If it were built in many projects wouldn't be able  
15 to build it and it would require so much of the funds going  
16 into that effort.

17           MR BAMBERGER: Yes.

18           MR CRAMTON: Well, what does it mean then? It just  
19 says evaluation.

20           MS SARD: The reason that it is stated so simply is  
21 that adequacy is going to vary depending on what the project  
22 is, what is adequate to evaluate one project may not be ade-  
23 quate to evaluate.

24           Programs have of course asked that question and one  
25 of the simple kinds of answers is that if you have a new in-

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1 take method. There are very simple ways, in terms of program  
2 ordinary record keeping that you can tell whether that method  
3 improves the efficiency of the in-take system or not or change  
4 the kinds of cases that it takes.

5 And you can easily tell if a leafletting on housing  
6 problems in the community has changed the ratio of housing pro-  
7 blmes that the program takes. That is simple, that is not a  
8 dramatic social science measure.

9 In addition, we hope and we will have available to  
10 programs during the refining of the contracts in May and June,  
11 people with technical backgrounds will be able to help pro-  
12 grams refine their evaluation methods, if the applicant has  
13 had difficulty in designing them.

14 We are trying to find very simple ways to evaluate  
15 things, but to still actually test whether something is making  
16 a difference and we think that that is possible.

17 MR CRAMTON: Are you interested in particular subject  
18 areas of programs? I gather that this lady is talking about  
19 a particular subject area program as distinct from a -- and  
20 does that fall within the --

21 MS SARD: Well, Mrs Bedell and I had corresponded  
22 about that some time ago, and what I had to answer was --

23 MR CRAMTON: If it doesn't, I think the answer could  
24 be --

25 MS SARD: The answer was that I gave her, to the best

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1 of my ability was that such a particular subject matter pro-  
2 gram had not been contemplated within the intents of this pro-  
3 gram, but she should be particularly careful in the section  
4 on experimental grants to quality improvements so that she  
5 could show how this was really and innovative delivery method  
6 that it might have a chance to qualify.

7 That was the most honest answer I could give, based  
8 on the background that we had from the Board.

9 MR CRAMTON: Mr Trudell.

10 MR TRUDELL: Two questions and a statement. I agree  
11 with Clint in terms of looking for fresh ideas and innovative  
12 approaches to doing different things that need to be done and  
13 I think that any proposal writer can make a proposal fit a  
14 particular list of criteria.

15 I have two questions in terms of -- has the advisor  
16 committee been put together and how was it selected?

17 MR BAMBERGER: The advisory committee has not been  
18 put together. It is in the process of being chosen through  
19 consultations with programs, clients councils and the region-  
20 al offices and the organized Bar.

21 MR CRAMTON: Have you talked with the committee abo  
22 the membership on the advisory council?

23 MR BAMBERGER: No, but I will.

24 MR TRUDELL: The reason I asked, because I would  
25 hate to see proposals funded when there is underlying motives

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1 in terms of shoring up some deficits or whatever because that  
2 does occur pretty regular with a lot of programs.

3 MR ORTIQUE: Say that slow, Dick.

4 MR TRUDELL: What I am saying in terms of -- well,  
5 the burden really rests with the committee or the advisory  
6 committee in terms of making the selections that they make and  
7 then the staff recommending them to the President.

8 If that committee were stacked, I am not saying that  
9 it is going to be or will be, you could end up having some  
10 proposals funded that that particular grantees need that money  
11 to shore up a particular area of their program.

12 We all know what I have said about proposals -- you  
13 can write a beautiful proposal to fit anything but there may  
14 be some underlying motives for wanting that grant money.

15 MR CRAMTON: You are hearing from an experienced  
16 grantsman.

17 (Laughter.)

18 MR ORTIQUE: That's why I asked him to repeat it.

19 MR EHRLICH: Grantsman.

20 MR CRAMTON: Grantsman, isn't that what I said?

21 MR ORTIQUE: No, you let a Freudian slip.

22 MR CRAMTON: Oh, I did? Please excuse me.

23 MR BROUGHTON: Mr Chairman, I have a question. Fir  
24 I share the concern of my distinguished colleague as to the  
25 wordiness -- is that it?

MR KUTAK: I never objected to verbosity.

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1 MR BROUGHTON: Well, it's out and the point of the  
2 memorandum to the committee of February 12 and at the bottom  
3 of the page where they stated -- and maybe this is already  
4 been said, I ducked out for a moment-- "We anticipate approxi-  
5 mately 300 applications".

6 Have you said how many have come in yet, or if any?

7 MR BAMBERGER: None, they are not due until the  
8 17th of March.

9 MR BROUGHTON: Then you go to the question of re-  
10 serving funds for administrative cost and the 10 per cent ear-  
11 marked for research leaving approximately 3.2 -- now for dis-  
12 tributing grants.

13 I am a little bit confused as to the math. We said  
14 up here administrative costs are 200,000 a year. Now the 10  
15 per cent of the research -- is that 10 per cent of the 4 mil-  
16 lion dollars?

17 MR BAMBERGER: Yes. The Board did that at the last  
18 meeting.

19 MR BROUGHTON: That's -- and then 200,000 that is for  
20 the cost am I -- I seem to be missing 200,000 in here some-  
21 where.

22 MR BAMBERGER: Okay, because I don't think that we  
23 will spend more than 400,000 over the course of three instead  
24 of the 600,000.

25 MR BROUGHTON: Now on the average total grant size

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1 over two and a half years of about 75 -- now has the committee  
2 made any determination as to the size of the grant or is that  
3 something that is to be analyzed by the committee and the committ  
4 ee and the staff?

5 What I am trying to say is that are you pegging it?  
6 Are we saying well, you ought to have at least 45 projects --  
7 45 grants or 75,000 --it seems to me that we could well have  
8 a project that would have tremendous appeal and tremendous  
9 potential that may exceed that.

10 MR ORTIQUE: I thought that these were merely sug-  
11 gestions -- I didn't realize --

12 MR BAMBERGER: That's right.

13 MR BROUGHTON: That is what I wasn't clear as to  
14 whether this was just speculative --

15 MR BAMBERGER: Quite speculative and I think it is  
16 something that we should reserve judgment on until we see what  
17 kinds of applications we get.

18 MR ORTIQUE: That's right, until we see some of  
19 the applications, it would appear to me that --

20 MR BROUGHTON: -- this would be a judgment that would  
21 bring to bear the best thinking of the committee and the ad-  
22 visory committee that will be set up later, is that right?

23 MR BAMBERGER: Yes. We intend to have the committee  
24 participate in meetings of the advisory committee and keep  
25 them informed throughout the process.

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1 MR CRAMTON: One feature these descriptions of the  
2 various proposals form or categories that I don't recall be-  
3 fore and I wonder if you could -- if it has been considered  
4 by the committee and is the dollar limitation on each of them.

5 MR BAMBERGER: They are as they were submitted to  
6 the Board.

7 MR CRAMTON: They were in before?

8 MS SARD: They are the identical ones.

9 MR CRAMTON: I thought that they looked like they  
10 were and yet somehow I never focused before on the dollar  
11 limitations.

12 You want innovative and imaginative ideas and yet  
13 some of the categories are restricted to 10,000 for this,  
14 and 20,000 for Bar involvement and paralegal and up to 50,000  
15 for others and how hard and fast is that? And does the com-  
16 mitee have a clear idea as to whether those limitations are  
17 well tuned to --

18 MR ORTIQUE: My understanding was that none of it  
19 was hard and fast until we could see what we would get.

20 MR CRAMTON: And yet it says that grants up to a  
21 maximum --essentially you won't consider it if it's over that  
22 and falls in that category.

23 MR ORTIQUE: I didn't -- well, I as Chairman of the  
24 committee did not understand that to be a fact because it  
25 would seem to me that if we really, as you say, are looking f

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1 innovative proposals, that we don't want anyone to run wild  
2 and I guess that was why that was suggested.

3 MR CRAMTON: It is more than a suggestion. It says  
4 that, "... that annual grants of not more than 20,000 --" for  
5 this paralegal one -- "... annual grants of not more than 20,000  
6 for the Bar involvement" -- "50,000 on preventive legal educa-  
7 tion"

8 They may be very sensible and it strikes me as ap-  
9 propriate, but I hadn't focused on it earlier -- I should have

10 MR BAMBERGER: Well, I was going to say that the one  
11 sort of catch all doesn't have those kinds of limits in it and  
12 of course there could be proposals that could combine more than  
13 one of these elements.

14 I think that there is an advantage to having those  
15 kinds of limits so that you can get some variety of proposals  
16 we don't have much money, and if we are going to learn some-  
17 thing I think we will learn more if we can do more kinds of  
18 things.

19 MR TRUDELL: I think another reason for that is  
20 that if the limit was too high, I think just the administra-  
21 tive costs of just trying to sort through all of this and ad-  
22 minister the grants is a real consideration.

23 MS SARD: One thing that has happened, that we real-  
24 didn't anticipate, which I have found very interesting is the  
25 number of programs and client community groups and client pre-

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1 organizations that are proposing to submit as consortiums.  
2 As group proposals.

3 And when they have asked the question, well, what  
4 does that mean in terms of dollar amount, I have made the rea-  
5 son judgment that they should be somewhat flexible when they  
6 are thinking of doing a project that was much more major in  
7 size than we had anticipated.

8 I think that is going to get us flexibility, crea-  
9 tivity at less of an overall cost and I have been excited to  
10 see that programs really are sharing their ideas.

11 MR CRAMTON: Is there further discussion on this?

12 MR BROUGHTON: I would like to ask the Chairman some  
13 thing?

14 MR ORTIQUE: I was just asked -- this is --

15 MR BROUGHTON: This is -- it is the solicitation  
16 proposal the section titled "Funding" It is on the bottom of  
17 the third page. And what I was asking the committee chairman  
18 about was going over to the next page, which I think is page  
19 4, where it says, "Organizations of the Private Bar expected  
20 to match 50 per cent of the total cost of their proposed acti-  
21 vity."

22 MR ORTIQUE: And the question, as it was relayed --  
23 I thought when I read that, I thought that that meant one third  
24 and the Corporation providing two thirds and as Mel says it  
25 says to "... match 50 per cent" -- 50/50 and I thought that w

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1 had a carrot of an extra one third that they could feel, well  
2 we put up one third and they will come up with two thirds, but  
3 Mel --

4 MR BAMBERGER: I thought that the proposal, as ap-  
5 proved by the Board talked about matching -- I took that to  
6 mean a 50/50 --

7 MR ORTIQUE: As I just told Mel, I thought it was  
8 one third, two third with --

9 MR BROUGHTON: Well the Board resolution spelled  
10 that out. Clearly if it is as appears in here 50 per cent,  
11 is that not going to have some effect on the private Bar in  
12 submitting their proposals?

13 That is to say, well, we can't come up with that.  
14 But I didn't understand the resolution to spell out the --

15 MR EHRLICH: It said matching, was the phrase used,  
16 as I recall and I must say that I understood it to mean mat-  
17 ching on a 1 to 1 basis.

18 You will recall that some Board members thought tha  
19 there should be no inclusion of any such project for our grou  
20 Others thought there should be quite a lot and the ultimate  
21 resolution was yes, but matching.

22 MR BROUGHTON: Yes, but the Chairman was under the  
23 impression that it was one third two thirds.

24 MR CRAMTON: I have no recollection about the match  
25 ing business at all.

1 I suggest the transcript if you want to get into that much  
2 detail.

3 MR BROUGHTON: I think it does raise a significant  
4 point. It seems clear from this language that a private Bar-  
5 group could bid in any area that is set forth. We'll have  
6 to commit to state that it can --

7 MR BAMBERGER: No, I am sorry, I think that it re-  
8 fers to proposals that come under the heading of the Involvement  
9 of Private Lawyers. Now I don't know exactly what other  
10 kind of proposal the private Bar might -- well, I suppose  
11 that if a private Bar organization submitted a proposal to  
12 prepare a manual, I don't think that the Board ever decided  
13 that the matching provision applies to that.

14 MR CRAMTON: You are going to a particular page that  
15 is entitled "Involvement of Private Lawyers". There it just  
16 talks about matching annual grants. It doesn't say dollar for  
17 dollar but --

18 MR BAMBERGER: And there is nothing in the transcript  
19 I took the matching to mean dollar for dollar and wrote it  
20 that way on the solicitation. And the solicitation was re-  
21 viewed by the committee.

22 MR BROUGHTON: Now, does that -- "Solicitation for  
23 proposal for Enrichment of Legal Services. 2) Legal Service  
24 programs, client organizations, Bar associations and others  
25 interested in the delivery of Legal Services to the poor."

1 "Other organizations of the Private Bar". Now that would mean  
2 a Bar association, wouldn't it?

3 MR BAMBERGER: Yes.

4 MR CRAMTON: But if they want to do some arrange-  
5 ment in the "Innovative Contact Service Arrangement" and so on  
6 or prepare a manual, that is not within the one page that  
7 talks about involvement of private lawyers. That is the only  
8 one that carries the matching grant requirements.

9 MR ORTIQUE: How do you come by that conclusion, where  
10 this is all a part of the solicitation?

11 MR CRAMTON: Well, because that is a reference to  
12 the one in which the private Bar is inevitably involved, in-  
13 volvement of private lawyers and not ones in which they are  
14 involved for a different purpose, like preparing a manual.

15 That is the way that I would read it, as a unit.

16 MR BROUGHTON: I would like to see some further  
17 thought and analysis be given of this because I am still a  
18 little confused about it and I --

19 MR BAMBERGER: I must admit that it does seem to  
20 me to do the most with the little bit of money that we have,  
21 I really would hope that the organizations of the Bar would  
22 be able to carry some of the cost. And the specific project  
23 here, I thought that the Board had approved a matching of a  
24 dollar for dollar.

25 MR ORTIQUE: The Board approved that there would be

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1 a match but I for one thought that we were saying some con-  
2 tribution.

3 It wasn't until I actually read this that I see the  
4 50 per cent -- well, when I saw the 50 per cent it meant 50  
5 per cent of the total, which would be one third as opposed to  
6 dollar for dollar.

7 MR BAMBERGER: I am sorry, I don't understand.

8 MR CRAMTON: Your mathematics is different than mine

9 MR ORTIQUE: Well, if I am asked to put up 50 per  
10 cent of an amount then I would feel that I am asked to put up  
11 half of what the Corporation is going to put up. That's why  
12 I thought the one third.

13 MR BAMBERGER: I see. Well, I thought matching  
14 amounts without --

15 MR CRAMTON: Well, is there further discussion on  
16 this? Before the solicitation went out it was approved by  
17 the committee at an earlier point.

18 Now maybe this particular point slipped by, but --

19 MR KUTAK: But I think that we have guidance here,  
20 if the solicitation, as you say comes in, that is not under  
21 categories -- 12 pages of regulations, 95 pages of exhibits

22 (Laughter)

23 MR KUTAK: And falls under something besides involv  
24 ment of private lawyers -- but really as you say, we now have  
25 an amplification. If it comes in for one of the 11, we have

1 MR CRAMTON: No matching grant provision, necessari-  
2 ly --

3 MR KUTAK: That's right.

4 MR CRAMTON: Well, the committee has one other item,  
5 I gather which is -- if you would like to finish tonight, be-  
6 fore we adjourn and that is the Study of Needs of Poverty  
7 Groups. Could we get to that Mr Chairman?

8 MR ORTIQUE: Well, if the Board doesn't want to  
9 talk any further about these grants -- I want them to be  
10 fully satisfied. I do want to say that I would urge that the  
11 staff would notify the Board of all of the meetings, the ad-  
12 visory committee meeting as well as the committee meetings, so  
13 that if any member of the Board wishes to attend any of these  
14 sessions, certainly they would be free to do so.

15 I understand that the staff contemplates holding  
16 sessions -- I thought you ought to have explained that, that  
17 you are going to hold sessions in various parts of the country  
18 because you are going to break the advisory committee down in-  
19 to several sections or subcommittees and then only at the end  
20 will we get the benefit of total deliberations and that can  
21 be a little tricky for Board members who might want to have  
22 some observations with reference to what is going on in these  
23 subcommittee sessions.

24 Because by that time, two thirds of the screening  
25 process will have taken place.

1 MR BAMBERGER: We will notify the Board of all of  
2 those sessions.

3 MR BROUGHTON: When this went out --

4 MR CRAMTON: January 16th.

5 MR BROUGHTON: The 16th is the memorandum to the  
6 Bar groups and so forth and so on. Then you have -- that's the  
7 16th and then you had January 26th, which is a -- the document  
8 that my friend was concerned about -- what was the date that  
9 it went out?

10 MR BAMBERGER: January 26th, 27th and 28th. Over  
11 those three dates the solicitation was mailed to Legal Service  
12 programs.

13 MR BROUGHTON: I see.

14 MS SARD: The notice to the Bar was mailed earlier  
15 because they had to request the solicitation because we did  
16 not want to send all of that paper to every Bar association in  
17 the country and that gave them the advance notice, so that they  
18 could set the solicitation at approximately the same time as  
19 the Legal Services centers got it.

20 MR CRAMTON: Can we move to 1007 (h)?

21 MR ORTIQUE: I think that --

22 MR CRAMTON: Is Mr Houseman going to report on this  
23 item?

24 MR ORTIQUE: Yes. Under the Amendment to our Act --  
25 the Legal Services Corporation Act, Congress has directed us to

1 give to them a report and they say that we are to report on,  
2 "Difficulties in Access to Legal Services and the special le-  
3 gal problems of ..." and then they went ahead and listed the  
4 categories and of course, we understand from the legislative  
5 history that that was sort of troublesome because it sort of  
6 spelled out some special interest groups and we think that th  
7 emphasis is on the special legal problems in access by any  
8 group or any identifiable segment of our population and not  
9 particularly on those that were enumerated.

10 And it is with that view that we discussed this in  
11 Committee last night and Clint is looking at this, working  
12 with Alan and the Research Institute on Legal Assistance to  
13 conduct and coordinate this study.

14 And whereas it may seem that it is a very difficult  
15 one for us to complete by January 1, 1979, Alan has some  
16 thoughts on this as to just how difficult we want to make it,  
17 in terms of how much money we want to put into it and how muc  
18 time we want to put into it. Alan. (5:00 p.m.)

19 MR HOUSEMAN: The memordandum explains what we are  
20 trying to do. Essentially there are two stages to the study  
21 and the second stage will depend what happens in the first.  
22 And maybe to use the words two stages is to make the study  
23 appear to be more than it is. But the

24 But the first that I think is important to identify  
25 all of the existing studies that have been done in the past,

1 either by the Corporation or others and evaluate them and  
2 make a decision as to whether we need to go further with any  
3 actual work on our own.

4 And the second stage would then be whatever we have  
5 to do to fill in the gaps that may exist from the first stage.  
6 What I contemplate is that by the middle of May we will have r  
7 reviewed all of the studies and secondly learn from field  
8 programs, to the extent that we don't already have that know-  
9 ledge what they have done or what they are doing that deal  
10 with the areas of the study.and

11 And on the basis of the knowledge that we have from  
12 the field programs and on the existing studies, we will then  
13 decide what further needs to be done and proceed.

14 It may be that nothing needs to be done, we can just  
15 prepare a report and send it to the Congress and that's it.  
16 It may be that other things will need to be done and if so,  
17 we will proceed to do them.

18 I am not sure, because I have not looked at the  
19 studies or evaluated the studies yet, nor have I fairly sur-  
20 veyed the field programs to find out what they are doing.

21 It seems to me that the way to proceed is to first  
22 find out the information and then make a decision about where  
23 to move forward and that is the plan that we have outlined  
24 here.

25 I don't contemplate this being a major undertaking a

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1 the moment. I will see what has already been done on it and  
2 I want to emphasize that we are dealing both with legal prob-  
3 lems of these groups as well as the access problems and I am  
4 not sure that we have thought carefully enough yet, which is  
5 why I want to look at studies and see what we are doing about  
6 the access problems of these groups.

7 So, that is the phases that I contemplate going  
8 through and I don't think that it is the most difficult pro-  
9 ject in the world and I think that we will have no trouble in  
10 completing it by January, if not before.

11 I would say one other thing, which I said last  
12 night, if you were really going to do a study of special legal  
13 needs, veterans, migrants, et cetera, you might have to do an  
14 American Bar Foundation Study all over again and I don't think  
15 that that is necessary, I don't think that it is what the Con-  
16 gress wanted and it's too costly. And we don't contemplate do-  
17 ing that. We plan something much less grandiose and I think  
18 meet the needs of the Congress and without costing us a great  
19 deal of money.

20 That is what the memorandum lays out that we are to  
21 do and of course we will keep the Board and the Committee in-  
22 formed throughout as to what we are doing.

23 It may be that there isn't much to be done, once we  
24 examine what already exists. My own initial reaction would b  
25 that there are some things that need to be done and that we

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1 do them.

2 MR ORTIQUE: Now you have got one problem that I  
3 didn't note last night. And I should have, was that -- oh,  
4 yes, that you will complete your first phase by April 1, which  
5 would give --if you do run into a very serious problem then of  
6 course the Board meeting in May we would be able to take that  
7 up.

8 MR HOUSEMAN: Yes.

9 MR ORTIQUE: I thought I was satisfied last night,  
10 and in looking at it this time, I say this May 31st and it  
11 said to me, no you weren't satisfied, but now that I realize  
12 April 1 --

13 MR CRAMTON: May 31 is after consultation with the  
14 Board.

15 MR ORTIQUE: Any other questions from the Board?

16 (No response.)

17 MR ORTIQUE: Comments?

18 (No response.)

19 MR ORTIQUE: That's our report, Mr Chairman.

20 MR CRAMTON: That complete the report of the Commit  
21 tee on the Provision of Legal Services and that also complete  
22 our business for today.

23 MR BROUGHTON: I would like to, before you close  
24 the door on today -- I yield to Mary Ellen Hamilton.

25 MS HAMILTON: I would like to invite especially ne

1 Board members over to the Client's Council which is at 825  
2 15th Street. And we would like to invite you over for a few  
3 minutes -- the whole Board.

4 MR CRAMTON: Right now? essentially as soon as  
5 people can get there?

6 MS HAMILTON: Yes.

7 MR CRAMTON: What was the address again?

8 VOICE FROM AUDIENCE: 825 15th Street.

9 MR CRAMTON: Well, with that very pleasant addition  
10 to our agenda --

11 MR ORTIQUE: I just want to raise with this Board  
12 and I don't know -- now that we are under the Sunshine Act,  
13 I don't think that we can have an item on the agenda of Other  
14 Business, really, but it has come to my attention and I am  
15 sure to other Board members have mentioned that complaints are  
16 being made out in the field about the Loan Forgiveness Pro-  
17 gram -- the manner in which it is now coming out.

18 And I am very concerned about that. I have visited  
19 several parts of the country and I would like to ask that the  
20 Board be kept apprised by staff -- whoever is responsible for  
21 that what is going on in terms of complaints from the field.

22 MR CRAMTON: My view is that that is really rele-  
23 vant to this item on the agenda which is Report on Quality  
24 and Incentive programs -- it uses investment income there too  
25 and it's --

1 MR ORTIQUE: I didn't know last night that that  
2 was part of our agenda. That had been decided by the Board  
3 and I thought that that was strictly a Board project.

4 MR CRAMTON: Whether or not it can or cannot come  
5 in under Other Business -- we are not yet subject to the Sun-  
6 shine Act provisions --

7 MR ORTIQUE: All right,,I just --

8 MR CRAMTON: We haven't yet complied with that and  
9 it is sufficiently related but it is getting late, we have  
10 gone since 9 o'clock or almost 9 o'clock and it is after five  
11 I think that we should take it up tomorrow along with other  
12 budiness.

13 MR ORTIQUE: That's fine, I have no problem. I  
14 would ask the Chairman that we be in position so that we can  
15 start at 9 o'clock.

16 MR CRAMTON: We are going to start promptly at 9  
17 o'clock and our usual practice is to start at 9:30 first day  
18 and 9 o'clock the second day, as I recall because people are  
19 here and they ought to be able to get up early the second day  
20 We will reconvene tomorrow morning at 9 a.m. In this room,  
21 is that correct? Where is Ms Felter?

22 Thank you, see you tomorrow.

23 (Whereupon, the meeting adjourned at 5:15 p.m.)  
24  
25



