

**LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS MEETING**

OPEN SESSION

March 6, 1992

9:45 a.m.

**The Hilton Palacio Del Rio Hotel
200 South Alamo
22nd Floor
San Antonio, Texas 78205**

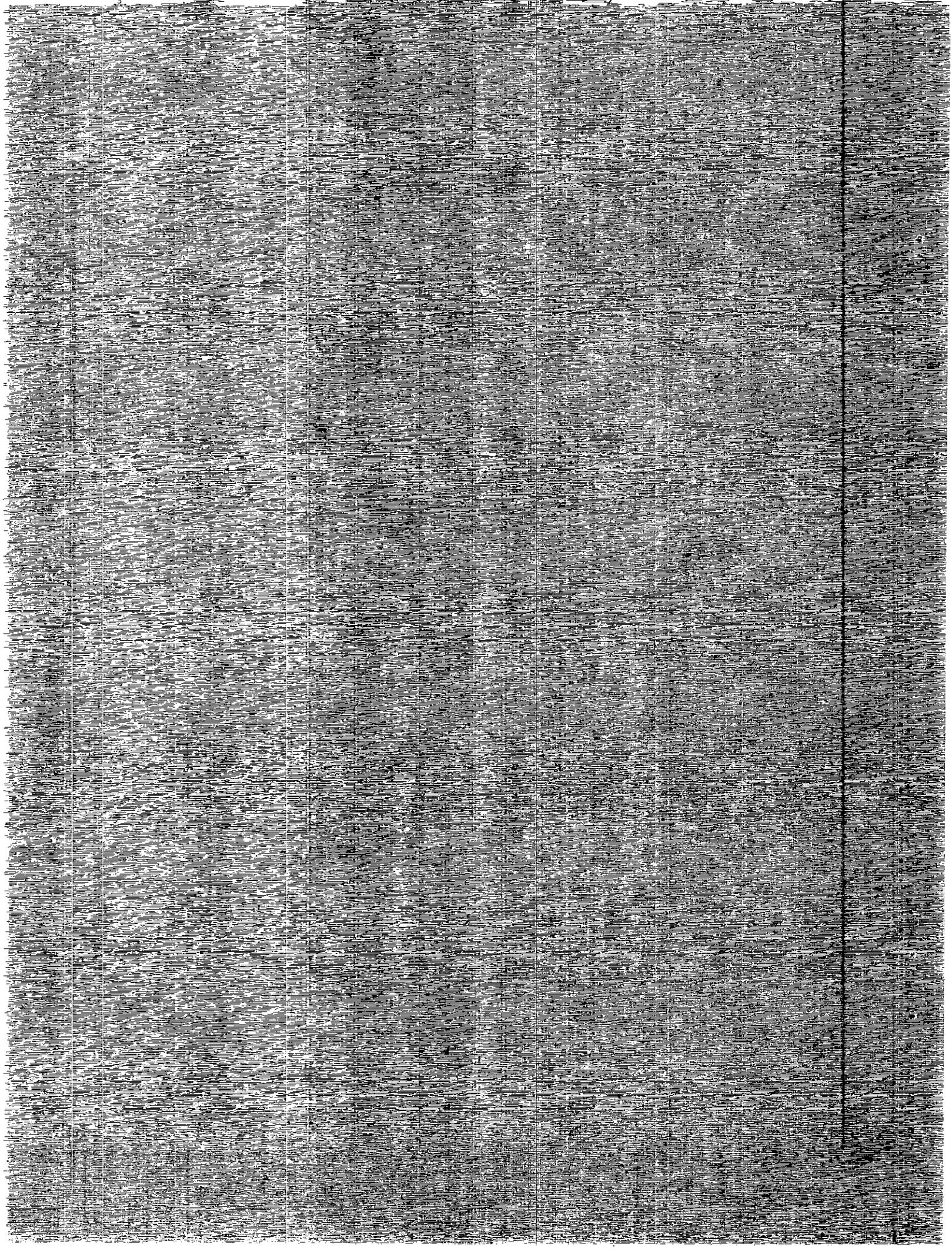
Board Members Present:

**George W. Wittgraf, Chairman
Howard H. Dana, Jr.
J. Blakeley Hall
William L. Kirk, Jr.
Jo Betts Love
Penny L. Pullen
Thomas D. Rath
Basile J. Uddo
Jeanine E. Wolbeck**

Staff Present:

**John P. O'Hara, President
Emilia DiSanto, Acting Vice President
Patricia Batie, Corporation Secretary
David Richardson, Treasurer and Comptroller**

**Diversified Reporting Services, Inc.
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WASHINGTON, D.C. 20006
(202) 296-2929**



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P R O C E E D I N G S

1
2 CHAIRMAN WITTGRAF: Good morning, ladies and
3 gentlemen, this regularly scheduled meeting of the Board of
4 Directors of the Legal Services Corporation will be in order.
5 I do believe that ten of our 11 board members are hereabouts.
6 Two or three are missing at the moment, but we should all be
7 here, with the exception of Mr. Molinari within a matter of
8 minutes.

9 I believe we have a quorum present, and that being
10 the case, we'll begin. Let me ask first if we can have a
11 motion for approval and adoption of the agenda, as it's
12 presented in the so-called Board Book, the beige or light
13 brown book that you have before you.

M O T I O N

14
15 MR. DANA: So moved.

16 CHAIRMAN WITTGRAF: It's been moved by Mr. Dana.

17 MR. UDDO: Second.

18 CHAIRMAN WITTGRAF: Seconded by Mr. Uddo.

19 Discussion?

20 (No response.)

21 CHAIRMAN WITTGRAF: Hearing none, those who are in
22 favor of the adoption of the agenda as presented in the Board

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1 Book will signify by saying aye.

2 (Chorus of ayes.)

3 CHAIRMAN WITTGRAF: Those who are opposed, nay.

4 (No response.)

5 CHAIRMAN WITTGRAF: The ayes appear to have it.

6 The ayes do have it. The agenda is approved.

7 Our next order of business is the approval of our
8 minutes of our meeting of March 9 of this year, our last
9 regularly scheduled board meeting.

10 You also have before you the draft minutes as a
11 part of the Board book. The Chair is prepared to receive a
12 motion for the adoption of the minutes as drafted.

13 M O T I O N

14 MR. UDDO: So moved.

15 CHAIRMAN WITTGRAF: We have such a motion from
16 Mr. Uddo. Is there a second?

17 MR. SHUMWAY: Second.

18 CHAIRMAN WITTGRAF: A second by Mr. Shumway. Is
19 there discussion?

20 MR. DANA: Mr. Chairman?

21 CHAIRMAN WITTGRAF: Mr. Dana.

22 MR. DANA: The minutes have attached to them the

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1 guidelines that we adopted as we've requested, but the
2 minutes themselves don't reflect that they are to be
3 attached, and I just wanted to make sure that they stayed
4 together as a unit throughout history, but I suppose they
5 won't get lost.

6 CHAIRMAN WITTGRAF: If I understand your point,
7 Mr. Dana, you would revise the draft minutes on page 3, where
8 your motion appears, to include the provision as a part of
9 your motion that the guidelines be made a part of the minutes
10 of that meeting?

11 MR. DANA: Or insert the word "as attached hereto."

12 CHAIRMAN WITTGRAF: "As attached hereto."

13 Ms. Batie, are you following? Okay. Unless there is
14 objection to the amendment to the minutes, the Chair will
15 consider it adopted. Further discussion regarding the
16 minutes as drafted and amended?

17 (No response.)

18 CHAIRMAN WITTGRAF: Hearing none, those who are in
19 favor of the adoption of the minutes as amended, with
20 Mr. Dana's correction or addition will signify by saying aye.

21 (Chorus of ayes.)

22 CHAIRMAN WITTGRAF: Those who are opposed, nay.

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1 (No response.)

2 CHAIRMAN WITTGRAF: The ayes appear to have it.
3 The ayes do have it. The minutes are approved. At this
4 time, we have a special guest with us. Before I recognize
5 her, let me take just a moment, again, on behalf of the Board
6 and our staff to thank both Brendon Gill and his staff and
7 his board members of Bear County Legal Aid for the wonderful
8 and hospitable reception given us last evening.

9 I think it goes without saying that all of us
10 enjoyed ourselves a great deal. The only difficulty is you
11 put a burden on some of the communities we'll be visiting in
12 the future to live up to or try to exceed the standards of
13 your hospitality and entertainment.

14 I'm not sure that's possible, but we do sincerely
15 appreciate the effort and sincerely appreciate you having set
16 such a high standard. Thank you very much, and, hopefully,
17 you'll thank your staff and your board as well Brendon.

18 Thank you.

19 MR. GILL: Thank you.

20 CHAIRMAN WITTGRAF: At this time, then, it's my
21 pleasure to introduce the president-elect of the Texas State
22 Bar Association, Harriott Miers, M-i-e-r-s?

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1 MS. MIERS: Yes, sir.

2 CHAIRMAN WITTGRAF: Okay, a practicing attorney
3 from Dallas, Texas. Good morning, and thank you very much
4 for joining us, Ms. Miers.

5 MS. MIERS: Well, thank you. I appreciate just this
6 few minutes to be able to be here to welcome you to the state
7 of Texas on behalf of the 55,000 lawyers in this state and
8 the public that you serve. We did not want to miss the
9 opportunity to thank you for being here and for the work that
10 you provide both to the legal community and to our society in
11 general.

12 We, the state bar of Texas, found ourselves this
13 year fortunate, because, as issues about pro bono legal
14 services, which we consider to be one of our highest
15 priorities, became more and more an issue for the organized
16 bar, as well as the public, we were just completing a three-
17 year study of the legal needs of low income residents in this
18 state.

19 That information has proven very helpful to us. It
20 was the basis for which we held 15 forums around the state of
21 Texas to learn from the public, from providers, and from the
22 legal community their views about the unmet needs for low

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1 income residents of this state.

2 Based on those forums, it has become clear to us
3 that what was reported in the study of the assessment that 70
4 percent of the low income legal needs were not met. We
5 learned from the forums, talking with the public and with the
6 lawyers around the state, that we have a real challenge as
7 the state bar in Texas and the organized bar to try and meet
8 those needs. We're dedicated to making that effort.

9 We commend the Board for its effort in trying to
10 achieve a level of funding for legal services staffs that
11 will enable them to help in this great challenge. While we
12 are grateful for the effort of funding at the federal level,
13 it is our commitment, through our IOLTA programs and
14 otherwise, to do our part as the private sector to do as much
15 as we can, both by volunteering lawyers and by encouraging
16 volunteer lawyers and by helping in funding to make the
17 American principle that our courts are open to all a reality.

18 So thank you for your effort allowing us to be
19 here. We did learn of the tremendous service that is being
20 rendered throughout this state by staff attorneys, and, in
21 some areas, it is the only way, because of the limited number
22 of lawyers, to meet the goal of providing legal services to

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1 the needy.

2 So we appreciate your effort and the effort of all
3 of us who are dedicated to serving the legal needs of all the
4 people in this country. Thank you.

5 CHAIRMAN WITTGRAF: Thank you very much, Ms. Miers.
6 Let me make a specific request of you. Please sit down.
7 This is not a tribunal, and I hope it doesn't appear as such
8 to you. We try to be relatively informal. A specific
9 request is that we would be delighted to receive from you
10 either now or as you have the opportunity at our offices in
11 Washington, the address for which is on the front of the
12 Board Book there, a copy of the legal needs study to which
13 you referred.

14 Mr. Molinari, who is not here today, as I indicated
15 earlier, and I appeared before the House Appropriations
16 Subcommittee a couple of weeks ago, and a great deal of our
17 discussion with the members of that subcommittee had to do
18 with the needs that exist.

19 A number of state need studies or surveys have been
20 prepared. Regretfully, they're not uniform in their approach
21 or the methodology used. So it is difficult to pull them
22 together, but we're very much interested in having the study

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1 available so that we, in turn, can share them with the
2 members of the Congress.

3 So if you would either send or make sure someone
4 sends to us a copy of that study, we'd be very appreciative.

5 MS. MIERS: I would be delighted to do that, and,
6 in addition, when it is complete, there is a report from a
7 task force that has conducted the forums and will be
8 synthesizing the results of the forums and making
9 recommendations.

10 That task force, composed of both lawyers and
11 nonlawyers throughout the state are a very representative
12 area of practice in geography and all of the various
13 constituencies, and we would also be delighted to share that
14 report when it is completed with you also.

15 CHAIRMAN WITTGRAF: Please. We'd appreciate it
16 very much. Any questions or comments for Ms. Miers?

17 (No response.)

18 CHAIRMAN WITTGRAF: Thank you very much for taking
19 time to come here to San Antonio from Dallas.

20 MS. MIERS: Thank you. We consider it extremely
21 important. So we are delighted that we had an opportunity to
22 be here.

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1 CHAIRMAN WITTGRAF: Thank you. Under Agenda Item
2 3, I have just a couple of comments or bits of information to
3 pass along. One is that at least a couple of our board
4 members, I think Mr. Hall and Mr. Dana, will be participating
5 later in the week in a seminar being put on by the Texas
6 Young Lawyers Association in Austin, and any of us who happen
7 to be here at that point, and particularly you two gentlemen,
8 are invited, as you may know already, to a dinner Tuesday
9 evening, tomorrow evening, at Bill Whitehurst's residence in
10 Austin.

11 You've also been asked to meet in the library,
12 that's the library at Lyndon Public Policy or Public Affairs
13 Institute, I guess, at 8 a.m. Wednesday morning to be briefed
14 on what's expected of you. Mr. Uddo, you will be there as
15 well?

16 MR. UDDO: 8 a.m. Wednesday morning?

17 CHAIRMAN WITTGRAF: That's what my letter from
18 Mr. Rusk, Jeff Rusk, the coordinator, indicates. So there is
19 a dinner Tuesday evening at Mr. Whitehurst's, and I know that
20 Ms. Batie has a map with directions and so forth to that, and
21 then they'd like you all there to be briefed Wednesday
22 morning at 8 a.m.

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1 MR. UDDO: You're going to be there?

2 CHAIRMAN WITTGRAF: No. Hopefully, I'll be in my
3 law office, my two-person law office, at 8 a.m.

4 MR. UDDO: I thought you were on the program.

5 CHAIRMAN WITTGRAF: I am, but April 15th beckons
6 more loudly than the symposium, and I have no doubt that
7 between you and Mr. Hall and Mr. Dana, there is little that I
8 would be able to add that would be of import beyond what the
9 three of you will have to say.

10 MR. UDDO: That's probably true.

11 CHAIRMAN WITTGRAF: Second announcement, I guess,
12 in regard to upcoming activities or events, May 7th is when
13 Mr. Molinari and I are scheduled to appear before the Senate
14 Appropriations Subcommittee. The evening before, May 6th,
15 which I believe is a Wednesday, a Wednesday evening, the
16 National Legal Aid and Defenders Association, NLADA, is
17 having its annual dinner in Washington.

18 I believe it's a fund-raising dinner, and Clint
19 Lyons, the executive director of the association, asked me to
20 be sure to invite all of the members of the Board who wish to
21 attend the dinner to do so and to plan to do so.

22 Likewise, the president and any members of his

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1 staff who would wish to attend the dinner to plan to do so,
2 and I think that either the president or the secretary of the
3 Corporation, then, should probably try beforehand to let
4 Mr. Lyons know how many board members and staff members will
5 be in attendance. I don't know offhand where that dinner is,
6 but I'm sure Ms. Batie can find out and let everybody know.

7 I don't have anything further at this time. I will
8 make some comments about Mr. Molinari's and my appearance
9 before the House Appropriations Subcommittee, when we get to
10 the President's report, and, in particular, the legislative
11 report, but at this time let me ask any other Board members
12 who have any reports or comments they have to make to do so.
13 Mr. Kirk.

14 MR. KIRK: Mr. Chairman, in my continuing effort to
15 learn more about agendas, what would a members' report be? I
16 don't recall seeing this over the years of -- on this. What
17 was the members' report?

18 CHAIRMAN WITTGRAF: Oh, I think from, probably, the
19 last six to nine if maybe not even 12 months, the delineation
20 has been Chairman's and Members' reports. It's simply an
21 opportunity, a structured opportunity, for the Chairman and
22 any members to report on any activities, events, or other

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1 things at which they'd been involved since our last Board
2 meeting that they think would be of common interest to the
3 Board or to the Board and the staff.

4 MR. KIRK: Would it be only things past, or things
5 that maybe we're thinking about doing, or things like that?

6 CHAIRMAN WITTGRAF: I guess both. Anything.

7 MR. KIRK: I'm just wondering for future reference.
8 Thank you.

9 CHAIRMAN WITTGRAF: Going back to some of the
10 discussion we had in February in New Orleans, the only thing
11 it probably wouldn't cover would be if a member or the
12 Chairman was wanting, in that context, to ask the Board to
13 take some action of a policy or substantive nature.

14 We would need to give notice that we were going to
15 take action in a certain area so that we would be in
16 compliance with the law, and if somebody has a substantive or
17 policy matter they wish to have discussed, the appropriate
18 thing I think to do is to make sure that Ms. Batie knows that
19 so it can be included in the agenda. These would be reports
20 or comments that wouldn't require any Board action. Further
21 reports, comments?

22 (No response.)

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1 the total population of Puerto Rico, are eligible clients
2 under this program, which will give you an understanding of
3 the size of the need in Puerto Rico alone.

4 We were impressed with the number of attorneys we
5 met in the program who worked not only in Puerto Rico, but
6 have worked in legal Service programs in New York and other
7 states and have gone back to Puerto Rico, returning to their
8 roots, so to speak, to deliver a better quality of service.

9 We think that portends some good things for that
10 program in the future. Vic was here a minute ago, because I
11 know he's been on the phone. Did you have anything you
12 wanted to add to the comments on Puerto Rico.

13 MR. FORTUNO: No, nothing. Thank you.

14 MR. O'HARA: Vic did very well, since I'm not
15 bilingual, and we had an interpreter who did my remarks for
16 me, but I reminded the people down there that I am bilingual.
17 I speak English, and I also speak New Yorkeese, which is a
18 little different sometimes.

19 Secondly, the Appropriations Committee had their
20 session at which Mr. Wittgraf and Mr. Molinari testified, and
21 I was fortunate enough to sit there and not take any arrows.
22 I thought both of our Board members did very well, having sat

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1 on the other side of the table there for many years, and
2 Mr. Shumway would share in my knowledge on that.

3 I think they acquitted themselves quite well for
4 the Corporation, and I think that speaks well for what I
5 think we will get out of the Appropriations Committee.

6 Mr. Chairman, I know you wanted to make some comments on that
7 during my report.

8 CHAIRMAN WITTGRAF: I'll go ahead and do so at this
9 point, or I do it in conjunction with Mr. Boehm's legislative
10 report, and, if we're going to do that a little bit later,
11 I'll wait. If you want to have Mr. Richards or Ms. Smead
12 report first, that would be fine.

13 MR. O'HARA: Okay. We can skip over that. Ken's
14 not here right now. Back in January, Ms. Pullen asked for us
15 to keep track of the time spent on the Board meetings each
16 month, and I will report that for the March Board meeting,
17 which was held in Washington, D.C.

18 The staff spent a total of 984 hours preparing for
19 the Board meeting. I believe that was a meeting where we had
20 14 working days; is that correct? Yeah, 14 working days. So
21 it was a pretty hectic time getting ready for that.

22 On Wednesday of this week, we will be participating

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1 in the Texas Young Lawyers session Wednesday alone with
2 members of the Board. I think I will be on with the panel on
3 Wednesday afternoon. The Board members will be on on
4 Wednesday morning.

5 Ellen, would you like to talk to the Board about
6 the insurance project?

7 STATEMENT OF ELLEN SMEAD

8 MS. SMEAD: Yes. Thank you. For the record, my
9 name is Ellen Smead, and I'm the director of the Office of
10 Field Services. A memo was passed out or mailed to you
11 outlining a history of the insurance project, and I'll just
12 highlight a few points out of that and then be available, of
13 course, to answer any questions.

14 Back in 1990, the Office of Field Services and
15 Office of General Counsel began reviewing insurance costs,
16 and nobody on either staff is an expert in insurance, and we
17 weren't trying to displace anybody or promote anybody.

18 In looking at these costs, we noticed that in 1989
19 our programs paid a total of \$5.8 million in premiums, and
20 the payout was about 100,000. We do not know how much the
21 defense costs were, because we were not provided that
22 information, but according to the current industry standard,

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1 the usual defense costs are about one-third of the payout,
2 which, in this case, would be about \$33,000.

3 So even if we look at, say, 5 percent of the total
4 payout, it would be looking at about \$150,000 cost versus 5.8
5 million in premiums. At this point in time, an insurance
6 broker has issued a request for proposals to seek coverage
7 that is good or better than our current grantees are
8 receiving but to provide it at a lower cost.

9 If we find such coverage, then the programs would
10 have the option of using that insurance. We would not be
11 pushing it on to anybody. The broker is currently reviewing
12 proposals and would be available at the May Board meeting in
13 Washington, D.C. to answer any questions.

14 MR. O'HARA: Do any Board members have any
15 questions of Ms. Smead?

16 MR. SHUMWAY: Just one. Those figures were for the
17 year 1989?

18 MS. SMEAD: Correct.

19 MR. SHUMWAY: Is there any more recent than that?

20 MS. SMEAD: We have not collected more recent
21 figures. That was part of the refunding application.

22 MR. SHUMWAY: Do you have any reason to believe

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1 that there has been a change in that ratio since 1989?

2 MS. SMEAD: No, we don't, at this time.

3 CHAIRMAN WITTGRAF: Mr. Rath.

4 MR. RATH: I just want to follow up, Ellen. Do I
5 understand that it was across the provider community there is
6 a \$5 million total charge for insurance, and across the
7 provider community \$100,000 was paid out?

8 MS. SMEAD: Correct.

9 MR. RATH: I just assume we're doing this, but is
10 one of the things we're considering whether someone would
11 write the entire community as one policy and allow people to
12 opt into that? Do you understand what I'm saying?

13 MS. SMEAD: No. I don't understand what you're
14 saying.

15 CHAIRMAN WITTGRAF: Mr. Rath, I believe the answer
16 to your question is no. Mr. Dana.

17 MR. DANA: Well, we fund a variety of the grantees,
18 and they're all independent entities, and they get insurance
19 from a variety of sources, I think largely through NLADA, but
20 I'm not sure that's exclusively through them, and I gather,
21 as independent entities, they're permitted to buy their
22 insurance from whomever they want.

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1 I think if there is no competition in this field
2 for this business, I think there should be, and so I think
3 the Corporation, as near as I can tell, is just promoting
4 competition, rather than mandating a monopoly.

5 CHAIRMAN WITTGRAF: Mr. Rath.

6 MR. RATH: If I might respond, I wasn't suggesting
7 that we mandate a monopoly. I was suggesting as an
8 alternative that much like bar associations do, if we could
9 find a carrier that would write across the board and allow
10 individual agencies to opt in as they saw fit if indeed there
11 was some more reasonable price to pay for this coverage, I
12 wonder, isn't that a possible result of this kind of inquiry?

13 CHAIRMAN WITTGRAF: Ms. Smead, your receiving
14 Mr. Rath's suggestion, I trust, and will convey it to the
15 people at CIMA. Mr. Kirk.

16 MR. KIRK: I was just asking why not, why we're not
17 looking at, as Mr. Chairman said, into an overall policy.
18 I'm wondering why we're not.

19 MS. SMEAD: We will look into it.

20 CHAIRMAN WITTGRAF: Mr. Shumway.

21 MR. SHUMWAY: Just one more question. How many of
22 these providers are covered by the insurance offered through

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1 NLADA, do you know?

2 MS. SMEAD: I don't know the exact number. I do
3 know it's most of them.

4 MR. SHUMWAY: Most being 70 percent, 80 percent, 90
5 percent?

6 MS. SMEAD: Probably closer to 90 percent, 80 to 90
7 percent.

8 MR. O'HARA: I'd like to comment on that.

9 CHAIRMAN WITTGRAF: Mr. O'Hara.

10 MR. O'HARA: We were recently, or I was recently
11 approached by an executive director to talk about, amongst
12 other things, insurance, and this was volunteered to me that
13 this particular program does not participate in the NLADA
14 insurance program.

15 So I inquired why, and they said that they thought
16 the premiums were quite high. They had gone out on the
17 market on their own and had gone to New York and had searched
18 out an insurance company and had gotten better coverage at,
19 according to them, a much lower premium.

20 I think this may be an indication that programs
21 have to get out and do it on their own, if they're looking
22 for insurance, but there is one program, and it happens to be

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1 a very large program.

2 CHAIRMAN WITTGRAF: Let me ask a couple questions,
3 Ms. Smead. The insurance premiums, according to the
4 memorandum we have from you and Mr. Moses and Mr. Penzinger
5 indicate nearly \$6 million were spent in calendar year 1989
6 by the program, and for calendar year '90 and calendar year
7 '91, I'm sure it was that much and more, we can assume.

8 Do you have a sense, do you have any information as
9 to what proportion of the grantees' or recipients' or
10 programs' budgets are spent, then, on this type of insurance?

11 MS. SMEAD: I could get that information for you.
12 I don't have it right here.

13 CHAIRMAN WITTGRAF: Let me put some context around
14 this subject. I think I've said in the past that this is a
15 subject that was developed initially by Mr. Martin, David
16 Martin, with the assistance of Charley Moses and with some
17 discussions with Dan Powers, who runs the legal clinic at the
18 Drake University Law School.

19 I think is the rationale behind the appropriation
20 made for the expansion of the trial advocacy program at the
21 Drake University Law School in our 1992 appropriation, and,
22 in turn, Mr. Smith, two weeks ago this Wednesday at the

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1 Appropriations Subcommittee, you'll recall, asked what
2 proportion of funds are spent by programs on liability or
3 malpractice insurance, and I had to indicate that I really
4 didn't have a figure.

5 I do think, and I visited with Mr. O'Hara about
6 this following the Appropriations Subcommittee hearing, that
7 we have some obligation to respond to the Subcommittee, to
8 Mr. Smith, and the other members of the Subcommittee with
9 that information as we put it together, and I think it
10 probably would be good for us to give that subcommittee a
11 status report -- this may be a little early. I'm gathering,
12 from your report, that May is a more appropriate time -- as
13 to what efforts are being made.

14 I see, in the report discussion of, perhaps, the
15 premiums being 25 percent too high. Be it 15, be it 20, be
16 it 25, it appears to be very high. I think, again,
17 responding to Mr. Smith and his inquiries, it might be
18 helpful if our broker -- CIMA is not a broker, I guess. What
19 do we call CIMA, a consultant?

20 MR. RICHARDSON: They are a broker.

21 CHAIRMAN WITTGRAF: Okay. If consultant/broker
22 could also determine whether or not there is anything that

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1 could be done by the individual programs who are private,
2 nonprofit corporations, as Mr. Dana reiterated this morning,
3 either by them individually to reduce their premiums or by
4 us, as a corporation, working with our grantees to help them
5 reduce their premiums, whether it's through some tickler
6 mechanism they have to make sure that they're not creating
7 any potential malpractice problems for themselves, or through
8 the training, which is what Mr. Smith is particularly
9 interested in, of staff members and if there is anything that
10 can be done by the Corporation either directly or indirectly
11 through the programs to assist with that. Ms. Rogoff.

12 MS. ROGOFF: Well, I just wanted to --

13 CHAIRMAN WITTGRAF: Ms. Rogoff, before you comment,
14 Mr. Kirk?

15 MR. KIRK: Go ahead and let her comment, because I
16 just have an overall thing.

17 CHAIRMAN WITTGRAF: Okay. Ms. Rogoff.

18 MS. ROGOFF: Well, I was going to suggest that

19 --

20 CHAIRMAN WITTGRAF: Why don't you go ahead and
21 identify for the record, please.

22 STATEMENT OF REGINA ROGOFF

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1 MS. ROGOFF: My name is Regina Rogoff, and I'm the
2 director of the Legal Aid Society of Central Texas, and I was
3 going to suggest that this might be a topic that you would
4 discuss this afternoon, when you come to my program with the
5 director of administration, Mr. Greg Smith.

6 Our experience, unlike the program that Mr. O'Hara
7 referred to, is that when we have attempted to get competing
8 bids, we have been unable to even get a bid that other
9 insurers do not -- are not interested in insuring the
10 nonprofit sector, and when we have attempted to go out, as we
11 do periodically for all of our insurance coverages, where we
12 seek competing bids as with our auditor and anything that
13 we're paying for and paying large amounts of money for,
14 health insurance, et cetera, in the area of the professional
15 liability coverage, we have been unable to even get a
16 response.

17 So our experience, at least in central Texas, is
18 different than the one that Jack O'Hara referred to in, I
19 gather, New York or somewhere, but it may be that this is
20 something that differs regionally or state to state, but we
21 feel that the coverage provided by Complete Equities has been
22 very good.

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1 The law firm that they retained has been very
2 responsive whenever we've had an inquiry, and I think that as
3 you look at this, it's not just cost, it's also service to
4 the programs that is a factor that should be considered.

5 CHAIRMAN WITTGRAF: Ms. Rogoff, either you
6 individually, on behalf of Central Texas, or you on behalf of
7 the Project Advisory Group, are not in the position to take
8 exception, are you, to the notion that the premiums being
9 paid do seem to be noncompetitive?

10 MS. ROGOFF: I don't know that. I haven't seen a
11 report that shows that. All I can say is that we have been
12 unable to even find another insurer. So, from that
13 standpoint, it is the only coverage, and if we are to be
14 covered and to have private lawyers covered as pro bono
15 volunteers and law school clinics covered all under the one
16 policy, this is the only company that would even write a
17 contract for us.

18 CHAIRMAN WITTGRAF: Mr. Kirk.

19 MR. KIRK: Is that Lord, Bissell & Brook that's
20 managing that?

21 MS. ROGOFF: Yes.

22 MR. KIRK: I have just some general comments.

1 First, my firm represents locally the Greater Orlando Legal
2 Services, generally, when they get sued through Lord, Bissell
3 & Brook, so I have to declare that to whatever extent that
4 presents a conflict, but --

5 MS. ROGOFF: It shows good judgment, I gather, on
6 their part.

7 MR. KIRK: Some of my comments may not indicate
8 -- I may not have them as a client for very long, because I'm
9 going to tell you that I think that they do do a good job,
10 and I do think that they do follow it.

11 I do not, however, think that anybody ought to have
12 a monopoly on anything, and I do think that they offer a
13 decent program; however, I think that if it were shocked to
14 other insurers you would find that there could be some
15 competition and people would like very much to get into this
16 ball game. That's my --

17 MS. ROGOFF: I'm not arguing with you about that.
18 Our experience, however, has been that that is not the case.
19 Insurance companies in Texas are getting out of the workmen's
20 comp area, and they haven't shown an interest into getting
21 into this area.

22 CHAIRMAN WITGRAF: Mr. Kirk.

1 MR. KIRK: Thank you. What I'm saying is, I think
2 that if it's marketed as a big piece, what you represent is
3 something that no one knows anything about, and
4 traditionally, legal malpractice insurers are not very
5 sophisticated in this area.

6 For example, when my firm receives an audit, one of
7 the things that one of the insurers wants to know is how much
8 pro bono work are you doing, because they consider that very,
9 very high risk, and it tends to be high risk by the private
10 insurance -- by the private attorney that's doing it, perhaps
11 more so than by the field office.

12 The field offices, apparently, have a very low
13 ratio of payment, which has been my experience, certainly,
14 locally. However, the fees, the costs in defending it, can
15 run very, very high, and I can assure you there is probably
16 \$1 million in cost to go along with that \$100,000 that's
17 there, because every time you defend one, it runs it up.

18 I would be concerned, one, that we're paying out so
19 little. I don't believe that the lawyers in the field are so
20 perfect that they don't miss statutes of limitations, and
21 things like that, with some more frequency, and -- Harrison
22 is shaking his head -- but certainly, in the real world, that

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1 happens a lot more often, and maybe we're dealing with people
2 that are not as sophisticated that need to be told more.

3 That's one of my concerns.

4 The other is I would recommend that we do shop it
5 as much as we can. I also would recommend that we not hire
6 an agent as our consultant but that we have a separate
7 consultant that doesn't get his fees as a result of placing a
8 policy with one company or another.

9 MS. ROGOFF: And I would endorse that. I also say,
10 on behalf of -- I think I can say this on behalf of the
11 field, even though nobody has authorized me per se to do so,
12 that any effort that brings down the cost of the insurance is
13 certainly not going to be opposed by the field.

14 The worst thing that could -- maybe the best thing
15 that would happen is that Complete Equities would feel
16 compelled to reduce its rates, and programs that feel
17 comfortable maintaining the same coverage would still be
18 paying less as a result of competition in this area.

19 So we want to save as much money as we can. I'd
20 like to say that our experience has been that we've had very
21 few incidences of professional malpractice, and I think that
22 it doesn't surprise me that the quality of lawyering in the

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1 field is that high.

2 CHAIRMAN WITTGRAF: Ms. Smead, let me try and
3 clarify the concern or question raised by Mr. Kirk. It's my
4 understanding that CIMA, and I forgot what CIMA stands for,
5 but that CIMA is hired by us as a consultant/broker and will
6 have no benefit, no relationship, no compensation by virtue
7 of any other brokers and underwriters giving into this area.
8 Am I correct in my understanding? Mr. Richardson.

9 MR. RICHARDSON: Speaking from the outside of this,
10 they are the Corporation's broker for insurance, and it's my
11 understanding that they would solicit bids from the multitude
12 of providers that would be available, and, yes, they would
13 receive a fee if the policy is placed with somebody that they
14 would recommend.

15 CHAIRMAN WITTGRAF: Okay. That is contrary to my
16 understanding. I would hope that Ms. Smead and her staff
17 would be able to clarify that, because, obviously, part of
18 what we're trying to get away from is people with vested
19 interests.

20 It was my understanding they had put out a request
21 for proposals, that they were being paid for the work they
22 were doing for us, but they weren't necessarily going to

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1 benefit from the placement of those contracts for services
2 with certain brokers, and I may have misunderstood, and I
3 hope you can clarify that, because I think it poses a bit of
4 a problem, in my view. Mr. Rath.

5 MR. RATH: I'm sorry to stay on this, Mr. Chairman,
6 but it strikes me these are very similar situations. I've
7 seen other areas, the worker's comp area is a good example,
8 especially with municipalities, where there is something to
9 be gained by putting people together.

10 I guess what I'd like first, if we can do it, and I
11 realize this is tough for you to do, is I'd like to get an
12 accurate reading of what indeed the providers pay in coverage
13 and then what the -- total around the country, and then find
14 out what, in fact, has been paid out in claims over the last
15 year and get some kind of an accurate read on defense costs,
16 because until we know those numbers, we're all kind of
17 grasping at straws here.

18 It occurs to me that one thing we could think about
19 is what a lot of municipal groups have done around the
20 country, have done in my state and other places, is they form
21 a municipal trust where, in essence, you self-insure to a
22 certain level.

1 Certainly, the numbers that you just read to me, I
2 mean, if they were right, if you were paying \$5 million total
3 with \$135,000 cost, a self-insurance pool up to a certain
4 level and then just by an umbrella policy over top of it
5 might be a way to cut the costs.

6 I'm sure there are a lot more smarter people than I
7 have already thought this through and rejected it for some
8 reason, and I don't want to dwell on it, but it occurs to me
9 that I would like to at least examine whether there is some
10 kind of pool where you would self-insure up to a certain
11 level, go out and cover your legal costs and then have the
12 umbrella kick in at a higher level. It might cut the premium
13 down.

14 What we're trying to do, obviously, is find a way
15 to get the agencies adequate insurance coverage at the lowest
16 possible cost, which I got to believe is a shared objective
17 of everybody, but we need some more data before we can make
18 any kind of a judgment on it.

19 CHAIRMAN WITTGRAF: I think, in fairness to our
20 staff, one of the difficulties we've had is because Complete
21 Equity Markets is the broker for, perhaps, 90 percent of the
22 programs; that, while they do have some of that data

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1 available by virtue of the business and their professional
2 relationship with Lloyd's of London, they have not, to date,
3 felt that it was in their interest to share that data with
4 the Corporation and, hence, the Corporation has had to go
5 into the field and try, on a survey or questionnaire basis,
6 to obtain that information.

7 So I think what you say makes a great deal of
8 sense. Unfortunately, it's been more difficult than we would
9 like to think to get that data together. Ms. Rogoff had a
10 comment, in effect a public comment. Are there other public
11 comments?

12 STATEMENT OF ERROL SUMMERLIN

13 MR. SUMMERLIN: My name is Errol Summerlin. I'm
14 with Coastal Bin Legal Services in Corpus Christi. I merely
15 wanted to respond to the Chair's question earlier about what
16 percentage of funds a program spends on the coverage, and my
17 particular program is approximately 1.2 percent of our
18 overall funding. That's not Legal Services money but our
19 overall funding; it's approximately 1.2 percent.

20 Secondly, I'd like to comment that I'm uncertain
21 that the -- and maybe Ellen has, in arriving at her \$5.8
22 million figure, has probably taken this into consideration,

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1 but our coverage with Complete Equity includes a lot of
2 riders other than simply malpractice insurance.

3 We're talking management errors and omissions
4 coverage, fiduciary responsibility coverage, criminal defense
5 coverage, punitive damage coverage; those kind of things. So
6 if you just look at the straight across the board
7 malpractice, we're obtaining approximately \$10,000 or \$11,000
8 annually in that area.

9 MR. RATH: For how many lawyers?

10 MR. SUMMERLIN: For ten lawyers and with a pro bono
11 group of some 350. We're paying approximately \$10,000
12 annually. The additional 5,000 that we pay includes all
13 those other riders and coverages that we have opted into.
14 So, therefore, that \$5 million figure may, in fact, be -- 60
15 percent of that may go just to malpractice insurance.

16 In looking for another broker, so to speak, we
17 might want to take into consideration what additional
18 coverages that insurance company might want to provide.

19 CHAIRMAN WITTGRAF: Have you had occasion to look
20 for other coverage, other than through Complete Equity?

21 MR. SUMMERLIN: Yes, we have, and we've had the
22 same problem that Regina has spoken about earlier. We quit

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1 looking after, I think -- well, I've been there eight years,
2 and after about six years, we just quit looking. It wasn't
3 worth our time.

4 CHAIRMAN WITTGRAF: Mr. Dana.

5 MR. DANA: Is your policy a claims-made policy?

6 MR. SUMMERLIN: Yes, it is.

7 MR. DANA: Am I right, for those of you who work in
8 this field more than I do, if you were to switch, you would
9 need to buy a tail for the claims that have not emerged?

10 MR. SUMMERLIN: That's correct, which may be one of
11 the problems, one of the reasons we're not getting any bids
12 lately.

13 MR. DANA: Well, I would just alert our staff to
14 this problem. It's not just buying coverage today for the
15 future. We've got to, either with our existing carrier, if
16 someone was to switch, they would have to go out and buy tail
17 coverage for the end of the liability that they don't know
18 about yet.

19 Secondly, do you have riders that insure your
20 boards against liability? Is one of the riders a liability
21 for a board such as this?

22 MR. SUMMERLIN: Yes.

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1 CHAIRMAN WITTGRAF: Mr. Kirk.

2 MR. KIRK: Just a clarification of what Mr. Dana
3 said. Usually, your new carrier will give you a retro back
4 to the date that you've had claims made coverage through. So
5 it's usually not a separate, at least for private law firms,
6 not a separate tail that you need to buy, unless you're just
7 going out of business, or something.

8 CHAIRMAN WITTGRAF: Mr. O'Hara.

9 MR. O'HARA: Thank you, Mr. Chairman. I see Vic
10 Fortuno has now rejoined us. Vic, this came -- that they
11 were talking about the insurance discussion the executive
12 director had with us, this came up in our discussion
13 regarding efficient operations of the program, and this was
14 volunteered to us. We did not inquire into it, nor do we
15 know the coverage that this particular program has within
16 NLADA nor with their new carrier.

17 It was volunteered to us as one of the items where
18 they are saving money, and Vic, as I recall, they said they
19 went to New York and solicited insurance companies and got
20 better coverage at a much lower premium, so much so that it
21 was worth leaving the NLADA coverage?

22 CHAIRMAN WITTGRAF: Mr. Fortuno.

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1 MR. FORTUNO: Yes. That's exactly my recollection.

2 MR. O'HARA: We did not pursue it beyond that
3 point, because that was just one of many topics we discussed
4 with them. Ken Boehm, Ken, would you like to discuss the
5 veterans project, the status of that with the Board at this
6 time?

7 STATEMENT KENNETH BOEHM

8 MR. BOEHM: I am Ken Boehm, for the record. The
9 Court of Veterans Appeals project, which, as you know, is the
10 \$950,000 which has been delegated to Legal Services
11 Corporation as grant administrator from appropriations that
12 previously had been under the control of Court of Veterans
13 Appeals to set up a pro bono representation project for that
14 court, that project is well under way.

15 We've completed, the Corporation, our draft of the
16 request for proposal. Because of our memorandum of
17 understanding with the Court of Veterans Appeals, they have
18 to sign off on it. They have it now, and expect that very
19 quickly, probably within the next week, they will get back to
20 us with their additions and changes, and so forth.

21 We work very well with the Court. We've had a
22 number of meetings with them. We've been in regular sessions

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1 with our senior staff and their senior staff, and everything
2 has gone quite smoothly. The expectation is that there will
3 be prospective grantee or grantees for the two -- it will be
4 two different grants, although they may conceivably go to the
5 same entity to provide the representation.

6 We've kept the Congress apprised, both in terms of
7 having congressional representatives at some of the meetings
8 as well as copying them on the memorandum of understanding
9 and copying them on the request for proposal as that goes
10 out. So the expectation is that before the next meeting of
11 this Board, the request for proposal should be finalized with
12 the input from the Court, be out there.

13 We expect to have a grantee or prospective grantees
14 for the proposal, and, at that point, we'll be preparing, in
15 consultation with the Court, a report to Congress, as
16 stipulated in the legislation, and the program will be on its
17 way.

18 This is really the first time in some time that
19 Legal Services Corporation is administering grant funds that
20 didn't come through our own appropriation. There were a
21 number of technical problems that presented themselves,
22 because all of our regulations and rules didn't automatically

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1 apply to these funds.

2 So we had to, in effect, reinvent what the rules
3 and regulations and so forth would be, and we did that in
4 consultation with the court that is far more familiar with
5 this particular area.

6 So prior to the next meeting, we should have copies
7 of the actual request for proposal out. It will then be
8 noticed, put in the Federal Register, and we will see what
9 responses we get. The grant should run to the end of the
10 fiscal year -- it should run to September 30, 1993.

11 We're looking forward to working closely with the
12 Court. Both parties have designated liaison, individuals who
13 work closely. It's their chief deputy clerk, and, in our
14 case, it's Christopher Sundseth, and they, as well as a team
15 of the senior staff have been meeting regularly. That's
16 really it for the report.

17 CHAIRMAN WITTGRAF: Any questions or comments
18 regarding the Veterans project?

19 (No response.)

20 MR. O'HARA: Ken, if you will stay there for a few
21 minutes.

22 MR. BOEHM: Sure.

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1 MR. O'HARA: David Richardson, comptroller, would
2 you report on the building, the new building, and the status
3 on where we are, and Ken can join in with any comments he
4 might have.

5 STATEMENT OF DAVID RICHARDSON

6 MR. RICHARDSON: For the record, my name is David
7 Richardson. I'm the treasurer/comptroller of the
8 Corporation. At the last meeting, we had approached the
9 Board about an amount of money that we could begin use of for
10 the purchase of furniture and equipment and to pay for the
11 moving expenses.

12 Part of this has culminated with some contracts.
13 Last week, for instance, we did sign a contract with office
14 movers to move our furniture and equipment to the new
15 building. We have also reviewed their telephone equipment,
16 and we're going to be updating that.

17 We have a switch that was purchased in 1985 that
18 the software has not been updated for seven years. That
19 amount is approximately \$11,000. We have looked for the past
20 seven to eight months, actually, of voice mailing and the
21 capabilities there.

22 Of interest there, for instance, we could have an

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1 800 number with the voice mail capabilities and have a
2 message with general information about the Corporation, about
3 the update of the next Board meeting, and so forth. We have
4 signed a contract with that. That will amount to
5 approximately \$20,000.

6 The total of the contract updating the telephone
7 equipment was approximately \$38,000. We have continued to
8 look, and we've run surveys with our different directors as
9 to furniture needs. To date, I've received information from
10 the directors, and there is a couple that we're going to be
11 revisited about their equipment needs, and it's approximately
12 \$260,000 that I've received to date.

13 There is one other area that we were looking at,
14 and we were hoping that we would be able to update, and that
15 is in the realm of our copy and reprographics center. I do
16 have a proposal that was prepared by the staff, and it's
17 quite shocking to see the age of the equipment.

18 For instance, the press that we have in the
19 Corporation was purchased in 1976, 1977. It's 15 years old.
20 A normal job in today's technology runs on both sides of the
21 press. Our particular press, when we brought in a couple of
22 people to look at it, prints on one side.

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1 Mr. Wittgraf has a document that was put together
2 by our staff, our newsletter internally. To do that document
3 right there would take three hours on one day. It would have
4 to dry overnight. It would take three hours the next day,
5 and then it would have to be folded by hand.

6 That job was completed in 40 minutes with a new
7 piece of equipment. That was, like I said, a new piece of
8 equipment. We've looked at a press. We've looked at a new
9 copier. That piece of material right there was actually done
10 on a copier.

11 With the press, the collator and the different
12 equipment that we need to bring our facilities up-to-date,
13 really, the total cost would be \$258,000.

14 MR. O'HARA: Could I interrupt you at that point,
15 David, because I have to tell the Board, this is a mea culpa,
16 my fault, because I guess I was the one who, kind of, didn't
17 accept Howard for his \$600,000 at the last Board meeting.
18 You were probably more closer to the figure that we'll
19 probably need to spend to do everything, to do all the things
20 to make this a really efficient operation.

21 CHAIRMAN WITTGRAF: For the record, is that
22 establishing Mr. Dana as a conservative in this area?

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1 MR. O'HARA: No. I think it establishes me as, I
2 think, too much of a quick draw.

3 MR. RICHARDSON: In addition to that, just to bring
4 everything into a little different perspective, the costs
5 that I've given you, there is an additional cost of \$20,000
6 for actually moving the switch, and there is an additional
7 cost of -- it's about \$15,000 for moving our central files
8 and getting some new cabinets there.

9 So, basically, what we're looking for, is the
10 different needs that we've assessed, and that's, basically,
11 to bring it back to you to ask for additional monies.

12 CHAIRMAN WITTGRAF: When is the move projected for?

13 MR. RICHARDSON: We will start moving the Tuesday
14 after Memorial Day. Our central files, the library, and the
15 archives will be set up to move. Our telephone switch will
16 go off Tuesday, and it will be moved Wednesday, Thursday, and
17 Friday of that week.

18 CHAIRMAN WITTGRAF: When will the move be complete,
19 then, the first few days of June?

20 MR. RICHARDSON: Yes, sir. We hope to actually be
21 in a position to open for business on June 1st.

22 CHAIRMAN WITTGRAF: Mr. O'Hara.

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1 MR. O'HARA: David, how long will we be shut down
2 for any extended period of time?

3 MR. RICHARDSON: It looks to be two days, possibly
4 three. We will be without phones for three days. The actual
5 move of the desk, furniture, and so forth, will take place
6 Thursday, Friday and then over the weekend.

7 MR. O'HARA: Will those days that we'll be without
8 phone coverage be on the weekend, or are they business days?

9 MR. RICHARDSON: They will be business days. We
10 are working with C&P and AT&T. There is a possibility that
11 we'll have two phones available in the Corporation, and one,
12 of course, is in your office, and the other one is in
13 Mr. Boehm's office, because they're set up, different lines.

14 MR. O'HARA: And we've already started to advise
15 all of our programs, grantees, of the new address, and I
16 assume that we will be notifying them of the new phone number
17 as soon as possible, fax number, everything like that?

18 MR. RICHARDSON: That is correct, sir.

19 CHAIRMAN WITTGRAF: For the record, what is the new
20 address?

21 MR. RICHARDSON: It's 750 First Street, N.E. Do
22 you know the zip?

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1 MR. O'HARA: It's on that form you sent out the
2 other day.

3 CHAIRMAN WITTGRAF: 750 First Street, N.E. You
4 don't remember the zip code?

5 MR. O'HARA: I believe it might be in that --
6 David, is it in that news letter, the Legal Scoop?

7 MR. RICHARDSON: I'm not sure.

8 MR. KIRK: You're asking me?

9 MR. O'HARA: I've seen it in something, but I'm not
10 sure what it is. We do plan to get it out.

11 CHAIRMAN WITTGRAF: It's my understanding,
12 Mr. President, that the zip code is 20002 at 750 First
13 Street, N.E., in Washington, D.C.

14 MR. KIRK: After careful consideration, it's my
15 opinion that it's not in the Legal Scoop.

16 CHAIRMAN WITTGRAF: Questions or comments for
17 Mr. Richardson? Mr. Dana.

18 MR. DANA: I may have missed it, but is there a
19 number that you are looking for?

20 MR. RICHARDSON: Actually, sir, we're asking for
21 the whole amount, and we're going to have to eventually cut
22 some of the projects down, but, yet --

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1 CHAIRMAN WITTGRAF: Mr. O'Hara.

2 MR. O'HARA: If I could interrupt, I think what we
3 would like to do, Mr. Dana, is to get this on the agenda for
4 the next Board meeting, committee and Board so that we can
5 discuss it more intelligently. We'll have better figures
6 available at that time.

7 CHAIRMAN WITTGRAF: Mr. Shumway.

8 MR. SHUMWAY: Are any of these costs that you've
9 referred to less when made in connection with the move? In
10 other words, will the figures be the same if we decided to
11 get that new switch and printing capability six months or a
12 year from now, or are they going to be cheaper because we're
13 doing it as we move in the new office?

14 MR. RICHARDSON: Certainly, with the printing
15 capabilities, when we say "switch," we're not getting a new
16 switch. We're just updating the software. We can do those
17 after we move, and certainly some of them can be delayed.
18 The telephone switch, though, and the new software, a
19 contract has been signed on that one.

20 MR. SHUMWAY: What about the furniture and files?

21 MR. RICHARDSON: At this point, we can -- I have
22 surveyed the offices. We have not purchased any new

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1 equipment or new furniture. There is economy to scale. So
2 there is some savings in doing it now, but, yes, some of it
3 can be delayed.

4 CHAIRMAN WITTGRAF: Further discussion? Ms. Love.

5 MS. LOVE: I recommend that we go, at the next
6 meeting, to Legal Services Headquarters and look at the
7 equipment and the printing room and what they have to work
8 with, because, from what I saw, two years ago it looked kind
9 of out-dated. Some of the machines look like they can't even
10 go in the elevator. So I recommend that we go and take a
11 look at the equipment that the people have to work with.

12 CHAIRMAN WITTGRAF: Mr. Dana, perhaps that's
13 something your committee and Ms. Love, with your committee,
14 if she wishes, could do. Mr. Dana.

15 MR. DANA: I think that's an excellent idea, and we
16 should do it, but I think almost more, in addition to that, I
17 think it would be very helpful to this Board when our conduct
18 in moving or in authorizing the move to these new quarters is
19 challenged in the future, if we have some photographs.

20 I would like to encourage somebody who knows about
21 our existing quarters to go around and literally take
22 photographs of it in its current state. It is as depressing

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1 an office as I've seen in Legal Services, and I've seen some
2 offices that needed changing.

3 CHAIRMAN WITTGRAF: Mr. President and
4 Mr. Richardson, is that a realistic request?

5 MR. RICHARDSON: Yes, sir.

6 CHAIRMAN WITTGRAF: I think it's probably a good
7 idea. I, for one at least, agree with Mr. Dana. Mr. Kirk.

8 MR. KIRK: Have we explored fully and decided that
9 using outside services is not to our advantage in this
10 situation?

11 MR. RICHARDSON: Three years ago, we did look
12 internally as to the possibility of contracting a lot of the
13 work out. Because of the amount of photocopying and press
14 operations that we use, we did find that it was not feasible.

15 A lot of times, we, for instance, will get a job in
16 our reprographics center on a Monday, be it 1,500, 1,800
17 pages, we'll need ten copies of it by Wednesday. When you go
18 to a private broker, you're looking at anywhere from -- it's
19 according to how bad they want the business, but anywhere
20 from 10 cents to 25 cents a page. So it's a whole lot more
21 cost-effective to do it internally.

22 For instance, on the machine that we now use, it's

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1 about three-quarters of a cent per page. Of course there is
2 other costs involved; that is, the click on the machine.
3 There is the paper costs and the operator costs, but because
4 of the amount of the jobs that we do have internally, it was
5 just not cost-effective to go outside.

6 CHAIRMAN WITTGRAF: Mr. Kirk.

7 MR. KIRK: I would recommend that you just check it
8 one more time, I think, before you and Howard make the final
9 decision, and the other thing is, and I must apologize for
10 going back to my own experiences on this, but my firm
11 recently hired outside people to run our machines, and the
12 savings has been, like, \$10,000, \$20,000, \$30,000, \$40,000 a
13 year, because these people don't have to be on the same
14 benefits that we are. They work for somebody else. It just
15 operates so much better than we did, having our own runners
16 and what have you do it.

17 I only throw that out as an option, because I think
18 a lot of law firms are doing it. Howard is nodding his head.
19 Apparently, he's had the same experience. I don't know why
20 it works, but I know it does.

21 CHAIRMAN WITTGRAF: Further discussion?

22 Mr. President.

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1 MR. O'HARA: Thank you, Mr. Chairman. To get back
2 to the appropriations situation, Ken, would you like to give
3 the Board an update on what's happening with appropriations
4 and talk about the hearing also? We had a brief discussion
5 while you were out of the room.

6 STATEMENT OF KENNETH BOEHM

7 MR. BOEHM: The appropriations for the House
8 Subcommittee, the hearings for the House Subcommittee on
9 Justice, Commerce, State, the Judiciary and related agencies
10 took place with LSC being represented by its chairman, George
11 Wittgraf, its vice-chairman, Guy Molinari, and its president
12 Jack O'Hara.

13 They have not indicated yet a budget mark, and, in
14 the past, they have done it several different ways. Because
15 we're an unauthorized federally funded entity, there has been
16 a practice in recent years of the House Appropriations
17 Committee and its Subcommittee as well sending over to the
18 Senate our appropriation without a dollar figure put in.

19 Last year, they attempted to put a dollar figure
20 in. It was struck on a parliamentary -- by parliamentary
21 move because we're not an authorized agency. We've asked the
22 Appropriations Committee, and the last time I had checked

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1 with the staff they did not indicate yet if they were going
2 to actually put a dollar figure in or not, in terms of a
3 recommendation over to the Senate.

4 In any case, the Senate Subcommittee is going to be
5 meeting shortly beginning of May, the Senate Subcommittee
6 also on Justice, Commerce, State, the Judiciary and related
7 agencies, and they do, and have in the past, put a budget
8 figure in, and that's where we may get our first actual
9 budget figure.

10 It's interesting, one of the members of the
11 Appropriation Committee, Congressman Jim Kolbe of Arizona,
12 has as an amendment to our reauthorization a budget figure,
13 and he has used the figure of 395 million, which was the one
14 -- I guess it was styled as the alternate budget and then the
15 figure, and he has put the \$395 million figure in as an
16 amendment.

17 No saying yet whether it will be a selected
18 amendment or not and whether it will actually get voted on or
19 not on Wednesday, the 395 million for Fiscal Year 1993, as
20 they can do with reauthorization legislation.

21 That really concludes where we are in the
22 Appropriations Committee, and, I suspect, after the Senate

1 hearing, we'll have a much better feel for what the Congress
2 is going to be doing.

3 CHAIRMAN WITTGRAF: Mr. Boehm, may I interrupt you
4 to just add a few of my comments from my experience. As you
5 indicated, and as Mr. O'Hara indicated earlier, Mr. Molinari
6 and I were there two weeks ago this Wednesday for
7 approximately an hour.

8 The three members of the Subcommittee present were
9 the Chairman, Mr. Smith, the ranking Minority member,
10 Mr. Rogers, and as Majority member, Ms. Pelosi. The
11 inquiries spanned a broad range of subjects, not the least of
12 which was the matter of insurance and malpractice claims that
13 we've discussed already this morning.

14 Generally speaking, on the budget mark, I think it
15 can be said fairly that those three members happen to
16 represent the two poles, if you will, plus in between.
17 Ms. Pelosi indicated at one point that she was leaning toward
18 an inflation catch-up appropriation, full inflation catch-up
19 appropriation of 525 million, as was recommended by some of
20 us.

21 At the other pole was Mr. Rogers, who felt that
22 even 395,000,000 was probably too high or too much of a

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1 catch-up, in light of general budgetary constraints, and
2 Mr. Smith was in the middle, in that he really did not
3 express an inclination one way or the other.

4 Mr. Rogers had no critical comments at all to make.
5 In fact, Mr. Molinari and I had indicated that because of the
6 progress that's been made in stabilizing the Corporation
7 internally, thanks to Mr. O'Hara and others, improved
8 relationships between the Corporation and the field and the
9 relative constructive workings of the Board, that we felt
10 that we were in a very good position.

11 Mr. Molinari even went so far as to say that while
12 a year ago he had really been wanting to get off the Board,
13 at this point, because of Mr. O'Hara's leadership and other
14 things, he's very much interested in staying on the Board and
15 being with us as much as he can.

16 Mr. Rogers, in finding our request to be excessive,
17 in his view, also said that things were on an even keel, and
18 I believe those were his words. So we were all, I,
19 Mr. Molinari, and Mr. Rogers, in that we represent three
20 different perspectives, operating from the same assumption.
21 I guess it's just a question of where you go from that
22 assumption, and only time will tell.

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1 Mr. Rogers had no critical comments at all to make
2 regarding either the operation of the Corporation or the
3 operation of the of programs in the field. His concern, in
4 looking at a substantial increase, was what the expression of
5 need is, and, as I suggested in asking Harriott Miers this
6 morning for a copy of the Texas needs survey that's been
7 completed, I think we have an obligation now to Mr. Rogers as
8 well as to other members of the Subcommittee to share with
9 them what information we have regarding need and,
10 particularly, the state surveys.

11 You'll recall that after David Martin left the
12 Corporation as president, he did continue to assist the
13 Corporation for a few months, and one of the things that he
14 did in that context was preparing a survey of state legal
15 needs studies. He did that study, which I think all of you
16 have, dated December 31 of 1991.

17 He reviewed studies in ten states. I do believe
18 -- and that doesn't include Texas, among others. I do
19 believe that the number of state needs studies is somewhat
20 larger than that, and I've asked Mr. O'Hara and the staff to
21 be sure that Mr. Rogers and all members of the Subcommittee
22 have the benefit of both Mr. Martin's survey and all of the

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1 studies that have been done of the states across the country.

2 As Mr. Boehm indicated, the next step, then, is in
3 the Senate, and Mr. Molinari and I are scheduled to appear
4 with Mr. O'Hara before the Senate Appropriations Committee on
5 March 7th -- excuse me, May 7th, which is a Thursday, I
6 believe, Thursday afternoon, you think, or is it Thursday
7 morning, Mr. Boehm, do you recall?

8 MR. BOEHM: It's the opposite of what the House
9 was. What was the House?

10 CHAIRMAN WITTGRAF: The House was the afternoon.

11 MR. BOEHM: Then it's the morning.

12 CHAIRMAN WITTGRAF: So it would be the morning. If
13 any of the Board members would be in Washington at that time
14 either because they were going to the NLADA dinner or for any
15 other reason, please join us that morning so that you can
16 have the experience of going through an Appropriations
17 Subcommittee hearing and gain from that experience, as
18 Mr. Molinari and I have.

19 I do think that the colloquy or the discussion
20 there will probably be somewhat different from what it was in
21 the House two weeks ago, but I do think, as suggested also by
22 Mr. Kolbe's amendment that's been filed and that we have

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1 copies of, or at least a summary of, which may or may not be
2 germane, I guess it has to be determined on Tuesday, when the
3 rule is adopted for the debate prior to the start of the
4 debate Wednesday afternoon, that we certainly have gotten
5 people to focus much more seriously on the question of the
6 appropriation for the Corporation and for the field for civil
7 legal services for the poor.

8 While we have a bit of a split among ourselves, six
9 and 525, five and 395, that we are causing the Congress to
10 wrestle with that and to look seriously at trying to catch up
11 for the loss of dollars through inflation since 1981.

12 The high water mark prior to the wind-down was
13 Fiscal Year 1981, I believe, at \$321 million, and Chris
14 Sundseth did, prior to the Appropriations Subcommittee
15 hearing two weeks ago, calculate what that would be in
16 current dollars, and he came up just shy of the \$525 million
17 mark.

18 So, in fact, to adjust fully for inflation would
19 take us just about to the \$525 million mark, but then it has
20 to be balanced with what funds are available to the Congress,
21 and that's a decision, obviously, the members of the
22 Subcommittees and the members of the full bodies have to

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1 make. Mr. Shumway.

2 MR. SHUMWAY: I just wondered, if Congressman
3 Kolbe's amendment passed, he would determine the amount of
4 the expenditures for the first year?

5 MR. BOEHM: Right.

6 MR. SHUMWAY: What about the out year? Would it go
7 back to such sums, or would there be some inflator built in
8 the --

9 MR. BOEHM: Well, as you know, they can stipulate
10 in the reauthorization language, the authorized amount. In
11 fact, our original act, I think, had the 90,000,000, or
12 whatever our first amount is, but he has language in his
13 amendment that actually calls for consumer price index
14 application to that \$395 million figure for the out years.

15 And currently the way H.R. 2039 is written, it
16 deals with Fiscal Years '92 through '96, a total of five
17 fiscal years. There is another amendment pending that would
18 reduce it from five years to three, and the last two, the
19 original one in '74 and the subsequent one in '77, were for
20 three-year periods.

21 So all of that is really going to be thrashed out
22 on Rules Committee on Tuesday, and then on the floor on

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1 Wednesday. We won't really know until then how many years
2 and if there will be that dollar figure.

3 CHAIRMAN WITTGRAF: Further discussion?

4 (No response.)

5 CHAIRMAN WITTGRAF: Why don't you go ahead with the
6 balance of your legislative report, then.

7 MR. BOEHM: Sure. The only other thing I have to
8 mention on the appropriations is that the Appropriations
9 Subcommittee in the House is going to have a remaining
10 hearing on legal services tomorrow, and I believe Andy
11 Steinberg is scheduled to present point of view on budgetary
12 figures tomorrow, and that will wrap it up for House, and
13 then next it will be at the Senate.

14 CHAIRMAN WITTGRAF: Do you know if Maureen Gawler,
15 or anyone else who has requested the opportunity to appear,
16 will be appearing in the public hearing?

17 MR. BOEHM: Yeah. I checked. There was
18 speculation to that effect by the committee and others. The
19 committee list, as of close of business Friday did not
20 include anyone other than Andy Steinberg, I believe, and it
21 certainly did not include Maureen Gawler.

22 At that point the schedule was full, and the

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1 staffer from Appropriations Committee said that they doubted
2 they could accommodate anyone other than a member of the
3 Congress additional to that list, because it was pretty
4 tight, because they were dealing with some other issues as
5 well.

6 CHAIRMAN WITTGRAF: Thank you. Go ahead with the
7 balance of your legislative report.

8 MR. BOEHM: Well, I guess it would be --

9 CHAIRMAN WITTGRAF: Oh, you wanted to save that for
10 --

11 MR. BOEHM: I'm not sure how you want to handle the
12 reauthorization, if you want to save that for the committee
13 report or --

14 MR. O'HARA: We wanted to do that next, but I did
15 want to add one other thing. Subsequent to the hearings, the
16 Appropriations Committee hearings, we received a number of
17 questions from the Committee, which I think I've read the
18 final response to all of that, and I would like to ask if
19 that has been circulated to the members of the Board? If it
20 hasn't, I think we should do it. I think it was just ready
21 Thursday or Friday.

22 MR. BOEHM: Yeah. We have ten working days from

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1 the date of receipt to return the questions. That's a normal
2 thing. Both House and Senate usually send in questions, and
3 that's for the record. I think, top of my list of things to
4 do tomorrow, when I go back, is to look at that, review it,
5 and then we can circulate that out.

6 We would have to do it by fax in order to get
7 input, just because we really have to have it in this week.

8 MR. O'HARA: Right. Well, these were questions
9 that didn't deal with policy. They dealt with more, I think,
10 dealing with the operation of the program itself.

11 MR. BOEHM: Yeah. Factual.

12 MR. O'HARA: And I think the Board should be aware
13 of them.

14 MR. BOEHM: Sure. That is part of the record, and
15 we'll have the complete record once it's done, and I can make
16 sure that the Board is faxed that tomorrow morning.

17 CHAIRMAN WITTGRAF: Mr. Uddo, would you like
18 Mr. Boehm to hold his summary until your committee reports?

19 MR. UDDO: I think he can give the summary now.
20 Then we'll just go to our motions.

21 CHAIRMAN WITTGRAF: Fine.

22 MR. BOEHM: Let me do this: Let me, perhaps, give

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1 a brief summary of what's happening on reauthorization. Most
2 of you heard more detailed, but I'd be happy to answer any
3 questions.

4 Where we are on reauthorization for Legal Services
5 Corporation is that there is a bill. The bill was passed by
6 the Judiciary Committee last year, H.R. 2039, which will be
7 considered for floor action on Wednesday.

8 As I already mentioned, the Rules Committee will be
9 considering it on Tuesday, tomorrow, and determining which of
10 37 amendments which have been submitted will be allowed and
11 also what the rule will be.

12 The expectation on the rules question, because it
13 is critical to what ultimately happens to the legislation is
14 that they will allow -- there will be an ample opportunity
15 for amendments, and, as I say, among the 37 amendments are 13
16 by Mr. Frank himself, a large number by Mr. McCollum, and a
17 range of other amendments, everything from things that really
18 weren't even discussed at mark-up, provision of \$8 million
19 for a clinical legal program at Howard University Law School,
20 for example, to things that are multiple interpretations of
21 the same section of the act.

22 The Inspector general issue certainly received

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1 attention from three or four congressmen. Monitoring
2 received some attention. There is some technical amendments
3 as well.

4 The quick history of the reauthorization, as you
5 may know, is we originally came into being in 1974. The Act
6 first set up the Legal Services Corporation then. We had a
7 three-year reauthorization. That's the authority for
8 Congress to set up the program, and you need that authority
9 in order to get appropriations.

10 An unauthorized; that is, never authorized entity
11 can never receive appropriations. An unauthorized entity
12 which has had authorization but has expired, the House can do
13 it by suspension of their rules, and that's been a status
14 we've been in since September of 1980, when our last
15 reauthorization expired.

16 In '77, it was renewed on time for three years, and
17 then, as I say, expired September of '80. In 1981, another
18 reauthorization bill passed the House, went to the Senate.
19 The Senate never took it up. At that point, there was a veto
20 by the President pending. The Senate decided not to take it
21 up. Over the intervening years in the '80s, there has been
22 various attempts to renew the process.

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1 Finally, in the 101st Congress, hearings were held.
2 There were two hearings in 1989, two again in '90, and one
3 last year. The net result has been this H.R. 2039, which
4 started in the subcommittee chaired by Mr. Frank and the
5 subcommittee of the Judiciary Committee on Administrative Law
6 and Governmental Affairs.

7 They did most of the actual consideration of the
8 bill. Very little changed in the full committee. The major
9 item of change at the full committee was the adding of a
10 requirement for timekeeping. That really was not there in
11 the subcommittee bill. There was timekeeping language, but
12 it was largely optional. The key word change was changing
13 "may" to "shall," and that happened at full committee.

14 The administration, prior to the Judiciary
15 Committee consideration in June of last year issued a
16 statement of administration policy saying that H.R. 2039, in
17 its current form, the subcommittee version, was
18 unsatisfactory and that the senior staff would recommend a
19 veto.

20 They pointed out a number of particular areas. The
21 abortion-related activities area was one. They also put a
22 lot of emphasis on competition. They put a lot of emphasis

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1 on redistricting, while saying that some of the
2 accountability language changes were also not as acceptable
3 to the White House.

4 The bill to be considered on Wednesday will be
5 markedly changed by amendment is the consensus on the Hill.
6 Depending on which amendments are offered, are allowed to be
7 offered, there may be significant changes there. The reason
8 the Senate has done nothing, according to Senate staffers and
9 the people on that committee, is that they're waiting to see
10 what the House does.

11 They don't want to start on, say, a companion
12 piece, because they know a lot can change on the House floor
13 on Wednesday. The next step, of course, is the Senate. It's
14 Senator Kennedy's committee. There is no subcommittee in the
15 Senate that would have jurisdiction.

16 So it would be different than the House. You won't
17 have to go through a subcommittee and then up to a committee
18 process. Everything will be done in full committee; that's
19 Labor and Human Resources, chaired by Senator Kennedy.

20 At that point, if they agree with, say, the House
21 version, there is very little to conference about, and that
22 would go, then, to the President. If there is major

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1 disagreements, it would go to a conference committee.

2 Presumably, at the conference committee, if some of
3 the disagreements involve some of the issues that the White
4 House has indicated there may be a veto over, the White House
5 will be a presence in the room, a conference committee, in
6 deciding what will go forward.

7 There is a lot of speculation that might be
8 expected as to what the exact terms of the White House's
9 veto, what the terms for veto might be. I talked with the
10 White House this morning, and they have not yet released
11 their statement of administration policy, which is expected
12 prior to the vote on Wednesday.

13 Even though I tried coaxing out various answers,
14 they were not about to state exactly what would be in it.
15 There is two possible statements that we could receive prior
16 to Wednesday's vote. One would be what they call senior
17 staff recommended veto, which is what was issued in June, and
18 that's the strongest of a veto. It's, basically, styled as
19 the President's senior staff would recommend a veto, if the
20 following conditions were not met.

21 The other type of veto, which is viewed as less
22 authoritative, would be the Attorney General veto, and that

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1 would be styled as the Attorney General recommends a veto, in
2 the event that the legislation contains or doesn't contain
3 certain specific terms. There is no indication yet as to
4 which of those may be issued.

5 I think the general feeling is they are going to
6 issue something, and I've been told that probably tomorrow
7 might be a good time to check back, and that's where, in
8 terms of, at least, of what's going to happen in the House
9 with an eye towards what the Administration would do. That
10 would be the timetable there.

11 Then, as I say, if it doesn't pass the Senate and
12 get signed into law now, because we're at the end of this
13 Congress, it would expire, and the process would have to
14 start all over again with the subcommittee, the full
15 committee of House, and so forth, in the next Congress.

16 So it's, basically, we're in the do or die phase
17 for Legal Services reauthorization. The Administration, both
18 parties, all interested major players support
19 reauthorization. Of course, the devils and the details and
20 its reauthorization on what terms, that's the stumbling block
21 at this point.

22 Everybody received yesterday, with the exception

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1 of, I believe, two directors who were not here, and I have a
2 packet of the materials, the legislative report on H.R. 2039,
3 side-by-side comparison with current law and the alternative
4 proposals and the Board's positions, and a copy of the bill
5 itself. So we'll have all of that before us, and I guess we
6 may have further discussion at the time of agenda, when we
7 have the reauthorization committee report.

8 CHAIRMAN WITTGRAF: Any questions or comments for
9 Mr. Boehm at this point. That was very comprehensive,
10 Mr. Boehm. Thank you. Mr. Shumway.

11 MR. SHUMWAY: Do you think there is a likelihood
12 that the Rules Committee will grant an overrule, allowing all
13 of those amendments, or are some of those just for Judiciary
14 and not for consideration?

15 MR. BOEHM: I think, at this point, they're saying
16 that it won't be an open rule, and it won't be a closed rule.
17 It will be something in between that will allow for that
18 because of the large number of amendments. Many of them are
19 technical, and some of the them are plunked in block
20 amendments.

21 The viewing is that there may be anywhere from
22 eight to a dozen, which will be allowed, going over the

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1 various respective issues. Part of the difficulty is that
2 you have a number of amendments, for example, on the issue of
3 IG access. The issue didn't come up at subcommittee, didn't
4 come up at full committee.

5 The words "inspector general" never passed anyone's
6 lips, as far as I sat through those two hearings, and,
7 afterwards, there was a fair amount of consternation,
8 scrambling around by various folks, and you've seen
9 correspondence and the various amendments.

10 So I think the Rule Committee is going to have to
11 resolve which amendments may be allowed on that particular
12 issue and some of the others, but they'll probably will
13 reserve -- I shouldn't say "reserve."

14 We know it's going to be Wednesday, as things stand
15 now, and we're told that most of the effort in the
16 legislative day will be spent on this, and we just have to,
17 at this point, rely on the statements by some of the key
18 congressmen that their expectation is that there will be a
19 fair number of amendments allowed.

20 MR. SHUMWAY: I read the draft of the committee
21 report. Was there any Minority view attached to that report?

22 MR. BOEHM: Yeah. In fact, close of business

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1 Friday, and that's -- you received of the advance draft that
2 just had the Majority views. On Friday, before we left for
3 this, and I have copies here for you, we did receive the
4 legislative report, and we did receive the bill and final
5 draft as well, and that contains, on page 91, the dissenting
6 opinions, and I believe there is seven members of the
7 Congress that signed off on that.

8 CHAIRMAN WITTGRAF: My understanding, Mr. Shumway,
9 if this is the right term, they're talking about a modified
10 open rule.

11 MR. BOEHM: Semi-open or semi-closed.

12 CHAIRMAN WITTGRAF: Whatever exactly that means.

13 MR. SHUMWAY: Just for another comment, when I read
14 the draft of the Committee report, I was kind of appalled at
15 the way they characterized our monitoring function. I
16 recognize there is a great deal of controversy about how we
17 go about that business, but it seemed to me that the
18 committee staff that put that language together, obviously,
19 had only one side of the controversy about it, and I just
20 wondered, did they really invite us to find out how we do it,
21 what our views are regarding monitoring? Because they were
22 fairly critical, and I felt some of that criticism should

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1 have at least offset with our side of the issue.

2 CHAIRMAN WITTGRAF: Let me make a comment first. I
3 took a quick look at the so-called minority report, and,
4 unfortunately, it does not very much address the monitoring
5 function, and other than in terms of, essentially, trying to
6 leave the system much the way it is now, and I think the
7 debate this week, if it occurs, will be mostly in terms of
8 status quo versus the much stricter requirements of Section 6
9 of the bill, but I think there could have been a more
10 detailed explanation.

11 The advocates of reform through the years have been
12 accused of dredging up horror stories of the past, and
13 Mr. McCollum and others, in their comments last Thursday on
14 the floor, indicated that they were -- as did Mr. Frank, that
15 they were trying to leave the past in the past and to move
16 on.

17 My sense is that, regarding monitoring, audit, and
18 compliance, those who were concerned with that are still, to
19 some extent, living in the past, and other than an
20 acknowledgment early on on page 19 of the Committee report of
21 Mr. O'Hara's presence and it being given the benefit of the
22 doubt as a constructive presence, that there isn't any.

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1 acknowledgment of efforts to move forward in the monitoring,
2 and Section 6, I think, does speak to the past.

3 I don't know that any of us had any input,
4 particularly into the minority report, but it could have done
5 a better job, regrettably, of explaining what goes on now and
6 of trying to speak to the improvement that Mr. O'Hara and
7 staff have attempted to do make.

8 We get a tough knock on that, and there isn't much
9 of a response, unfortunately. Mr. Boehm.

10 MR. BOEHM: I was just going to say that most of
11 that report was written by the majority without input from
12 the minority staff in the Judiciary, and that's just the way
13 it was. They did have, I think, two pages or three pages at
14 the end to express their views, and that was done, but it is
15 clear that was the majority.

16 CHAIRMAN WITTGRAF: Mr. Kirk.

17 MR. KIRK: Mr. Chairman, this same thing continues
18 on, Mr. Shumway, where we received a letter yesterday from
19 Mr. Houseman, of the Center for Law and Social Policy, making
20 the same accusations. On February 20th, the Florida Supreme
21 Court came down with a landmark decision requiring mandatory
22 pro bono, in a sense, from attorneys, and in it there was a

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1 finding of fact making a big attack on monitoring of the
2 Legal Services Corporation with no input from the Corporation
3 whatsoever.

4 So I think that we need to really be aware that
5 this is being repeated, and yesterday I made a request to try
6 to get some backup information that was the basis for
7 Mr. Houseman's accusations, because I think that we need to
8 find out what the basis of these things are, get to the
9 bottom of it, and try to straighten it out.

10 CHAIRMAN WITTGRAF: Mr. Shumway.

11 MR. SHUMWAY: Well, I feel badly, because I know
12 members of the Congress read this committee report, and not
13 seeing any other side of what's stated here would develop a
14 very warped view of what this Corporation is doing.

15 I think, indeed, we have started to turn the
16 corner, and there ought to be some recognition of that, but,
17 apparently, in the compilation of this report only one side
18 was taken into account, in review of these pages.

19 CHAIRMAN WITTGRAF: Mr. Uddo.

20 MR. UDDO: I was just going to say that I think
21 that what needs to be communicated to Congress is that what
22 they're reading is based upon historical problems and not the

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1 current situation. I don't think, and maybe Mr. Kirk might
2 want to think about this, I don't think we want to go back
3 and dredge up the problems of monitoring of the past, because
4 they existed.

5 I mean, I think they'll supply you with some
6 examples that will confirm that there were serious problems
7 with the way monitoring was conducted before.

8 MR. KIRK: I asked for the last two years.

9 MR. UDDO: Well, I don't know about the last two
10 years. I mean, I don't know when the cutoff point was, but
11 if you go beyond two years, I'll assure you you'll have some
12 problems.

13 I think that, as I say, though, the Congress needs
14 to be aware that that really is based on some historical
15 problems and not current problems, and I think that's the
16 most critical thing that we've got to communicate, that that
17 has changed, not that it never existed but that it has
18 changed.

19 MR. KIRK: But that distinction is not --

20 MR. UDDO: It's not made.

21 CHAIRMAN WITTGRAF: And it may be something that,
22 as we get to the report of the Special Reorganization

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1 Committee chaired by Mr. Uddo, that we may be able to take
2 in, to the extent the Congress will be interested in
3 receiving whatever message we have to give them the next 48
4 hours. Mr. Dana.

5 MR. DANA: I want to agree, sort of, with what you
6 just indicated, Mr. Uddo. I think that my view is that the
7 Corporation's monitoring appears to be changing, is changing,
8 is better. I am not at all confident that we have -- I think
9 our intentions are good. I think we have a long way to go to
10 achieve the level of monitoring that I would like to see, the
11 results that I would like to bring -- that I would like to
12 see our monitoring do.

13 So while we are changing, I don't think we've come
14 anywhere near far enough, and so I wouldn't want my silence
15 to exceed to the fact we have a brand new day, and what was
16 bad for the '80s is now terrific in the '90s. That's not my
17 perception yet. I'd like it to be, but I'm not yet satisfied
18 that the day has arrived when we can say everything is
19 wonderful in monitoring.

20 CHAIRMAN WITTGRAF: Mr. O'Hara.

21 MR. O'HARA: Thank you, Mr. Chairman. With all due
22 respect to the members, I'd like to comment on that, and

1 first I would like to thank those generous comments, but I
2 have to say the credit is not on me for what's happening in
3 the field.

4 I'm just one person, and these things that are
5 being turned around are being turned around by the people who
6 are going to the field every day. I look back at the time
7 I've been with the Corporation, both as a consultant -- and
8 this started prior to the time that you appointed me to this
9 position. So the credit goes back to sometime in the past.

10 My best guess, if I could put my finger on
11 Mr. Shumway's question as to when and to Mr. Kirk's request
12 for documents going back two years, I think we could stretch
13 it out even one more year, because I think it's been an
14 evolution that's taking place that's going to take a little
15 more time, but there is something else that has to happen,
16 too, and that is the people in the field, in the programs,
17 their perception has to change.

18 Whatever happened in the past is not easily undone.
19 The remembrance in there. People remember monitoring trips
20 that may not have been very pleasant for them, and I think
21 that, over time, we'll do that, but you just don't turn
22 things around over night, and as Mr. Dana said, there is

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1 probably still some work to be done.

2 I wish with had with us the copies of all the
3 reports and letters that I have seen come in from the
4 programs in the last seven months. It will be seven months
5 on the 16th since I came in here. I think I've seen two so
6 far, both of which monitoring trips were conducted, I believe
7 one in early '90 and one, maybe, in early '89, and both
8 comments, although I didn't like them, and I wouldn't put
9 them in the favorable category, I don't think they were
10 derogatory either.

11 I think there is a shift taking place, and the
12 shift is probably taking place, was taking place at the time
13 those programs were monitored. But I think that we're going
14 to work at it. The staff knows how I feel. I think the
15 programs know that I'm interested in developing a working
16 relationship, because the only ones who suffer, if we don't
17 do it together, are the clients.

18 We're here to serve the clients, and if we're not
19 going to serve the clients, then we shouldn't be here.

20 CHAIRMAN WITTGRAF: Mr. Kirk.

21 MR. KIRK: Well, I think that we're looking for
22 abuses, and I think if everybody loved monitoring trips, I'm

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1 not sure they'd be fulfilling their function in every single
2 instance, but certainly I think that if there are abuses -- I
3 mean, if Howard says they're there, then we need to find
4 them.

5 MR. O'HARA: I think that's true. I think if the
6 executive directors thought there were abuses in their
7 program that they didn't know about, they'd like to be the
8 first ones to know about it, but I think that we're going to
9 find a way to work together to correct those abuses. We have
10 a responsibility to monitor. It's a statutory obligation,
11 and we have to do it, and I think most of the programs, if
12 not all the programs, know that.

13 CHAIRMAN WITTGRAF: Just one final comments on the
14 overall process, Mr. Shumway. A former colleague of yours,
15 Mr. Gekas, who is the ranking member on the so-called At-Law
16 Subcommittee of the House Judiciary Committee, was one of
17 several members to speak in the general debate Thursday
18 afternoon.

19 He's also one of the seven signators of the
20 Minority Report. He said at the beginning of his remarks,
21 and I quote, "Mr. Chairman, there are many of us who,
22 although we have some objections and some corrections and

1 some suggestions to be made to approve the bill, will still
2 lean very heavily toward supporting the final reauthorization
3 that this legislation commands."

4 So, as Mr. Boehm indicated, there is broad support
5 for reauthorization, the devils and the details, as Mr. Boehm
6 also indicated, there has been not even any debate on the
7 floor since 1981.

8 The window is the farthest open it's been in more
9 than a decade, and to the extent that we can be involved or
10 persuasive in this process, I think we have a burden as a
11 Board, as the Board for the Corporation, to do all that we
12 can, assuming legislation passes the House shortly, to
13 encourage the Senate to move as well, because if this
14 Congress adjourns and the window closes, it's difficult to
15 say how long it's going to be before the window is open again
16 and open wide enough to get a bill through and signed by a
17 President.

18 I think we'll all be better off, our staff, us as a
19 Board, the people working in the field, far better off to
20 have reorganization legislation that we can work from and not
21 to continue in the uncertain status that we've been in for so
22 long.

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1 So I think one of our responsibilities is going to
2 be to do what we can, in our small way, to continue to
3 encourage passage of the legislation, once the House acts.
4 Mr. Boehm, did you have further comments on legislative
5 matters?

6 MR. BOEHM: No, unless there were further
7 questions.

8 CHAIRMAN WITTGRAF: Mr. O'Hara.

9 MR. O'HARA: Thank you, Mr. Chairman. I have one
10 last topic, and I wanted to correct an impression that might
11 have been left with the Board at the last Board meeting,
12 which was on March the 9th.

13 At this time, Mr. Wittgraf, on page 85 of the
14 transcript, I have two letters I want to insert, one from me
15 to Harrison McIver, and one from Mr. McIver back to me, but
16 we got around to the point on page -- we were talking about
17 the question of attorney recruitment, retention of loan
18 payment assistance, repayment assistance programs, and then
19 your appearance before the congressional committees.

20 You asked the question of Mr. McIver, "Did you give
21 to the members of the Board or to the Corporation staff a
22 copy or copies of the presentation you made then in January?"

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1 Mr. McIver said, "Yes, I did." Mr. President, I
2 don't know if we all received copies of that, but I'm sure
3 that you and the staff could make sure that we've got them.
4 I think I indicated to you at that time that we didn't know
5 anything about it, didn't have it.

6 Subsequent to the meeting, I had Helen Smead and
7 her staff contact Mr. McIver, and we discovered that we -- he
8 didn't give them to us, but he had given them to the members
9 of the Board, and we had not gotten them.

10 I wrote Mr. McIver a letter pointing this out, and
11 he wrote back to me on March 31st and said that, "At the
12 January Board meeting, copies of my written testimony were
13 distributed to the Provisions Committee members and other
14 Board members present. At that time, I assumed that your
15 staff received copies or would secure copies."

16 The reason I want to correct the record is because,
17 if you read it without knowing of these two letters and the
18 exchange of correspondence, you might get the impression that
19 staff had neglected to take up on Mr. McIver's information
20 and pass it on to the Board or use it in the type of
21 memorandums that we were preparing, and I think this reflects
22 here very promptly that he did furnish it to committee

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1 members but that staff did not get them, and I just wanted to
2 make that clear on the record that we, in fact, did not have
3 it until he gave it to us a week later, which was fine.

4 CHAIRMAN WITTGRAF: Mr. McIver.

5 MR. MCIVER: Well, in response to the question,
6 the assumption, I think, was proper. I just felt that -- I
7 didn't understand the reason for the letter. I didn't know
8 you were just trying to make sure that your staff was
9 covered. Based upon your representation today, I understand
10 you're trying to cover the staff.

11 It was never my intention to mislead the Board by
12 making the statement, because I knew I gave it to the
13 Provisions Committee, and I assumed that the staff got a
14 copy.

15 MR. O'HARA: Let me comment on that.

16 CHAIRMAN WITTGRAF: Mr. O'Hara.

17 MR. O'HARA: Just to clarify the impression in the
18 record, if somebody is reading it that was not at the
19 meeting, they would get the impression that the staff didn't
20 do what they should have done with it, which is to turn it
21 over to the Board to use it in the presentation, which was
22 prepared by Ellen Smead. That's what I wanted to clarify,

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1 that you had given it to the Board members, but the staff had
2 not gotten it.

3 CHAIRMAN WITTGRAF: My impression is here that both
4 of you gentlemen are trying to indicate that you're operating
5 in good faith, and I accept that on behalf of the Board.
6 Further questions or comments for the president. Ms. Pullen.

7 MS. PULLEN: Mr. President, I appreciate your
8 report concerning the number of hours of employees' staff
9 time it took to prepare for the March Board meeting. I would
10 request that you make the same kind of assessment for this
11 Board meeting and each future Board meeting, and I would also
12 request that you be sure to include the number of hours
13 follow-up time that are required by the staff in following up
14 meetings.

15 MR. O'HARA: That will be done, Ms. Pullen.

16 MS. PULLEN: Thank you.

17 CHAIRMAN WITTGRAF: Further questions or comments
18 for the president?

19 (No response.)

20 MR. O'HARA: That will conclude my report,
21 Mr. Chairman. Thank you very much.

22 CHAIRMAN WITTGRAF: Thank you. At this time, the

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1 Chair recognizes the Inspector General, Mr. Quatrevaux, for
2 his report in Open Session. Mr. Quatrevaux.

3 INSPECTOR GENERAL'S REPORT

4 MR. QUATREVAUX: Good morning, Mr. Chairman.

5 CHAIRMAN WITTGRAF: Good morning.

6 MR. QUATREVAUX: Let me begin with a quick summary
7 of activities of our office, as related to the
8 reauthorization, LSC Reauthorization Act. We continued the
9 dialogue I reported at the last meeting with both Majority
10 and Minority members of the Judiciary and Government
11 Operations Committee. The latter committee has jurisdiction
12 over IG affairs.

13 We subsequently provided to both the Majority and
14 Minority staff a draft amendment. That amendment, as was
15 indicated yesterday, was subsequently submitted by
16 Mr. McCollum. There have been a total, now, of seven
17 amendments. I miscounted yesterday, in speaking to the
18 Reauthorization Committee.

19 There are seven amendments that relate to the
20 comments that I provided you in February. Mr. Frank's
21 amendments No. 12 and 37 correct some of the concerns that I
22 raised in February. Specifically, No. 12 restores the

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1 prohibition co-mingling of funds, and No. 37, by changing the
2 language with regard to investigations to accept criminal
3 investigations, essentially, accepts the Inspector General's
4 office.

5 The other five amendments -- well, I spoke to the
6 26th. Three were submitted by Mr. Horton. They are, in our
7 reading, mutually exclusive. Of those, No. 36 is, in our
8 view, the best substitute to the one that we drafted
9 ourselves.

10 I believe that, and I'm going to attempt to
11 respond, at least in part, to the memorandum provided by
12 Ms. Pearl/Mr. Houseman. I don't agree with everything
13 --

14 CHAIRMAN WITTGRAF: Okay. Let me interrupt you
15 there just a moment, Mr. Quatrevaux. Reference was made to
16 that memorandum, I think, a few minutes ago by Mr. Kirk, but
17 for the benefit of the Board members who didn't happen to see
18 that yesterday or today, why don't you hold up that
19 memorandum so that people can identify it visually and
20 identify it among their papers or obtain a copy, if they want
21 it. It's dated the what?

22 MR. QUATREVAUX: It's dated April 3rd, Friday.

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1 CHAIRMAN WITTGRAF: Mr. Uddo.

2 MR. UDDO: Mr. Chairman, I was just going to
3 suggest that it might be better for this to be done during
4 our report, because we've got a motion that goes to the
5 question of whether or not the Board is going to recommend
6 anything in this area to the Congress, and it may be better
7 to get Mr. Quatrevaux's comments in connection with the
8 discussion of that motion rather than in his general report.

9 MR. QUATREVAUX: I would agree with Mr. Uddo.

10 CHAIRMAN WITTGRAF: Fine. Why don't you go on,
11 then, to nonlegislative matters. Mr. Rath.

12 MR. RATH: Well, I'm going to confess to you even
13 more confusion than usual, because Mr. Kirk referred to a
14 memo, and Mr. Uddo, and I haven't seen it. It was it
15 distributed to the Board?

16 MR. UDDO: It was distributed yesterday during the
17 Reauthorization Committee meeting. Do we have an extra copy
18 of that, Houseman, Pearl? Maybe when Pat comes back we'll
19 get a copy.

20 MR. RATH: This was not something that was sent out
21 to everybody?

22 MR. UDDO: No. It was hand-delivered at the

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1 meeting yesterday.

2 CHAIRMAN WITTGRAF: Mr. Quatrevaux.

3 MR. QUATREVAUX: The next topic is the Inspector
4 General's semi-annual report. The period closes at the end
5 of March. The report is due to the Board at the end of
6 April, and the Board then has 30 days to respond to that
7 report.

8 We will, of course, meet that deadline, and if we
9 can get the report to you sooner than the end of April, we
10 will certainly try to do that. At the same time, at next
11 month's Board meeting, in coincidence with the semi-annual
12 report, I intend to give to you a report which traces the
13 progress that we've made in the OIG toward the objectives
14 that I set forth.

15 CHAIRMAN WITTGRAF: Mr. Kirk.

16 MR. KIRK: Within 30 days after you give your
17 report, we, as the management, have to respond to that
18 report?

19 MR. QUATREVAUX: That's correct.

20 CHAIRMAN WITTGRAF: And the Congress has made it
21 clear they don't consider no response to be a response.

22 MR. KIRK: Right.

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1 CHAIRMAN WITTGRAF: Mr. Kirk.

2 MR. KIRK: My guess is this is going to be a
3 relatively easy report to respond to. I'm probably going to
4 recommend that we not hire outside counsel for preparing a
5 response, but that will have to be done and voted on at the
6 next meeting. So I'm planning an OIG Oversight Committee
7 meeting for the Sunday preceding the --

8 CHAIRMAN WITTGRAF: On May 17th, preceding the
9 scheduled May 18th meeting?

10 MR. KIRK: Right. We'll probably submit then our
11 suggested response as management, and then it will be voted
12 on at the meeting.

13 CHAIRMAN WITTGRAF: And you'll have the better part
14 of three weeks, then, from the end of April until May 17th to
15 review it and prepare the first draft. Mr. Quatrevaux.

16 MR. QUATREVAUX: Are there any other questions on
17 the semi-annual report?

18 (No response.)

19 MR. QUATREVAUX: The basic element of fraud
20 prevention is the publication of circumstances where a person
21 was apprehended and punished. Last year a program reported
22 the loss of funds, mysterious loss of funds, to the

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1 Corporation.

2 OIG got involved -- this was last April, April
3 '91 -- and, at the request of the new executive director,
4 provided some guidance and assistance. The primary role,
5 however, was played by the program.

6 The loss of funds involved the chief fiscal officer
7 and interim executive director of the program. The
8 defendant, as I indicated to you last month, pleaded no
9 contest to felony grand larceny. The defendant was sentenced
10 last week and received one year supervised probation, 100
11 hours community service and was required to provide full
12 restitution, including the costs to the program of conducting
13 the investigation as well as their insurance deductible.

14 CHAIRMAN WITTGRAF: What does that amount add up
15 to? Do you know, offhand?

16 MR. QUATREVAUX: I believe it's a little under
17 \$8,000.

18 CHAIRMAN WITTGRAF: A little under \$8,000?

19 MR. QUATREVAUX: Correct. Any other questions on
20 that topic?

21 (No response.)

22 CHAIRMAN WITTGRAF: Go ahead.

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1 MR. QUATREVAUX: That's all I have for Open
2 Session.

3 CHAIRMAN WITTGRAF: Thank you, Mr. Quatrevaux. At
4 this time, the Chair recognizes Mr. Rath as the Chair of the
5 Operations and Regulations Committee of the Board for any
6 report on behalf of that committee. Mr. Rath.

7 CONSIDERATION OF OPERATIONS AND REGULATIONS

8 COMMITTEE REPORT

9 MR. RATH: My report will be brief, Mr. Chairman,
10 because we have not met since our last meeting. We're going
11 to meet tomorrow. I want to just do a couple things. First,
12 there has been, apparently, some confusion as to the date of
13 the meeting, and I'll take responsibility for that, and I
14 apologize to Mr. Kirk and Mr. Shumway about the scheduling.
15 To the extent there was a mixup, I'm willing to take
16 responsibility for it.

17 I do want to go forward with the meeting, even in
18 the absence of those two members only, because I want to keep
19 the process going. There will be no vote or anything taken
20 on substance tomorrow except to get a report from the group
21 that's been working together, hopefully collaboratively, to
22 move the competition study forward. Those meetings have gone

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1 on.

2 There was a meeting on the 31st and some follow-up
3 done on Options 1 and 3, and I don't see Ms. Smead here at
4 this point. I don't want to get into a long discussion of
5 it. We'll go through that tomorrow, and my understanding is
6 that there is some degree of optimism in the group that we're
7 near closure on those options, although we may be moving the
8 location of the study on the basis of a concern by both staff
9 and the Advisory Group that the original location in
10 Louisiana may not be truly representative, and, therefore,
11 sort of, worthy, in terms of credence to the study.

12 Our plate continues to fill up, and we have a
13 timekeeping project which a proposal has been made on. We're
14 not going to take action on that tomorrow either. I think
15 the effort is to complete competition first, then move to
16 timekeeping, and then, just to keep our idle moments free,
17 Mr. Dana has provided me with a lengthy memo on all the
18 regulations that we need to review and get current on before,
19 I guess it's October, but I see that following in the wake of
20 timekeeping, which follows in the wake of competition.

21 CHAIRMAN WITTGRAF: Thank you, Mr. Rath. I'd make
22 one comment for you and for the members of your committee,

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1 following on the comments made by Mr. Boehm this morning. If
2 you look at the so-called Legal Services Reauthorization Act
3 of 1991, H.R. 2039, it has the timekeeping provision in, I
4 believe, Subsection B of Section 19, wherein certain
5 timekeeping and record-keeping requirements are set out.

6 My understanding is that there is full committee
7 concurrence, that there is going to be floor acceptance, and
8 that the White House, in whatever policy statement it makes
9 tomorrow is going to acknowledge its approval of that effort.

10 So we've got some fairly specific guidance, even if
11 we don't happen to have reauthorization occur yet before this
12 Congress adjourns. I think, as we move forward with some
13 monies we have available, additional monies we may have
14 available in the next fiscal year, that we want to follow
15 closely the guidance provided in Subsection B of Section 19
16 of H.R. 2039.

17 MR. RATH: Well, that's very helpful, Mr. Chairman.
18 It may give more direction to the discussions that are going
19 on. I have not seen the language, so I really shouldn't
20 comment on it. But it will help us frame our discussions.

21 CHAIRMAN WITTGRAF: The devil will still be in the
22 details, as Mr. Boehm indicated, but there is broad

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1 concurrence in that requirement. So I think it's the one we
2 want to follow with or without reauthorization legislation.
3 Mr. Kirk.

4 MR. KIRK: Mr. Rath, do I assume, then, that the
5 timekeeping will not be addressed tomorrow?

6 MR. RATH: That's right, other than just a report
7 of the discussions, to the extent there has been any
8 discussions between staff and the Advisory Group on
9 timekeeping. I think it's been de minimis. Other than that,
10 I don't see a substantive discussion of it.

11 MR. KIRK: And Mr. Houseman's letter will be
12 addressed at a later --

13 MR. RATH: Absolutely.

14 CHAIRMAN WITTGRAF: Further discusses?

15 Mr. Shumway.

16 MR. SHUMWAY: I'm sorry that I can't be here for
17 that committee meeting tomorrow, but I surmise that the
18 motive for setting it tomorrow had something to do with my
19 statement at the last meeting that I preferred not to meet on
20 a Sunday. If that was part of the motive, I appreciate that.
21 I'm just sorry that I can't be here tomorrow.

22 MR. RATH: I appreciate that. Thank you.

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1 CHAIRMAN WITTGRAF: Further discussion?

2 (No response.)

3 CHAIRMAN WITTGRAF: Hearing none, and assuming no
4 action is required, we will move to the Report of the Special
5 Reauthorization Committee. Mr. Uddo.

6 MR. RATH: The record should reflect that Mr. Uddo
7 has exceeded even his normal eloquence.

8 CHAIRMAN WITTGRAF: The record will so reflect,
9 Mr. Rath. In the absence of Mr. Uddo at the moment, or in
10 light of the eloquence of which Mr. Rath has spoken, the
11 Chair will ask that we move past Agenda Item 8, consider that
12 subsequently, move to Agenda Item 9, Consideration of the
13 Report of the Committee on Provision of Delivery of Legal
14 Services. Mr. Hall.

15 REPORT OF THE COMMITTEE ON DELIVERY OF LEGAL SERVICES

16 MR. HALL: Thank you, Mr. Chairman, and we did meet
17 yesterday once more and discussed our three topics, the
18 meritorious grants, attorney retention, and the interstate
19 subgrant issues.

20 I'm pleased to report that the Committee, at least,
21 feels that we've completed our work on the meritorious
22 grants. Basically, a lot of it was informational. We

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1 learned that past grants had been made. We learned the
2 amounts. We received some charts that showed the types of
3 awards that had been made during the various different years.

4 We then heard about the procedure that will be used
5 to make future grants. The Board endorsed a policy of making
6 them. We learned that there will be \$500,000 available for
7 the rest of this year for such grants. We learned that the
8 staff has a public notice ready to be published to tell all
9 that these grants are available.

10 Those are all internal operating procedures, which
11 the Committee did not feel needed to be voted on, and that
12 notice will issue forth, and, I take it, that we'll receive
13 some applications and make some grants. Perhaps, in the
14 future, as a members' report, I may inform the Board of what
15 grants were made and how they're going.

16 The interstate subgrant issue, we did discuss that
17 again yesterday, and I feel like the Committee may have
18 completed it work on that as well. Again, we learned that,
19 in the past, the Corporation has disfavored making an
20 interstate subgrant because of the various languages in the
21 Act, and that seemed to indicate that local problems should
22 be solved by local personnel.

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1 There is no written policy that the Board has, and,
2 I take it, there is no firm unwritten policy. It has gone by
3 a case-by-case basis in the past, and I suppose it will
4 continue to do so in the future. We heard from Harrison
5 McIver once more that he provided us a paper in response of
6 it for the record and again urged a case-by-case basis, in
7 looking to the future on that.

8 Having said that, the Committee doesn't intend to
9 recommend a written policy, and we consider that issue at an
10 end, at least at this time.

11 The attorney retention issue was discussed. We
12 still do not have all the information that we need to make
13 any recommendations or judgments on that. We're waiting for
14 a survey from NLADA and from National Association of Public
15 Interest Lawyers. Those surveys, I think, will tell us
16 -- give us the various statistics on the problems that field
17 programs have had getting lawyers and their pay, and so
18 forth. I'm not sure what it will tell us, but it's one thing
19 we're waiting to see.

20 I do know that the information will be several
21 years old, and, depending on what it shows and how quickly we
22 get it, the staff may prepare their own survey and put it

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1 out. When we get those things back, we'll learn more.

2 We did learn one thing that had not come up before,
3 and that's that the programs seem to have a greater problem
4 retaining minority attorneys than others, and that's because
5 they're highly recruited by law firms and from law firms to
6 judgeships and so forth. I suppose we may look at that and
7 focus on that problem in particular in the future. That
8 concludes my report.

9 CHAIRMAN WITTGRAF: Mr. Hall, would you care to say
10 anything about tomorrow's hearing, just by way of
11 introduction or preparation?

12 MR. HALL: Thank you, Mr. Chairman. The Provisions
13 Committee will meet again tomorrow in Austin. We are going
14 to look at ADR, Alternate Dispute Resolutions. We have a
15 list of very good speakers that are going to talk to us, and
16 I think that we have pretty much -- we have a pretty good
17 range coming from different areas.

18 We have Mrs. Martha Hill Jamison, who is an
19 attorney and a mediator, and she's from the U.S. Arbitration
20 and Mediation of Texas, and their business, apparently, does
21 quite a bit of arbitration, perhaps for some of the programs.
22 She's going to give us her perspective on it.

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1 Then Bob Byrd, who you all may recall was one of
2 our finalists when we did our presidential search before, and
3 executive director from Gulf Coast Legal Services is going to
4 speak to us. Bob teaches a class at one of the colleges on
5 mediation, and he's very big on it, and I look forward to
6 hearing from him.

7 Allen Houseman was going to speak to us. He's not
8 able to come, and Dee Miller, of course, is an excellent
9 replacement, will give his views, and then we have several
10 other speakers from different field programs and legal aid
11 societies. So it will be informational, and it should be
12 quite interesting, and we, of course, plan to focus on how
13 the legal services field can use ADR in what they do.

14 CHAIRMAN WITTGRAF: Thank you, Mr. Hall. I have
15 one question. I didn't have the opportunity to be present
16 for your committee's meeting yesterday, and I haven't -- I
17 may have seen, but I haven't had a chance, in any case, to
18 read the notice or the proposed notice regarding the so-
19 called meritorious grants.

20 Am I correct in assuming that meritorious grants
21 and the criteria or definition are the same as innovative
22 grants or essentially the same as innovative grants, as we've

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1 requested funds specifically therefore in our budget mark or
2 appropriation request for the next fiscal year?

3 MR. HALL: Mr. Chairman, in my opinion, they are.
4 Ellen may want to address that.

5 CHAIRMAN WITTGRAF: Ms. Smead?

6 MS. SMEAD: Yes, sir, they are. The answer to the
7 question is yes.

8 CHAIRMAN WITTGRAF: Mr. Dana is rolling his eyes or
9 furrowing his eyebrows. Mr. Dana.

10 MR. DANA: No. Just intuitively, I thought that it
11 could be a meritorious grant that was not truly innovative,
12 but maybe I'm wrong. Am I wrong?

13 MS. SMEAD: No. You are right. There could be
14 innovative without -- I mean, there could be meritorious
15 without innovative.

16 CHAIRMAN WITTGRAF: Both of those things are
17 probably true.

18 MR. DANA: So it's sort of meritorious and/or
19 innovative grants?

20 MS. SMEAD: Yes.

21 MR. RATH: But I trust we're giving no grants that
22 are not meritorious?

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1 MS. SMEAD: That's right. They will only be a
2 merit.

3 CHAIRMAN WITTGRAF: Let me ask this of Mr. Hall or
4 Ms. Smead, is innovation a criterion mentioned in the notice
5 that you all have prepared?

6 MS. SMEAD: The notice itself just says,
7 "Innovative and meritorious," and it would have to be
8 innovative or meritorious. I mean, it has to be meritorious,
9 but it could be innovative, but it's not required.

10 CHAIRMAN WITTGRAF: Mr. Dana.

11 MR. DANA: Mr. Chairman, I apologize, too, for
12 missing my first of your meetings, Blakeley, but I won't miss
13 the next one.

14 CHAIRMAN WITTGRAF: Is that a threat or a promise,
15 Mr. Uddo.

16 MR. UDDO: Yes, Mr. Chairman. "But where is the
17 500,000 coming from?" said the Chairman of the Audit and
18 Appropriations Committee.

19 CHAIRMAN WITTGRAF: Mr. Hall.

20 MR. HALL: That question was asked.

21 CHAIRMAN WITTGRAF: Ms. Smead, is Mr. Richardson
22 here?

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1 MS. SMEAD: It comes from the amounts that are left
2 over in each of the grant lines. That's about \$400,000,
3 except for migrant. The balance comes from the grant
4 recoveries to date, which is about another 130,000.

5 CHAIRMAN WITTGRAF: Mr. Dana.

6 MR. DANA: So this is what normally makes up the
7 carry-over fund, in large part, I gather.

8 MS. SMEAD: Part of it is a carry-over. It's also
9 where we pulled money from in the past to make some of our
10 grants.

11 CHAIRMAN WITTGRAF: Mr. Dana.

12 MR. DANA: And we're dealing only with current
13 appropriated funds? We are have not gone back and -- well, I
14 guess I would like a report from exactly where those funds
15 are coming. If we are pulling funds from the Native American
16 line to spend money in another endeavor, we at least ought to
17 know it.

18 CHAIRMAN WITTGRAF: Ms. Smead.

19 MS. SMEAD: There will be 107,000 from the basic
20 field line, approximately 20,000 from the Native American
21 line, 95,000 from the state support line, and 190 from the
22 national support line.

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1 CHAIRMAN WITTGRAF: Do you want to say that just
2 one more time, Ms. Smead?

3 MS. SMEAD: Okay. 107,000 from basic field, almost
4 20,000 from Native American, 95,000 from state support,
5 190,000 from national support.

6 CHAIRMAN WITTGRAF: Mr. Dana.

7 MR. DANA: Mr. Chairman, this was the first meeting
8 in a long while when I didn't think it was necessary to have
9 an Audit and Appropriations Committee meeting, and I was
10 being mindful of Ms. Pullen's concerns in this area.

11 My assumption is that you do not intend to limit
12 the beneficiaries of the \$20,000 pool for Native American
13 grants and the 95,000 for state support, and the 190,000 for
14 national support. In other words, you intend to take that
15 money and treat it as one pool, and everybody is able to
16 apply. So that, in effect, it is probably likely that some
17 of the 190 that Congress appropriated for the national
18 support line will be going to basic field programs.

19 MS. SMEAD: At this point, we only identified these
20 as pools of money and had no intention of crossing over. In
21 the past, we have only -- in the past, if an application came
22 in from the National Support Center, we pulled it from the

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1 National Support Center. Same if it came in from a Native
2 American program, we pulled it from the Native American
3 program.

4 At this point we've just identified these as
5 available funds at this point in time. The staff had not
6 pooled them.

7 MR. DANA: The staff had not what?

8 MS. SMEAD: The staff had not earmarked them one
9 way or the other or tried to pool them into one lump fund.

10 CHAIRMAN WITTGRAF: Mr. Dana.

11 MR. DANA: I'm not sure if I know what your answer
12 is. Should the people who are responding to this, who are
13 out there, figuratively speaking, understand that there is
14 only \$20,000 for national support programs and 107,000
15 available for basic field programs, but 190,000 available for
16 national support programs? In other words, are there going
17 to be subpools, or don't we know?

18 MS. SMEAD: We don't know at this point in time.

19 CHAIRMAN WITTGRAF: Mr. Dana.

20 MR. DANA: Mr. Chairman, I think it would be
21 appropriate, at least for the Audit and Appropriations
22 Committee, to meet on this subject and at least consider the

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1 appropriateness of taking funds away from one area that
2 Congress had set aside and giving it to another, but I don't
3 know that that should hold up anything.

4 CHAIRMAN WITTGRAF: Mr. Hall.

5 MR. HALL: We certainly cannot earmark \$500,000
6 exclusively for this purpose. We have a request to do that
7 type of thing for the '93 budget, and there we probably would
8 have a pool from which we could draw.

9 My understanding of what we have done is given the
10 green light to the staff to begin receiving applications for
11 innovative ideas or meritorious ideas, and they will use the
12 money that has been available, the same type of money that's
13 been available in the past.

14 I think you would still have to -- if you're going
15 to going to draw across one line, don't have you to notify
16 Congress? I mean, all that would still have to be done, and
17 the fact that this money might be spent elsewhere in a better
18 fashion is something I'm sure the staff would take into
19 account in making these grants. I certainly don't mean to
20 imply that there is \$500,000 set aside specifically
21 exclusively for this purpose.

22 MS. SMEAD: Correct.

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1 MR. HALL: There is not, and we couldn't, of
2 course, take that action, as a committee. I guess I was
3 interested in how much money that was available or could be
4 used if it was a proper judgment to use it in that fashion,
5 and I was informed that that's how much there is, not that
6 that's how much will be used, but that's how much that's
7 available for possible use. Howard, is that --

8 CHAIRMAN WITTGRAF: Mr. Dana.

9 MR. DANA: I gather that is an accurate assessment
10 of the amount of money that is available in the 1992 budget.
11 There is additional money available from prior years, carry-
12 over from the various carry-over categories.

13 You're setting a ceiling, and I think it would be
14 helpful to the field, frankly, to know if there are four
15 separate pools or one pool that everybody can apply for, but
16 I think that can be developed. I have, in front of me,
17 your -- what I believe, is a draft announcement of funding,
18 or has this gone out?

19 CHAIRMAN WITTGRAF: Ms. Smead.

20 MS. SMEAD: It's a draft.

21 MR. DANA: Okay. And it indicates that we are
22 announcing that there is up to 500,000 available during this

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1 fiscal year for promotion of delivery of high quality
2 civil/legal for this purpose, and it indicates that
3 guidelines will be available in May?

4 MS. SMEAD: Correct.

5 MR. DANA: Have those been approved, or have you
6 seen the guidelines?

7 MR. HALL: The guidelines for making the grant?

8 CHAIRMAN WITTGRAF: Ms. Smead.

9 MS. SMEAD: We've provided the flow chart showing
10 the procedures to be used, but there is also -- we have been
11 drafting a proposal that would be available which would
12 include the guidelines, and that has not been provided to the
13 committee yet.

14 CHAIRMAN WITTGRAF: Mr. Hall, as I understand this
15 colloquy, up to \$500,000 available, it comes out of specific
16 line item now. If it would turn out that monies needed to be
17 used across line items, your committee would recommend to the
18 Board or to the staff the reprogramming requirements
19 presently in force be utilized so that there are no
20 restrictions.

21 It's not only national support centers or state
22 support centers or others who fall into the specific line

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1 item now who would apply, not necessarily for those purposes,
2 but it's an open-ended request for grant proposals, and then
3 whatever is necessary, if anything regarding reprogramming
4 will be done?

5 MR. HALL: That's correct. Whether we would
6 recommend that or not, that would be the law, it's my
7 understanding. It would have to be done that way.

8 CHAIRMAN WITTGRAF: Mr. Dana.

9 MR. DANA: Well, I think he's right.

10 CHAIRMAN WITTGRAF: Public comment? Ms. Rogoff.

11 PUBLIC COMMENT

12 MS. ROGOFF: I apologize. Again, my name is
13 Regina Rogoff. I am speaking today as co-chair of the
14 Funding Criteria Committee, and it's possible that I should
15 have made some of these comments yesterday, but I had not
16 seen the document, nor had I been at the last meeting at
17 which this was discussed. So I was hearing it cold for the
18 first time.

19 On behalf of the Funding Criteria Committee of the
20 Project Advisory Group, I would first like to thank the
21 Committee for attempting to identify the source of funds that
22 these meritorious grants have been made from in the past and

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1 what criteria having applied in making those grants.

2 However, consistent with the position that the
3 Funding Criteria Committee and the PAG have maintained
4 historically, we would again urge you to retain the character
5 of this money and not have money that was earmarked by
6 Congress for basic field programs or for national support
7 programs or for state support or Native Americans to be used
8 for other purposes.

9 We would also ask for an explanation of why these
10 amounts have not been expended in the current year in the
11 current line item for which they were appropriated. 100,000
12 in basic field may be an accounting process of just rounding
13 out the zeros, but 190,000 in national support, which is a
14 much smaller line item is a lot of money not going to the
15 purpose that Congress had intended.

16 We are also concerned, and this was, really, the
17 first time that I had seen who would be eligible for applying
18 for these grants, in addition no existing grantees, the
19 notice of availability of funds indicates that other
20 nonprofit organizations, private attorneys, bar associations,
21 and other interested parties would be solicited and invited
22 to apply for these funds.

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1 Again, Congress has earmarked these funds
2 appropriated to the Legal Services Corporation specifically
3 for the purposes that are indicated in the appropriation, and
4 that is to fund basic field programs, Native American
5 programs, national and state support programs.

6 So that to the extent that you pursue this, I would
7 urge that if the character of the money is not maintained,
8 and it's not distributed to do the existing -- distributed
9 consistent with existing funding formulas but is, rather,
10 distributed on a grant basis in response to meritorious
11 applications that it at least be limited to current
12 recipients, that Congress did not earmark these monies for
13 the purpose of having a universal application process, but
14 rather appropriated them for the existing delivery system,
15 and those are the recipients who should be invited to bid, if
16 the money is not to be distributed on the basis that the
17 formulas would provide.

18 CHAIRMAN WITTGRAF: Thank you, Ms. Rogoff. Further
19 discussion?

20 (No response.)

21 CHAIRMAN WITTGRAF: As I understand your report,
22 then, Mr. Hall, on behalf of your committee, no action is

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1 being recommended to the Board at this time or requested of
2 the Board?

3 MR. HALL: That's correct.

4 CHAIRMAN WITTGRAF: Thank you. At this time, we
5 will return to Agenda Item 8, the Report of the Special
6 Reauthorization Committee. Mr. Uddo.

7 REPORT ON CONSIDERATION OF SPECIAL

8 REAUTHORIZATION COMMITTEE

9 MR. UDDO: At the risk of detracting from my
10 earlier eloquence, Mr. Chairman, I'll try to give a report at
11 this time. The committee met and heard a more extended
12 presentation by Mr. Boehm on the status of reauthorization,
13 at the end of which the Committee considered whether or not
14 there would be any areas in the reauthorization act that we
15 might want to recommend to the Board that we address anew or
16 readdress, since most of the issues were previously addressed
17 by the Board.

18 Three motions were made. The first motion was one
19 to endorse a particular amendment listed as No. 26 on the
20 list of amendments that we were presented relative to the
21 Inspector General's function.

22 The resolution or the motion reads, "The Board of

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1 Directors of the Legal Services Corporation favors an
2 amendment, a copy of which accompanies this resolution, which
3 is supported by the LSC Inspector General, and which would
4 make the LSC reauthorization compatible with the Inspector
5 General Act of 1978, as amended, and which would ensure the
6 LSC Inspector General the ability to require disclosure of
7 records in order to effectively audit the LSC and its
8 recipients."

9 M O T I O N

10 MR. UDDO: That motion passed by a vote of two
11 yeas, one nay, one abstention. Therefore, it comes to the
12 Board as a motion recommending its adoption. Do you want to
13 do them one at a time?

14 CHAIRMAN WITTGRAF: Let me ask you a question,
15 Mr. Uddo generally about your committee's report. I'm a
16 little bit confused, I guess, from where I thought your
17 committee's deliberations ended up yesterday. I guess we
18 have before us three proposed resolutions, one of which as a
19 preamble and two of which do not.

20 MR. UDDO: You really only have -- that's right,
21 you do have three.

22 CHAIRMAN WITTGRAF: I was thinking, as we had

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1 discussed this subject yesterday, that the preamble really
2 applied to any or all resolution reiterations and not any one
3 specific resolution reiteration.

4 MR. UDDO: I misunderstood your suggestion. I
5 thought you were referring particularly to the one on
6 abortion, because of the potential Presidential veto, but we
7 can certainly add preambles to all three, suggesting the
8 Board is reurging these recommendations for reasons similar
9 to those in the preamble that you have.

10 CHAIRMAN WITTGRAF: I guess, to correct my
11 statement, probably two reiterations, and one is a an
12 iteration, if there is such a thing.

13 MR. UDDO: The Inspector General.

14 CHAIRMAN WITTGRAF: The one having to do with the
15 Inspector General. Thank you for the clarification. I
16 think, perhaps, the Inspector General wishes to be
17 recognized, too, but I'll --

18 MR. UDDO: Well, I was going to say, it comes as a
19 motion. If you want some discussion on it, we can have that
20 now, or after the Inspector General give his comments, but it
21 does come as a motion to the Board, because it passed the
22 committee, and whatever your pleasure is, if you want some

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1 Board discussion before Mr. Quatrevaux speaks or after.

2 CHAIRMAN WITTGRAF: I think Mr. Quatrevaux would
3 like to be recognized for a few moments. Mr. Quatrevaux.

4 MR. QUATREVAUX: I have to begin by apologizing to
5 the Chairman of the Reauthorization Committee who asked if I
6 was prepared to speak to the amendments before the meeting
7 yesterday. As you all know, these amendments came to us late
8 in the day. I'll use that as an excuse.

9 I need to broaden my comments, because I led you to
10 believe that as I did, that Amendment No. 26 would solve all
11 the problems that I had raised to you in February. That is
12 not correct. It would also be necessary to address those to
13 include Amendment No. 12 from Mr. Frank, which restores the
14 prohibition on co-mingling, and also Amendment No. 37
15 submitted by Mr. Frank, which changes the portion on
16 investigations to accept criminal cases.

17 So those would also be required, in addition, in my
18 view, to No. 26. I want to make that clear to you.

19 CHAIRMAN WITTGRAF: Mr. Uddo.

20 MR. UDDO: 12, it was reported to us, was going to
21 be a consensus amendment, and that there was no real
22 disagreement about the co-mingling part. The other one I'm

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1 not familiar with. It might be a good time to have some
2 discussion, because this is, sort of, the problem that I was
3 concerned about yesterday, and one of the reasons I abstained
4 was that picking an amendment and getting behind an amendment
5 is, first of all, not I way we've been doing this process.

6 This is the first specific language that we have
7 chosen to endorse, and secondly, in light of what Mr.
8 Quatrevaux tells us now, it doesn't go as far as, apparently,
9 the supporters of the amendment thought it would.

10 We thought yesterday that that one amendment was
11 your language and would have covered everything. I would
12 suggest, now that I'm going to vote and not abstain, that we
13 not pass the endorsement of a particular amendment or group
14 of amendments and go back to the process of a more generic
15 statement supporting the Reauthorization Act be made
16 consistent with the Inspector General's function, and then
17 let the process do its job of making sure that that gets
18 achieved.

19 CHAIRMAN WITTGRAF: Let me try to clarify where I
20 think we're at. The resolution that is entitled, "Inspector
21 General Reauthorization Issue Resolution" is before us by
22 virtue of Committee's action. That is on the floor. Are you

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1 making a motion now to substitute something for that.

2 MR. UDDO: No, I don't think I can, as the
3 Chairman, can I, of the Committee? I mean, I'm making the
4 report of the Committee. I guess what we need to do is see
5 if there are any amendments or substitutes from the Board,
6 and there may be, and, if not, I guess if I have the
7 prerogative to do that I'll do that.

8 CHAIRMAN WITTGRAF: Well, let me ask Mr. Quatrevaux
9 first. Mr. Quatrevaux, by any chance, have you developed any
10 wording that speaks to your concerns that is shorter than an
11 amendment and covers the breadth of your concerns?

12 MR. QUATREVAUX: What would cover the breadth is
13 all three of those collectively, No. 12, 26, and 37.

14 CHAIRMAN WITTGRAF: As a comment, let me say I
15 agree with Mr. Uddo's view that I think not only because the
16 Committee has yet to adopt its modified rule and recommend
17 that to the House as a whole, but also because I believe it
18 undermines the credibility of our Board's recommendations or
19 resolutions to pick and choose particular amendments or
20 particular sponsors, I'm wondering if you have or if we table
21 consideration of this matter at the moment, if you want to
22 develop some wording that might be a substitute for this.

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1 You have not, as I understand your earlier comment.

2 MR. QUATREVAUX: That's correct. The language my
3 office prepared and that was submitted to both sides of the
4 isle is contained in Amendment No. 26.

5 CHAIRMAN WITTGRAF: Mr. Uddo.

6 MR. UDDO: I was going to suggest this may be the
7 easiest thing to do, just in terms of something else that you
8 can keep in mind, when you discuss it. We can take what I
9 just read, detach the amendment and scratch out one part of
10 it so it would read:

11 "The Board of Directors of the Legal Services
12 Corporation favors amendments, which would make the LSC
13 Reauthorization Legislation compatible with the Inspector
14 General Act of 1978, as amended, which would ensure the LSC
15 Inspector General the ability to require disclosure of
16 records in order to effectively audit the LSC and its
17 recipients." That may be the easiest.

18 CHAIRMAN WITTGRAF: Perhaps before I entertain that
19 as an amendment to the Committee's report, an amendment by
20 substitution, I guess, I'll ask Ms. Pullen if she wants to
21 speak to the Committee Report.

22 MS. PULLEN: I want to speak to this aspect of the

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1 Committee Report. I want to speak to this little controversy
2 that has been generated over this aspect of the Committee
3 Report, Mr. Chairman.

4 CHAIRMAN WITTGRAF: Would you like to speak before
5 we entertain the substitute amendment?

6 MS. PULLEN: Yes.

7 CHAIRMAN WITTGRAF: Ms. Pullen.

8 MS. PULLEN: To say that there is something
9 improper about this Board endorsing specific language that is
10 known to be pending before a committee of Congress and,
11 ultimately, before the House of Representatives, hopefully,
12 if it clears the Rules Committee, is to suggest that we
13 should become relatively vague in what we are trying to tell
14 the Congress and to weaken our position and the position of
15 our Inspector General.

16 He has very properly, in my view, dissected what is
17 wrong with the pending reauthorization legislation and
18 responded to it by drafting specific legislative language,
19 and I believe that we should back him up in that. His name
20 is not on that legislative language because he is not a
21 member of Congress. So he does not have the authority to
22 introduce legislation.

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1 So attaching the text of his amendment to our
2 endorsement of it is the only way that we can accomplish
3 saying that we support the proposal that he is advancing,
4 because it is not officially his proposal, but we know that
5 it is.

6 To water down the resolution to, basically, suggest
7 that we don't want the reauthorization legislation to
8 undermine the Inspector General invites people from varying
9 camps, if you will, on Capitol Hill to claim that we are
10 supporting their position regardless what their position is,
11 because no one is going to -- it is my political experience
12 that no one is going to stand up and proclaim that the
13 legislative intent of either his bill or his amendment is to
14 undermine the Inspector General's ability to act.

15 So by endorsing the Inspector General's ability to
16 act without being more specific, we give aid and comfort to
17 everybody involved in the debate and say nothing. I have no
18 problem with the suggestion that the Chairman of the
19 Committee made yesterday and that was adopted by the
20 Committee on other issues, because these issues have been
21 around for a long time, and everyone can clearly know by the
22 Board's previous resolution what is being said by the Board's

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1 action.

2 So, in the other cases we referenced or reiterated
3 our previous resolution, which were very specific. On this
4 particular issue, the best way of being specific is by
5 referencing the actual proposal that is pending in the
6 Congress, because there are so many of them, and we ought to
7 say which we are talking about so as not to be in conflict
8 with ourselves and our own views and the best interests of
9 the Corporation.

10 That is what we're supposed to be expressing to
11 Congress, and I think Congress would appreciate our being
12 specific enough that they would know what we're talking about
13 and not invite our being used by anyone for any point of view
14 on this issue.

15 CHAIRMAN WITTGRAF: Mr. Quatrevaux, let me ask you
16 a couple of questions, I think, for clarification. As I'm
17 understanding Ms. Pullen's comments, the wording that's
18 attached to the proposed resolution, while it's in proper
19 House of Representatives legislative form, is wording
20 developed by you?

21 MR. QUATREVAUX: That's correct.

22 CHAIRMAN WITTGRAF: Second, did I understand you to

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1 say that this wording, as developed by you, is now inadequate
2 or needs to be supplemented with wording that's contained,
3 apparently, in some other proposals before the House?

4 MR. QUATREVAUX: There are different sections of
5 the bill involved. If you'll recall my statement, there were
6 numerous concerns that I had. The amendment that my office
7 drafted addresses the central concerns. There are some
8 others, such as prohibition on co-mingling, that are
9 contained or fixed by other amendments for which I did not
10 provide any language, because I had been told that the
11 majority would, in fact, submit such an amendment.

12 CHAIRMAN WITTGRAF: If I've understood Ms. Pullen's
13 position, she's argued for, sort of, the sanctity of your
14 literal recommendations. Do you have other literal
15 recommendations, then, in addition to what's contained in the
16 amendment that's attached to the proposed resolution?

17 MR. QUATREVAUX: Well, I would also recommend that
18 Amendments 12 and 37 be adopted as well. They do not
19 overlap. They cover completely. They are in exclusive
20 areas.

21 CHAIRMAN WITTGRAF: So if I'm understanding you
22 correctly, you're recommending to the Congress through this

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1 Board favorable consideration of what are now Draft
2 Amendments 12, 26, and 37?

3 MR. QUATREVAUX: That's correct.

4 CHAIRMAN WITTGRAF: Mr. Shumway.

5 MR. SHUMWAY: I would just submit that it's a very
6 common practice, when there are amendments pending before
7 Congress, for groups, even groups like ours, to take
8 positions on those amendments, either for them or against
9 them. I don't think there would be any surprise or any other
10 motive attributed when we deduce those specific references,
11 amendments.

12 I think the more serious consideration would be the
13 time frame that we face. If we took a position here today of
14 not specifically endorsing or rejecting certain amendments,
15 but rather try to put some other philosophy in our own
16 amendment, I think it would really not be well received by
17 Congress, because there is so little time.

18 No one is going to go back and read that stuff, and
19 no one is going to recast these amendments. I think if we're
20 going to register any kind of influence at all, it would
21 either be behind or in opposition to amendments as proposed.
22 Even though that may be something different than we've done

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1 in the past, I think those circumstances make it appropriate
2 now.

3 CHAIRMAN WITTGRAF: Mr. Uddo, let me be sure where
4 we're at and try to make it clear for all of us as best I
5 can. We have the Committee's report before us, which is
6 contained in the handout entitled "Inspector General
7 Reauthorization Issue Resolution." Have you offered a
8 substitute or not?

9 MR. UDDO: I will offer my amended language as a
10 substitute.

11 CHAIRMAN WITTGRAF: Is there a second to the
12 substitute amendment?

13 CHAIRMAN WITTGRAF: Point inquiry, Mr. Dana?

14 MR. DANA: Point of inquiry. Thank you,
15 Mr. Chairman. Before I second your suggested amendment, I
16 would be comfortable with the following: "The Board of
17 Directors of the Legal Services Corporation favors amendments
18 which would make the LSC authorization legislation compatible
19 with the Inspector General Act of 1978, as amended."

20 That is what I understand the thrust of the
21 Inspector General's point to be. Our Inspector General has
22 proposed all over the Hill this concern. Different

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1 congressmen have responded in different ways. He hasn't
2 listed Amendment No. 7, which is a frank attempt to address
3 some of his concerns.

4 I'm concerned, if we start picking and choosing
5 pieces of legislation that some of us have not read, none of
6 us probably fully understand, we're going to look cavalier in
7 our approach. We had a deliberative process that your
8 committee undertook, and we came up with some resolution,
9 which we debated.

10 I have no problem with a generic resolution, but I
11 think we would be making a mistake to pass legislation -- get
12 behind legislation that we don't fully understand, but if, in
13 fact, it is the pleasure of this Board to start to get behind
14 some legislation now that we have the author, at some point
15 I'd like to ask some questions of the author as to what he
16 means by No. 26..

17 CHAIRMAN WITTGRAF: As I understand Mr. Dana and
18 comments, he's attempting to recast your --

19 MR. UDDO: That's what I was going to respond to.

20 CHAIRMAN WITTGRAF: -- for purposes of seconding
21 it. Mr. Uddo.

22 MR. UDDO: I agree with and disagree with you,

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1 Howard. I think the last sentence does reflect an important
2 part of the concern of the Inspector General, and that is the
3 disclosure of records necessary to effectively audit.

4 I don't think that we should get into the business,
5 personally, of picking the language of one amendment over
6 another amendment. I think there are some enormous policy
7 and practical and legal arguments that can be made about
8 these, and that's why, after reading the amendment, have
9 decided that I don't want to endorse a particular amendment,
10 but the general principle that the Inspector General should
11 have access to records necessary to effectively audit doesn't
12 bother me.

13 So I guess what we're agreeing on, we really
14 shouldn't be endorsing amendments unless we're going to sit
15 here and debate those amendments and understand the
16 complications of all the provisions of those amendments and
17 really be convinced that we're getting behind what those
18 amendments say and those implications.

19 That I don't want to do, but I do want to say
20 personally that the Board endorses such amendments as would
21 make the IG function effective, including disclosure of
22 records and leave it to the Congress to effectively debate

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1 which records that should apply to and how it should apply
2 and which amendments make sense and which don't.

3 CHAIRMAN WITTGRAF: Mr. Dana.

4 MR. DANA: I deleted two phrases from your
5 proposal. One was "supported by the LSC Inspector General
6 and which."

7 MR. UDDO: No. I deleted that, too.

8 MR. DANA: All right.

9 MR. UDDO: You want that back in?

10 MR. DANA: I don't.

11 MR. UDDO: Okay. That's out.

12 MR. DANA: Because he's told everybody his view of
13 the -- and I don't want to endorse his view, because I don't
14 buy it. I'm happy to endorse the thrust of -- I think the
15 LSC Act and the Inspector General Act should be made
16 compatible. I'm not prepared to throw out the constitution
17 and client protection in order to do so, and that's what I
18 think his suggestions do.

19 CHAIRMAN WITTGRAF: Mr. Uddo, what is your
20 substitute amendment?

21 MR. UDDO: My substitute amendment is "The Board of
22 Directors of the Legal Services Corporation favors amendments

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1 which would make the LSC reauthorization legislation
2 compatible with the Inspector General Act of 1978, as
3 amended, and which would ensure the LSC Inspector General the
4 ability to require disclosure of records necessary to
5 effectively audit the LSC and its recipients."

6 MR. KIRK: I will second that amendment.

7 MR. UDDO: Thank you.

8 MR. RATH: May I ask a question?

9 CHAIRMAN WITTGRAF: Certainly. Let me ask Mr. Uddo
10 to read it just once again so that anybody who wants to make
11 any notes can. Would you read it again, please, Mr. Uddo?

12 MR. UDDO: 'The Board of Directors of the Legal
13 Services Corporation favors amendments which would make the
14 LSC reauthorization legislation compatible with the Inspector
15 General Act of 1978, as amended, and which would ensure the
16 LSC Inspector General the ability to require disclosure of
17 records necessary --" really proper English would be
18 "effectively to audit."

19 CHAIRMAN WITTGRAF: Or "to audit effectively"?

20 MR. UDDO: Or "to audit effectively." Better.
21 Just don't split the infinitive.

22 CHAIRMAN WITTGRAF: That's right. Very good.

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1 MR. UDDO: "-- the LSC and its recipients."

2 CHAIRMAN WITTGRAF: Thank you. The motion has been
3 made by Mr. Uddo. It's been seconded by Mr. Kirk.
4 Substitute? Mr. Rath.

5 MR. RATH: The last iteration of it has satisfied
6 one of my concerns.

7 MR. UDDO: The split infinitive?

8 MR. RATH: Yes.

9 MR. UDDO: That's what you were going to ask about?

10 CHAIRMAN WITTGRAF: Do they call you a minimalist?

11 MR. RATH: Always in the big picture. Devils and
12 details, as we've heard this morning. I'll probably vote for
13 this, because that helps the IG out. I share Mr. Shumway's
14 concerns in that it seems to me we're kind of late getting
15 into this game.

16 We had this whole lengthy and I think helpful
17 discussion a year ago, when we took positions on it. I don't
18 know that it makes a heck of a lot of sense for us two days
19 before a debate to start taking new positions. I don't think
20 we're going to be paid much attention to, and I'm not
21 prepared to do it today. I haven't even seen these, this
22 list of amendments.

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1 So for me to respond effective and to say what this
2 might or might not mean, I'm willing to stipulate to your
3 ability to say, "This is what I need," but I think there are
4 some genuine issues that are contained in these other
5 positions, substantive issues, that if I'm to vote on them
6 and to exercise my responsibility here, I'd want more time to
7 reflect on.

8 I just don't quite see why we're revisiting this on
9 this point. On a very narrow specific technical issue to get
10 us in compliance with the IG act, I'm willing to agree to
11 this, but to go much beyond it substantively I'm very
12 reluctant to do, and I think it's a mistake for the Board.

13 CHAIRMAN WITTGRAF: Mr. O'Hara. Mr. Kirk.

14 MR. KIRK: You said that you support the broad
15 amendment, or do you want to go into specifics?

16 MR. RATH: No. I'm saying I have a problem,
17 Mr. Kirk, in going -- revisiting many of the debates, all of
18 the debates on substantive amendments, substantive positions
19 that we took concerning the reauthorization act today.

20 Additionally, I am saying I am reluctant today to
21 go through and have any kind of meaningful discussion, and
22 what I see here are 37 or more -- 37 amendments that we might

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1 take positions on, because I haven't read them, and I have
2 not had the opportunity to. It's not been within my purview
3 to do it.

4 I am saying, if I accept the IG's concern that he
5 wants to get in compliance with his overall act, I question
6 whether you need it, because I don't think we can repeal by
7 implication.

8 So I think you're probably governed by the act
9 anyway, but to the extent you aren't, if there are technical
10 things that need be done to get you there, I do not have a
11 problem getting there, and the amendment sounds to me to be
12 the least offensive alternative to get us there, but I do not
13 want to then go beyond this and do a more substantive
14 discussion of a whole series of amendments that I have no
15 position on, because I haven't read them.

16 MR. UDDO: We only have two more motions after
17 this.

18 CHAIRMAN WITTGRAF: Mr. Kirk, the Chair understands
19 that Mr. Rath has spoken in favor of the substitute
20 amendment.

21 MR. RATH: That's right.

22 CHAIRMAN WITTGRAF: Mr. O'Hara.

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1 MR. O'HARA: Thank you, Mr. President. If the
2 Board will indulge me for a few minutes, I would like to ask
3 contend Boehm to come up to the table and explain the
4 significance regarding these amendments and what the impact
5 would be of the Board's recommendations on any of these
6 amendments with the Rules Committee.

7 CHAIRMAN WITTGRAF: Mr. Boehm.

8 MR. BOEHM: Sure. For the record, I'm Ken Boehm,
9 and, as I mentioned yesterday, the deadline for these
10 amendments was Thursday. We only had these close of business
11 on Friday. The members of Congress themselves are getting
12 these at the last minute.

13 Of the three amendments that were considered
14 yesterday that are before you today, the Inspector General
15 amendment is the only one that really departs from what was
16 passed by this Board last July.

17 There were 18 resolutions passed, and, in terms of
18 the importance of whatever we do or not do, at some point
19 that's a judgment call, though the congressmen in the Rules
20 Committee, according to the Rules Committee, is open, the
21 forum will be open tomorrow to hear their debate, and so
22 forth, were very curious for input, in terms of wanting to

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1 know who supported what and which ones were important and
2 not, all the more because you have so many different ones.

3 It's just a judgment call, and I would actually
4 defer to Mr. Shumway, as being a veteran of the Hill, but my
5 thinking is that if the Board is, in fact, on record on a
6 particular point and wants to make that one focused judgment,
7 that that would be taken into consideration when they meet
8 tomorrow afternoon.

9 It's not my call as to what you should or shouldn't
10 do, but I would defer to Mr. Shumway on that point, but I
11 think that that would be probably well-taken.

12 CHAIRMAN WITTGRAF: Thank you, Mr. Boehm. On the
13 substitute amendment, Ms. Pullen.

14 MS. PULLEN: I would like Mr. Boehm to clarify,
15 when he says that the Inspector General Resolution that is
16 before us is the only one that departs from the actions taken
17 last July, that your phrase "departs from" does not mean
18 disagrees with, but is a new, is that was not taken up last
19 July.

20 MR. BOEHM: Yeah. The other two resolution, you
21 have before you are, basically, reiterations of resolutions
22 previously passed by voice vote.

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1 MS. PULLEN: By this one is a new issue.

2 MR. BOEHM: But this one is new, right, and it
3 flows from the discussion that took place at our February
4 Board meeting, and again last March and ongoing checking into
5 this issue.

6 MS. PULLEN: Thank you.

7 CHAIRMAN WITTGRAF: On the substitute amendment,
8 Mr. Kirk.

9 MR. KIRK: My position is that this is an important
10 issue. I would like to send a message to Congress, and I
11 would like it to be as many people supporting it as possible.
12 I really favor, as Ms. Pullen has said, saying, "Here are the
13 ones we really like," if that's not going to turn Congress
14 off, just saying, "This is it," but if it's going to be a
15 six-four vote, and I can get eight-two or a nine-one, or
16 something, I'll take the overall.

17 I think that my preference is that we send a near
18 unanimous message as we can to Congress, but I would urge all
19 of you to reconsider, given the specific 6, 12, and 26, or
20 whatever the three are.

21 CHAIRMAN WITTGRAF: 12, 6, and 37, I believe. It's
22 something of a dynamic set of numbers. Mr. Rath.

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1 MR. RATH: I can go with the amendment, but what I
2 cannot accept is what you just said, which is these are the
3 ones we really like, because that implies that I have read
4 the 37 and have a position on all 37, and, of those 37, I
5 prefer these three to the exclusion of all others. I cannot
6 make that statement, and I will not.

7 CHAIRMAN WITTGRAF: Mr. Kirk.

8 MR. KIRK: Then I will substitute amendment and
9 gather your vote any way I can.

10 CHAIRMAN WITTGRAF: Further discussion on the
11 substitute to the committee resolution? Mr. Shumway.

12 MR. SHUMWAY: Well, just to clarify my position, I
13 think it's a matter of degree. I think really the best thing
14 that we could do would be to be as specific as we can, given
15 the shortness of the time.

16 If we present some type of a philosophical
17 statement, I really think, in that time frame, no one is
18 going to read it, and therefore it will not have as much
19 impact, but rather than doing nothing, I think the
20 philosophical statement is a step in the right direction.
21 I'm just saying a greater step would be to be the specific
22 action that the Inspector General has requested.

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1 CHAIRMAN WITTGRAF: The Chair is prepared to move
2 to a vote on the substitute for the committee report. Would
3 anyone like the substitute re-read?

4 MS. PULLEN: You mean the committee report on this
5 specific issue?

6 CHAIRMAN WITTGRAF: Yes, on this specific issue
7 regarding the Inspector General and how he is -- how that
8 position is treated, under the terms of H.R. 2039, right, not
9 on the other two. As it as evolved, we're taking the three
10 resolutions or the three reports from the committee
11 individually.

12 Would anyone like the substitute wording re-read?

13 (No response.)

14 CHAIRMAN WITTGRAF: If not, we'll move to the vote.
15 Those who are in favor of substituting the language read
16 twice by Mr. Uddo for that, which I believe includes by
17 implication the elimination of the attachment --

18 MS. PULLEN: Mr. Chairman.

19 CHAIRMAN WITTGRAF: Ms. Pullen.

20 MS. PULLEN: Is this the final motion on this
21 matter, or is there a subsequent motion to then adopt.

22 CHAIRMAN WITTGRAF: I believe we need a subsequent

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1 motion, then, to adopt.

2 MS. PULLEN: Thank you.

3 CHAIRMAN WITTGRAF: The question before us is to
4 substitute the rewritten wording without the attachment for
5 the report of the committee. Those who are in favor of the
6 substitute will signify by saying aye.

7 (Chorus of ayes.)

8 CHAIRMAN WITTGRAF: Those who are opposed, nay.

9 (No response.)

10 CHAIRMAN WITTGRAF: The ayes appear to have it.
11 The ayes do have it. The substitute is adopted.

12 M O T I O N

13 CHAIRMAN WITTGRAF: We are now on the motion, as
14 amended. Further discussion? Mr. Dana.

15 MR. DANA: No.

16 CHAIRMAN WITTGRAF: Further discussion?

17 (No response.)

18 CHAIRMAN WITTGRAF: Those who are in favor of the
19 motion as amended will signify by saying aye.

20 (Chorus of ayes.)

21 CHAIRMAN WITTGRAF: Those who are opposed, nay?

22 MR. DANA: Nay.

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1 CHAIRMAN WITTGRAF: Do you want a roll call? There
2 has been a request for the roll call vote. In lieu thereof,
3 I believe the voice vote would show, and please correct me
4 anyone, if I'm wrong, that those present are voting aye, all
5 but Mr. Dana, who is voting nay.

6 MR. DANA: Correct.

7 M O T I O N

8 MR. UDDO: The second motion that comes from the
9 Committee is done in the form of a resolution to the Board
10 with a preamble, as was discussed at the meeting yesterday.

11 It deals with two subjects: abortion and
12 monitoring. The purpose, I believe, for these two proposals
13 is, first, on the abortion reiteration, such as it is, was at
14 my urging because of an amendment that appeared for the first
15 time in this list of the amendments, suggesting that
16 Congressman Frank was going to attempt to remove all
17 restrictions on abortion-related activities.

18 I expressed at the time my concern that that was an
19 11th hour change from, I thought, a fairly long-standing
20 agreement between the field and, I thought, certain
21 congressmen and supporters of the restriction, that that was
22 not something that was important enough for legal services

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1 community to risk a veto, which the Administration has said
2 they would do, if something like that appeared in there.

3 I want to correct the record. I thought, because I
4 saw it for the first time yesterday, that it may have been at
5 the urging of legal services community that that happened.

6 I was assured after the meeting by people whose
7 opinions that I respect that that's not the case, that this
8 amendment was something generated within the Congress, either
9 by Mr. Frank or, perhaps, Mr. Edwards, or someone else within
10 the Congress, and it doesn't have, as I understand it, the
11 urging or the support of the legal services community. With
12 that in mind, I propose that we reiterate the abortion
13 part.

14 On the monitoring part, I think that that was a
15 result of a discussion that we had about continuing concerns
16 about monitoring and the effect of the reauthorization
17 legislation on monitoring, and the inclusion among the
18 amendments of a variety of new amendments that relate to the
19 monitoring function and that there were members of the
20 Committee that felt that it would be important for the Board
21 to reiterate, in light of the spate of new amendments that
22 the Board has made a general statement about the monitoring

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1 function and wants to bring it to the Congress's attention
2 again.

3 Therefore, the motion reads, "Whereas the Legal
4 Services Corporation Board of Directors supports
5 reauthorization of Legal Services, and whereas the removal of
6 restrictions on abortion-related activities is controversial,
7 would subject the reauthorization legislation to a
8 Presidential veto and would undermine public support for the
9 Legal Services program, and whereas the Board of Directors
10 believe that monitoring and evaluation of LSC grantees is one
11 of the core responsibilities of LSC under the Legal Services
12 Corporation Act, be it therefore resolved that the Board of
13 Directors of the Legal Services Corporation believes that LSC
14 funded recipients should be barred from using LSC, IOLTA,
15 other public funds, or private funds for the provision of
16 abortion-related legal services, and be it further resolved
17 that the Board of Directors of the Legal Services Corporation
18 favors both evaluating recipients to determine whether they
19 are providing economic and effective legal assistance of high
20 quality and promulgating criteria for such evaluation and
21 further favors standards for the process of monitoring and
22 evaluation as well as for complaint investigation and,

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1 finally, reiterates its belief that the Corporation should
2 have discretion to determine how best to conduct monitoring
3 in evaluation visits to investigate complaints."

4 The two resolution parts on abortion and on
5 monitoring are directly taken from this Board's
6 recommendations to the Congress. It is a reiteration
7 precisely. That is the motion that passed unanimously by
8 voice vote.

9 CHAIRMAN WITTGRAF: The Chair views the Committee
10 Report being before the report, if effect, moved and seconded
11 by virtue of the Committee's action. Mr. Uddo has spoken for
12 the Committee and on behalf of the resolution. Further
13 discussion? Ms. Pullen.

14 MS. PULLEN: Partially, in my effort to get ahead
15 of Mr. Rath --

16 MR. RATH: Is there a split infinitive in there?

17 MS. PULLEN: Three little technical problems that I
18 wonder whether we could --

19 MR. RATH: Ms. Pullen has long been ahead of
20 Mr. Rath.

21 MS. PULLEN: In the first whereas clause, it would
22 be more precisely correct to add the phrase "need for" after

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1 the phrase "supports the" so that it would read, "Whereas the
2 Legal Services Corporation Board of Directors supports the
3 need for reauthorization of LSC."

4 CHAIRMAN WITTGRAF: Unless there is objection, that
5 change will be made.

6 (No response.)

7 CHAIRMAN WITTGRAF: Hearing none, it is.

8 MS. PULLEN: Thank you, Mr. Chairman. In the third
9 whereas clause, since monitoring and evaluation, although it
10 seems to be a standard phrase around here, is actually two
11 words with a conjunction, the verb ought to be "are" rather
12 than "is," and it should read, "monitoring and evaluation of
13 LSC grantees are among the core responsibilities."

14 CHAIRMAN WITTGRAF: Unless there is objection, that
15 change will be made.

16 (No response.)

17 CHAIRMAN WITTGRAF: Hearing none, it is.

18 MS. PULLEN: Thank, Mr. Chairman. And finally, in
19 the final clause, there is a stuttering hyphen; that is, a
20 hyphen that should not be there in the words "high quality."

21 CHAIRMAN WITTGRAF: Oh, and I've been accused of
22 being picky. As I understand this, we're striking the hyphen

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1 from between the words "high" and "quality" in the third line
2 at the last paragraph. Unless there is objection, the change
3 will be made.

4 (No response.)

5 CHAIRMAN WITTGRAF: Hearing none, it is.

6 MS. PULLEN: Thank you, Mr. Chairman.

7 CHAIRMAN WITTGRAF: Further discussion?

8 (No response.)

9 MR. UDDO: Call the question.

10 CHAIRMAN WITTGRAF: Those who are in favor of the
11 committee report, the motion that has been read by the
12 chairman of that committee, will signify by saying aye.

13 (Chorus of ayes.)

14 CHAIRMAN WITTGRAF: Those who are opposed, nay.

15 (No response.)

16 CHAIRMAN WITTGRAF: The ayes appear to have it.

17 The ayes do have it. The motion is adopted. Mr. Uddo.

18 MR. UDDO: Mr. Chairman, would you just confirm
19 that that was a unanimous vote without calling the role, make
20 sure no one abstained?

21 CHAIRMAN WITTGRAF: The Chair would ask that the
22 record should reflect that that is a unanimous voice vote of

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1 the Board, the ten members in attendance, unless there is
2 exception now taken thereto.

3 (No response.)

4 CHAIRMAN WITTGRAF: Hearing none, it is.

5 MR. UDDO: Mr. Chairman, I'd also like to request
6 that we be allowed to report these two motions contained
7 together here, which were linked together for purposes of the
8 debate, to be able to report them separately to the Congress
9 for purposes of their being able to be aligned with the
10 proper amendments.

11 It's just a technical thing so that when Mr. Boehm
12 sends them over he can say, yes, there is an abortion
13 resolution, and yes, there is a monitoring resolution, so
14 neither one gets lost with the other.

15 CHAIRMAN WITTGRAF: Mr. Dana.

16 MR. DANA: I don't have any problem with the --

17 MR. UDDO: No. I'm saying, when congressmen are
18 saying --

19 MR. DANA: The concern I have --

20 CHAIRMAN WITTGRAF: One at a time, gentlemen.

21 Mr. Dana.

22 MR. UDDO: -- not aligned with any particular

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1 amendments. I don't mean that we're going to align them with
2 any particular amendments, but when Congress says, "Has the
3 Board said anything about abortion?" or, "Has the Board said
4 anything about monitoring?" they are actually two separate
5 pieces of paper that could be presented, their response to
6 the different questions, that we've made, in effect, two
7 statements here that were linked together for purposes of the
8 vote.

9 CHAIRMAN WITTGRAF: Thank you, Mr. Uddo. Mr. Dana.

10 MR. DANA: Thank you. My concern is that there are
11 no less than seven of these 37 amendments that deal with
12 monitoring, and I don't think we have passed a resolution
13 endorsing any of them.

14 MR. UDDO: I agree with you. That's not what I'm
15 suggesting.

16 CHAIRMAN WITTGRAF: Mr. Uddo, I'm not sure I
17 understand your suggestion. Perhaps you should state it
18 again.

19 MR. UDDO: All I'm suggesting is that, since they
20 deal with two different subjects that we be able to retype
21 them and have one piece of paper that has the motion that
22 just passed dealing with abortion and another piece of paper

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1 that has the motion dealing with monitoring so that they can
2 be distributed to interested parties separately.

3 CHAIRMAN WITTGRAF: Each with the three-paragraph
4 preamble.

5 MR. UDDO: Each with the appropriate preamble,
6 yeah. It would be the three paragraphs.

7 CHAIRMAN WITTGRAF: I guess, actually, it would be
8 one and two --

9 MR. UDDO: I withdraw the request. I withdraw the
10 request. Let's not waste any more time. We have a third
11 proposal.

12 CHAIRMAN WITTGRAF: Mr. Uddo.

13 M O T I O N

14 MR. UDDO: The Committee also adopted a motion
15 dealing with redistricting related legal services. It does
16 not bear a preamble. We can add one, if the Board so
17 desires. It reads, "The Board of Directors of the Legal
18 Services Corporation believes that LSC funded recipients
19 should be barred from using LSC, IOLTA, other public funds or
20 private funds for the provision of redistricting related
21 legal services at all levels of government."

22 It is a reiteration, except for the last phrase,

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1 "at all levels of government," which was added.

2 CHAIRMAN WITTGRAF: So it then truly is not a
3 reiteration of a July 8, 1991 position?

4 MR. UDDO: Well, no, I think it is, because, as I
5 recall that, it was debated as to whether we had alternative
6 resolution before the Board trying to limit the Board's
7 recommendation in this area to only certain levels of
8 government, and it was my understanding that the Board
9 rejected those.

10 So I've always interpreted it as a Board position
11 at all levels. Ms. Pullen asked for this clarification
12 yesterday. I don't view it as a substantive change, but as a
13 clarification.

14 CHAIRMAN WITTGRAF: The Chair will take that report
15 of the Committee as a motion made and seconded. The
16 resolution is now before the Board for discussion.
17 Ms. Pullen.

18 MS. PULLEN: Mr. Chairman, I completely agree with
19 the interpretation of the Chairman of the Committee as to the
20 nonsubstantive nature of the addition, and the only reason
21 for it is that there is controversy on the question in
22 Congress as to whether it would be certain levels or all

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1 levels, and adding this phrase simply clarifies the existing
2 position of the Board so that Congress can know what it was
3 that we meant. It is substantially a reiteration.

4 CHAIRMAN WITTGRAF: Further discussion?

5 (No response.)

6 MR. UDDO: Call the question.

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

9 (Chorus of ayes.)

10 CHAIRMAN WITTGRAF: Those who are opposed, nay.

11 MR. DANA: Nay.

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

14 MR. DANA: Mr. Chairman.

15 CHAIRMAN WITTGRAF: Mr. Dana.

16 MR. DANA: I would like the record to reflect that
17 I voted in opposition to that.

18 CHAIRMAN WITTGRAF: It so shall reflect.

19 MR. UDDO: That completes the report of the
20 Reauthorization Committee.

21 CHAIRMAN WITTGRAF: Thank you, Mr. Uddo. At this
22 point, the Chair is prepared to entertain a motion that we

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1 proceed to Executive or Closed Session for deliberation of
2 closed matters therein, in which notice has been given.

3 M O T I O N

4 MR. RATH: So moved.

5 CHAIRMAN WITTGRAF: It's been moved by Mr. Rath.

6 Is there a second?

7 MS. LOVE: Second.

8 CHAIRMAN WITTGRAF: It's been seconded by Ms. Love.

9 Discussion.

10 (No response.)

11 CHAIRMAN WITTGRAF: Hearing none, those who are in
12 favor of the motion to proceed to Executive or Closed Session
13 will signify by saying aye.

14 (Chorus of ayes.)

15 CHAIRMAN WITTGRAF: Those who are opposed, nay.

16 (No response.)

17 CHAIRMAN WITTGRAF: The ayes appear to have it.
18 The ayes to do it. We will proceed at this time to Executive
19 Session. As we do so, we will be having about a 15-minute
20 personal convenience break. We will begin our deliberations
21 in Executive Session in 15 minutes.

22 (Whereupon, at 12:47 p.m., the Open Session of the

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1 Board of Directors meeting was adjourned.)

2 * * *

3 CHAIRMAN WITTGRAF: At this time, we will return to
4 Open Session. The Chair turns to Agenda Item No. 10, the
5 Report of Audit and Appropriations Committee, and, for that
6 purpose, the Chair recognizes Mr. Dana.

7 REPORT OF AUDIT AND APPROPRIATIONS COMMITTEE

8 MR. DANA: Thank you, Mr. Chairman. My committee
9 did not meet this month, and, as a result, I have a
10 blissfully brief report, and it consists of distributing a
11 letter, which I received from the famous Andy Steinberg on
12 the subject, if I can find it, of the current census.

13 I've shared this with the president, but
14 essentially what we have, we distribute our money generally
15 on a per capita basis per poor person. We have, in the
16 process, a new count emerging, and it's necessary for the
17 Corporation to -- or for somebody to decide how many poor
18 people live in each and every territory that each program
19 has.

20 That is not a simple task, and somebody needs to
21 get about doing it. This is really a request by the field
22 that we be that person.

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1 CHAIRMAN WITTGRAF: Thank you, Mr. Dana.
2 Ms. Smead, am I correct in my understanding that at the
3 president's direction, that's an effort that you're just
4 beginning, Ms. Smead.

5 MS. SMEAD: Yes, sir, it is.

6 CHAIRMAN WITTGRAF: Thank you, Mr. Dana. Anything
7 further?

8 MR. DANA: Nothing further.

9 CHAIRMAN WITTGRAF: Discussion?

10 (No response.)

11 CHAIRMAN WITTGRAF: Hearing none, we will move to
12 Agenda Item 11. That is the report of the Inspector General
13 Oversight Committee. For that purpose, I'm looking to
14 Mr. Kirk. I don't see Mr. Kirk at the moment. As a member
15 of that committee, I'll report in Mr. Kirk's stead.

16 REPORT OF THE OFFICE OF INSPECTOR GENERAL
17 OVERSIGHT COMMITTEE

18 CHAIRMAN WITTGRAF: It's my understanding that the
19 Committee has not met since our last Board meeting but
20 contemplates meeting on Sunday, May 17 for the purpose of
21 reviewing and preparing a response to the Inspector General's
22 semi-annual report, which is due out on or before April 30.

1 Is there anything further for the Office of Inspector General
2 Oversight Committee, Mr. Kirk?

3 MR. KIRK: No, sir.

4 CHAIRMAN WITTGRAF: Further discussion?

5 (No response.)

6 CHAIRMAN WITTGRAF: We will move to Agenda Item 15,
7 staff recommendations regarding pro bono recognition awards.
8 Mr. Kirk.

9 MR. KIRK: Mr. Chairman, I'd like to make a
10 resolution regarding this lawsuit.

11 CHAIRMAN WITTGRAF: I was assuming we would take
12 that up under Item 16, Other Business, Mr. Kirk.

13 MR. KIRK: Oh, okay.

14 CHAIRMAN WITTGRAF: I wouldn't forget that,
15 Mr. Kirk. Ms. Smead, do have you some thoughts to share with
16 us? By way of background, let me indicate that this is an
17 item in our budget request, pro bono recognition awards in
18 the form of cash.

19 It's a recommendation, I think, that arose from
20 discussion at the annual conference we had in St. Louis this
21 past December. We will be having our annual conference in
22 Minneapolis, right on the heels of the Final Four and another

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1 successful Twins season; is that right?

2 Whether or not it's possible to begin that form of
3 recognition as soon as this September, if so, we need to
4 determine what, if any, monies might be available and what
5 criteria would be the basis for any such recognition. Do you
6 have some thoughts to share with us, Ms. Smead?

7 MS. SMEAD: Yes, Mr. Chairman. For the record, my
8 name is Ellen Smead, Director of the Office of Field
9 Services. In light of the fact that we don't have much money
10 this year, we weren't going to be looking at giving money
11 away this year for recognition.

12 What we thought about was having plaques that we
13 would give to attorneys, preferably an urban pro bono
14 attorney would be one award. Another award would be a rural
15 pro bono attorney.

16 The way that we would select these people is we'd
17 select nominations from a bar association, and from LSC
18 programs. The nominations would then be reviewed by a
19 committee composed of three LSC staff, one person from a bar
20 association, and one person from a legal services program.

21 The criteria for selection would be prepared by the
22 committee in consultation. It would be prepared in

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1 consultation with the Committee, and that is the end of the
2 report, in a nutshell.

3 CHAIRMAN WITTGRAF: At the present time, we have
4 been giving 25-year recognition awards to those who have
5 worked in legal services programs for 25 years. Beginning
6 last year, we gave humanitarian awards, both to people within
7 the Corporation and the field, and this would be a third type
8 of award, and, as you say, it would be a plaque.

9 As you're proposing, it's similar to the plaques
10 that are given out for the other two awards, I assume. Isn't
11 that right?

12 MS. SMEAD: That's correct.

13 CHAIRMAN WITTGRAF: Discussion? Mr. Dana.

14 MR. DANA: Are these plaques for pro bono programs
15 or pro bono lawyers.

16 CHAIRMAN WITTGRAF: I think that's a good question,
17 and maybe you can let us know whether you've discussed that
18 at all, whether you've discussed recognition of programs as
19 well as recognition of individuals.

20 MS. SMEAD: What we've talked about is for this
21 year is to do only attorneys. That being the Harrison/Tweed
22 Awards, anyway, that the bar association does, and next year,

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1 if we have more money, then we could expand it to programs so
2 that we could have both attorneys and programs in subsequent
3 years.

4 CHAIRMAN WITTGRAF: Mr. Dana. Mr. Uddo.

5 MR. UDDO: Can I ask why you wouldn't give a plaque
6 to a program this year just to kind of set the stage for
7 program recognition?

8 MS. SMEAD: There is no reason why we couldn't. We
9 just, as a staff, had felt that maybe this year there was a
10 way to honor individual attorneys, recognizing that -- about
11 the same time we were looking at this, we got in the request
12 for nominations for programs for Harrison/Tweed awards, and
13 we figured if the programs were being recognized that way
14 that we could do the private attorneys this way.

15 MR. UDDO: But this suggestion came up in my
16 discussion group with the conference. So I'm familiar with
17 what was talked about, and I think that maybe it could be put
18 off for a year, but I think we want to recognize programs as
19 well as individuals, and I think we should view it as
20 something fairly comprehensive, an opportunity to recognize
21 programs and individuals. I have no strong feelings whether
22 you do that this year.

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1 CHAIRMAN WITTGRAF: One distinction, I suppose,
2 between the individual and the programs would be that it's
3 unlikely we would every give individuals monetary awards;
4 whereas, programs, if and when we have the money, could
5 receive the monetary awards to underwrite their efforts.

6 Mr. Dana.

7 MR. DANA: The Corporation itself is out monitoring
8 programs every year, and virtually every program has directly
9 or indirectly a pro bono element connected with it, and it
10 would be nice, in a sense, if they were going -- when they
11 were going out to monitoring, to have that in their mind.

12 They're looking for terrific pro bono components
13 that they could award at the end of the year or designate as
14 the best two programs seen and why. I think, while it is
15 nice for the individual involved, we get a much bigger
16 -- make a bigger impression and affect more people if we give
17 an award or give a recognition, more a recognition to a
18 program rather than a person.

19 CHAIRMAN WITTGRAF: Ms. Smead, I think the
20 consensus is that we, perhaps, ought to start with both now,
21 individuals, urban/rural programs. Urban/rural, we don't
22 have any money other than for plaques and publicity, but why

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1 don't we begin on that basis, and then, depending what the
2 Congress does, we may or may not have money to add to that
3 later. Do you think that any other guidance is necessary
4 from the Board to allow you to proceed with the process that
5 would recognize those four types of programs?

6 MS. SMEAD: Not at this time. I'm sorry.

7 CHAIRMAN WITTGRAF: No. Go ahead. Go ahead,
8 Ms. Smead.

9 MS. SMEAD: No.

10 CHAIRMAN WITTGRAF: Public comment. Mr. Gill.

11 PUBLIC COMMENT

12 MR. GILL: I would suggest that in giving out these
13 awards, when we give out our local award we also make a
14 distinction between big firm and small firm. You might want
15 to consider that. In some extent, you're doing it in urban
16 and rural, doing it that way, but that way you could honor
17 both distinct groups that make very different contributions.

18 CHAIRMAN WITTGRAF: Further public comment? Do you
19 think that adequate guidance, Ms. Smead, to proceed then?

20 MS. SMEAD: Yes, sir.

21 CHAIRMAN WITTGRAF: We'll move, then, to Agenda
22 Item No. 16. That is Consideration of Other Business.

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1 Mr. Kirk.

2 CONSIDERATION OF OTHER BUSINESS

3 MR. KIRK: Mr. Chairman, I don't think it should be
4 under Other Business. I think it should be under one of the
5 other items, because I don't think that would be adequate
6 notice for somebody to make an appropriate vote on.

7 CHAIRMAN WITTFRAF: I believe it would flow from
8 Agenda Item No. 14, Mr. Kirk.

9 MR. KIRK: I'm going to read a form of a
10 resolution, and then I will make a motion for all of them.
11 Regarding the identification of the various individuals.

12 "Whereas, Maureen Gawler has filed Civil Action No.
13 92-780 in the United States District Court in the District of
14 Columbia based on allegations that blank performed certain
15 actions that would subject him or her to liability, and
16 whereas the Corporation has also been named as a party to the
17 action and has not yet been served with process whether to
18 retain counsel for its defense, and whereas at all times
19 relevant to the matters claimed of in this action, blank was
20 acting in good faith in a manner reasonably believed to be in
21 the best interests of the Corporation, based on information
22 now available to the Corporation.

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1 "Therefore, pursuant to 45 C.F.R. Section
2 1601.44(d), be it resolved that blank shall be fully
3 indemnified by the Corporation against expenses, judgments,
4 and amounts paid as a settlement actually and reasonably
5 incurred with respect to this action, and be it further
6 resolved that the Corporation undertook fully to represent
7 him or her in his or her corporate and individual capacity.

8 "To the extent that he or she is not represented or
9 payment is not made on his or her behalf under the applicable
10 insurance policy provided by the Corporation, provided that
11 he or she agrees with representation by the same counsel that
12 was representing the Corporation, no further expense will be
13 incurred in order to provide representation for him or her,
14 provided.

15 "However, that the event that is later determined
16 by the Corporation, a court of law, or otherwise that blank
17 is not acting within the scope of his or her authority as a
18 Corporation employee or in good faith and in a manner
19 reasonably believed to be in the best interests of the
20 Corporation, the Corporation would seek reimbursement from
21 him or her for any amount after the date it occurred in his
22 or her behalf by the Corporation."

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M O T I O N

1
2 MR. KIRK: I will move that separate resolutions be
3 enacted by the Board for John O'Hara, George Wittgraf, Victor
4 Fortunato, Susan Sparks, and Emelia DeSanto.

5 CHAIRMAN WITTGRAF: Is there a second?

6 MR. DANA: I'll second it.

7 CHAIRMAN WITTGRAF: There is a second by Mr. Dana.
8 Is there discussion of the resolution or resolutions? In
9 effect, as I understand, Mr. Kirk, you've really offered
10 six -- or is it five separate resolutions?

11 MR. KIRK: Five.

12 CHAIRMAN WITTGRAF: Which we'll then consider in
13 the aggregate. Mr. Dana.

14 MR. DANA: My recollection is that the last time we
15 voted on this --

16 CHAIRMAN WITTGRAF: Would have been in the summer
17 of 1990, probably.

18 MR. DANA: Correct. There was fairly extensive
19 negotiations that occurred between the Corporation and the
20 individual involved as to when and under what circumstances
21 reimbursement would be required, assuming some event occurred
22 that would require reimbursement.

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1 I wonder if we ought not to table this matter for
2 one meeting and seek counsel from our counsel as to what is
3 the appropriate -- what is the appropriate forum. This
4 really does not focus particularly on the reimbursement
5 and/or the undertaking that an officer or employee has to
6 make, but there was a lot of the discussion about it, and I
7 don't remember the details, but I know we were represented at
8 the time, and I don't feel represented now.

9 MR. KIRK: The last paragraph.

10 CHAIRMAN WITTGRAF: Mr. Rath.

11 MR. RATH: I don't have the benefit of the language
12 from you, but I thought -- the note I had written to myself
13 was "act within the scope of the authority," and I heard that
14 language included as the draft proceeded.

15 So I think we ought to go ahead and act on it and
16 hold open the possibility of amending it down the road on
17 advice of counsel, Mr. Dana, so that there is no mixed signal
18 being sent out here.

19 MR. DANA: All right. As long as we can do that.

20 CHAIRMAN WITTGRAF: Mr. Uddo.

21 MR. UDDO: It's my understanding that we could not
22 only amend it, but we could withdraw it, if at some point we

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1 found that the underlining basis upon which the motion is
2 premised that the person was acting within the scope of their
3 employment proves not to be true. I mean, I don't know that
4 we can indemnify somebody, if they're not acting in the scope
5 of their --

6 CHAIRMAN WITTGRAF: Mr. Dana.

7 MR. DANA: There also is a bylaw provision that
8 sets forth the scope of our -- what we do. I don't know what
9 this does that is above and beyond what the bylaw provides.

10 MR. UDDO: Well, it's authorizing the reimbursement
11 and indemnification should the need be -- should there be a
12 need for it. The bylaw doesn't do it automatically, does it?

13 MR. DANA: I don't know that.

14 CHAIRMAN WITTGRAF: Mr. Rath.

15 MR. RATH: I thought the bylaw was in the nature of
16 an enabling statute.

17 MR. UDDO: That was my understanding, that we had
18 to vote on the actual act of indemnification and
19 reimbursement but that the bylaw provided the standards for
20 our doing that.

21 CHAIRMAN WITTGRAF: Thank you, Mr. Uddo.

22 MR. UDDO: My only point is that I think we can

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1 -- not only can change it, but would have to, if it's proved
2 that someone was not qualified for reimbursement.

3 CHAIRMAN WITTGRAF: Mr. Dana.

4 MR. DANA: For the first time I'm reading
5 1601.44(a). "The Corporation shall indemnify any person who
6 was or is a party or is threatened to be made a party to any
7 threatened, pending, or completed action, suit, or proceeding
8 whether civil, criminal, administrative, investigative by ...
9 by reason of the fact that he is or was a director of certain
10 employee or agent of the Corporation against expenses,
11 including attorneys fees, judgments, fines, and amounts paid
12 on settlement actually and reasonably incurred by him in
13 connection with such action, suit, or proceeding, if he acted
14 in good faith and in a manner he reasonably believed to be in
15 the best interests of the Corporation and with respect to any
16 criminal action, suit, or proceeding had no reasonable cause
17 to believe his conduct was unlawful.

18 "The termination of any action, suit, or proceeding
19 by judgment, order, settlement, or conviction, or upon a plea
20 of nolo or its equivalent shall not of itself create a
21 presumption that the person did not act in good faith and in
22 a manner which he reasonably believed to be in the best

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1 interests of the Corporation and with respect to any criminal
2 action or proceeding had reasonable cause to believe that his
3 conduct was unlawful."

4 That seems to me fairly strong, and we don't have
5 any -- so they get this. I'm concerned a little bit,
6 frankly, about passing a resolution -- in part we have -- I
7 don't know what this does over and above what this does. I
8 don't know what the resolution does over and above the bylaw.

9 There is pending our own internal investigation of
10 some of the allegations in this complaint, and we've had a
11 report on it in Executive Session, and I just wonder if it
12 wouldn't be appropriate to receive that report and just
13 -- and get counsel in this area.

14 CHAIRMAN WITTGRAF: Mr. Rath.

15 MR. RATH: I think we ought to go ahead and adopt
16 it, and I think the reason, Mr. Dana, is given the nature of
17 the litigation, naming as it does the normal people who would
18 allow the process of getting counsel to go forward, that they
19 themselves have been named in the complaint.

20 I think that the Board needs to give direction. So
21 relying upon the authority that's contained in the bylaw, the
22 Board is simply implementing something that management, in

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1 the normal course could do, but management, I think, is
2 somewhat infirm in this situation, because they themselves
3 are the target of the litigation.

4 So I would see this as carrying out the dictate of
5 the bylaw, and I would also say that clearly I agree with
6 Mr. Uddo that, down the road, where we can learn something
7 else that would somehow make this -- we can undo what we've
8 done, but I think we ought to go forward today.

9 MR. DANA: With that understanding and background,
10 I enthusiastically support this.

11 CHAIRMAN WITTGRAF: Thank you, Mr. Dana. Further
12 discussion?

13 MR. RATH: Just a point of inquiry.

14 CHAIRMAN WITTGRAF: Mr. Rath.

15 MR. RATH: Mr. Kirk, does that include the
16 Chairman?

17 MR. UDDO: We're going to vote separately.

18 CHAIRMAN WITTGRAF: We are going to vote
19 separately, that's correct, Mr. Uddo. We have five
20 resolutions before us. You've heard the resolution in
21 generic form. The vote is first as to the resolution as it
22 pertains to Jack O'Hara. Those who are in favor the

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1 resolution will signify by saying aye.

2 (Chorus of ayes.)

3 CHAIRMAN WITTGRAF: Those who are opposed, nay.

4 (No response.)

5 CHAIRMAN WITTGRAF: The ayes appear to have it, the
6 ayes to do it. The resolution is adopted. Next the
7 resolution will be considered as it pertains to Emelia
8 DiSanto. Those who are in favor of that resolution will
9 signify by saying aye.

10 (Chorus of ayes.)

11 CHAIRMAN WITTGRAF: Those who are opposed, nay.

12 (No response.)

13 CHAIRMAN WITTGRAF: The ayes appear to have it.
14 The ayes do have it. The resolution is adopted. Next we
15 will consider the resolution as it pertains to Victor
16 Fortuno. Those who are in favor the resolution will signify
17 by saying aye.

18 (Chorus of ayes.)

19 CHAIRMAN WITTGRAF: Those who are opposed, nay.

20 (No response.)

21 CHAIRMAN WITTGRAF: The ayes appear to have it.
22 The ayes do have it. The resolution is adopted. Next we

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1 will consider the resolution as it pertains to Susan Sparks.
2 Those who are in favor of the resolution will signify by
3 saying aye.

4 (Chorus of ayes.)

5 CHAIRMAN WITTGRAF: Those who are opposed, nay.

6 (Chorus of nay.)

7 CHAIRMAN WITTGRAF: The ayes appear to have it.
8 The ayes do have it. The resolution is adopted. Finally, we
9 will consider the resolution as it pertains to George
10 Wittgraf. Those who are in favor of the resolution will
11 signify by saying aye.

12 (Chorus of ayes.)

13 CHAIRMAN WITTGRAF: Those who are opposed, nay.

14 (No response.)

15 CHAIRMAN WITTGRAF: The ayes appear to have it.

16 The ayes do have it. The motion is adopted. The record
17 will reflect that the Chairman did not vote on that
18 resolution. Is there further business to come before the
19 Board at this time.

20 M O T I O N

21 MR. UDDO: Move that we adjourn.

22 CHAIRMAN WITTGRAF: There is a motion that we

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1 adjourn. Is there a second?

2 MS. LOVE: Second.

3 CHAIRMAN WITTGRAF: Made by Mr. Uddo, seconded by
4 Ms. Love. Those who are in favor will signify by saying aye.

5 (Chorus of ayes.)

6 CHAIRMAN WITTGRAF: Those who are opposed, nay.

7 (No response.)

8 CHAIRMAN WITTGRAF: The ayes appear to have it.
9 The ayes do have it. We are adjourned.

10 (Whereupon, at 2:35 p.m., the Open Session of the
11 Board of Directors meeting was adjourned.)

12 * * * * *

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