

ORIGINAL

LEGAL SERVICES CORPORATION

RETURN TO CORPORATIO
SECRETARY ARCHIVES FIL

1992 ANNUAL CONFERENCE
OF LEGAL SERVICES PROVIDERS

September 25, 1992

9:15 a.m.

The Hyatt Regency Minneapolis Hotel
The Nicollet Ballroom D
1300 Nicollet Mall
Minneapolis, Minnesota

Diversified Reporting Services, Inc.

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C O N T E N T S

	PAGE
Welcome and Conference Overview: George W. Wittgraf, Chairman	4
F. William McCalpin, President, National Legal Aid and Defender Association	10
Keynote Speaker: Leo E. Oxberger, Chief Judge, Iowa Court of Appeals	17
Panel Presentation: Evolution of the Comparative Demonstration Projects	
Norman D. Shumway, Board of Directors, Legal Services Corporation.	27
Charles Moses, III, Deputy Director, Office of Field Services, Legal Services Corporation	34
Melville D. Miller, Jr., Executive Director, Legal Services of New Jersey, Inc., Advisory Board Member	39

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P R O C E E D I N G S

(9:15 a.m.)

1
2
3 CHAIRMAN WITTGRAF: As everyone is getting a
4 carryover cup of coffee or tea, let me begin by introducing
5 myself. I am George Wittgraf, from Cherokee, Iowa. It's my
6 privilege and pleasure to be the chairman of the Board of
7 Directors of the Legal Services Corporation at this time.

8 As we begin, let me just take a moment to introduce
9 my colleagues on the Board who are with us, and let me also
10 mention those who aren't able to be here this morning.

11 In alphabetical order: From Portland, Maine, is
12 Board member Howard Dana. If you don't know Howard,
13 hopefully Howard raise hand or stand so you can recognize
14 him, all 6 feet 4 inches.

15 From Texas is Board member Blakeley Hall, in the
16 back.

17 Another of our Board members, from Orlando,
18 Florida, Bud Kirk, was with us yesterday for a Board
19 committee meeting, will be with us again in the morning for
20 our regular Board meeting, is unable to be here today, is in
21 Detroit this morning rather than in Minneapolis.

22 From Mississippi, another Board member is Jo Betts

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1 Love. Jo, in the middle there.

2 The borough president from Staten Island, in the
3 great State of New York, Guy Molinari, the vice chairman of
4 our Board, is not able to be here today, will be joining us
5 tomorrow by telephone for our Board meeting.

6 Similarly, Board member Penny Pullen from Illinois,
7 from Park Ridge, will be joining us just tomorrow for our
8 Board meeting by telephone.

9 And Tom Rath from New Hampshire was with us
10 yesterday for our Board committee meeting but is unable to be
11 here this morning.

12 Down at the far end of the table here, the far left
13 as I look at -- perhaps the far right, as you in the audience
14 look at it -- from California is former-Congressman Norm
15 Shumway, one of our Board members.

16 Professor Basile Uddo, from Loyola University in
17 New Orleans, is here, but I don't see him at the moment.
18 He'll be coming in momentarily, I hope.

19 And I'm the eleventh member of our Board. That's
20 the eleven of us. For those of you who haven't had the
21 pleasure of meeting us previously, I encourage you to meet
22 the Board members today.

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1 Let me also introduce, for those of you who haven't
2 met him before, the president of the Corporation, our chief
3 executive office, the person who is responsible day in and
4 day out for the operations of the Corporation, John P. "Jack"
5 O'Hara. Jack.

6 It's our Board and the Corporation's pleasure to be
7 able to gather together not only those of us who are on the
8 Board of the Corporation, who are on the staff of the
9 Corporation, but many of our friends and co-workers from the
10 field, once a year for the purpose of sharing and learning
11 from one another. We began this two years ago, in December
12 of 1990, really for the purpose of recognizing 25 years of
13 federal funding for civil legal services. And we did that in
14 Washington.

15 And then a year ago, not quite a year ago, in
16 December of 1991, we had a conference such as this, as many
17 of you know, in St. Louis. Our purpose at that time was to
18 begin or to continue a dialogue between the Board and the
19 Corporation and our friends and colleagues in the field. And
20 I think most of us felt that we learned a great deal from
21 that exchange.

22 And that the cooperative relationship that was

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1 nurtured at that point really has continued through this past
2 year and has been very helpful to us, particularly as we have
3 worked on the comparative demonstrations projects that we'll
4 be discussing later the morning.

5 In getting together then this year, we're not only
6 doing it for the purpose of continuing the dialogue,
7 continuing to visit with and learn from from one another, but
8 we'll also be doing what we've done now for three years in a
9 row, and that is recognizing the people who have been working
10 in legal services programs for 25 years, the 25-year veterans
11 of these programs. And we started this two years ago, in
12 December of 1990, and it's a wonder to see that each year,
13 now the third year, that the numbers are growing and growing.

14 And I think it's great testimony to the success of
15 federal funding for civil legal services and generally to
16 civil legal services programs that there are so many 25-year
17 veterans, some lawyers, some nonlawyers. We have people who
18 clearly have made their careers in poverty law. And one of
19 the purposes of this occasion, or of these last three
20 occasions, is to be able to recognize those people and to
21 commend them for the commitment that they have made for the
22 careers that they have undertaken.

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1 We have also added a couple of special awards,
2 humanitarian awards, and, for the first time this year,
3 pro bono awards to recognize special legal services workers
4 who have made exemplary humanitarian contributions outside of
5 the field of legal services, and also the new pro bono awards
6 to recognize those people who are going beyond the federal
7 and state and local governmental funding and who are
8 providing of their time voluntarily the legal services that
9 we're so much in need of and for which the resources continue
10 to be in such short supply.

11 So this is a day of dialogue. And then this
12 evening at 6 o'clock, we will have recognition of our 25-year
13 awardees, of our humanitarian awardees, and of our pro bono
14 awardees.

15 All of the activities today will either be in this
16 room downstairs, part of the so-called Nicollet Ballroom,
17 meaning both the general assembly sessions and our luncheon
18 session, or right above us in the so-called Greenway complex,
19 rooms A, B, D, E, and F, I guess, where we will have our
20 break-out sessions.

21 Also, the reception at 6 o'clock this evening for
22 the awardees will be right above us in something called the

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1 Mirage Room.

2 I year ago at this time we did transcribe a report
3 and then transcribed all of the proceedings of the break-out
4 groups. We will be doing that again today. And let me
5 assure you that in many ways -- not to take away from Bill
6 McCalpin or Judge Oxberger or anyone who will be speaking to
7 the general assembly -- that the break-out sessions are
8 vitally important, because they're very helpful to the
9 Corporation, to the Board, and its staff, in getting ideas,
10 suggestions that are carried through the year as we attempt
11 to implement not only comparative demonstration projects but
12 all of the activities of the Corporation.

13 So, please participate in the break-out sessions,
14 and please don't hesitate to speak up, share with us the
15 thoughts and the ideas that you've had in your minds for the
16 last year. Put them on the record, and let us get the
17 benefit of them and try to learn from them.

18 At this time, let me introduce my friend from
19 St. Louis, who was good enough to co-host for our annual
20 conference in St. Louis last December, William McCalpin, a
21 retired practitioner, he tells me. Although practicing law
22 is something, I think, from which one never retires.

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1 But he claims to be retired now, a former chairman
2 of the Board of the Legal Services Corporation, and now, for
3 the last several years, the president of the National Legal
4 Aid and Defender Association, NLADA, one of the true
5 champions of civil legal services and the federal, and state,
6 and local funding thereof, Bill McCalpin. Bill.

7 (Applause)

8 MR. McCALPIN: I can't match your 6 foot 3. Thank
9 you very much, George.

10 Ladies and gentleman, I am pleased to have been
11 asked to participate in this third annual LSC convocation.
12 It symbolizes what I perceive to be a slowly growing
13 rapprochement between the Corporation and "the field," as
14 George has referred to it.

15 That aura of good feeling may have been what was in
16 the mind of a notetaker at one of our meetings earlier this
17 year, who, in characterizing an oral report on the monitoring
18 process, wrote "that while in some ways it had not improved,
19 it had become more polite."

20 (Laughter)

21 MR. McCALPIN: I harbor the view or the hope that
22 the difference is not mere courtesy. I have said on a number

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1 of occasions that one difference between the Corporation in
2 recent years and in its very early years has been that then
3 the field was consulted and invited to participate in shaping
4 initiatives or policies before they were presented to the
5 Board of Directors for debate and action. Whereas in more
6 recent years, such actions have been taken with prior
7 consultation and were to be imposed on the field unless or
8 until prohibited by congressional action, as was often the
9 case.

10 This past year, we have seen the beginning of a
11 return to consultation with the field in policy or program
12 development. This has occurred in connection with the
13 evolution of the comparative demonstration projects. We have
14 strongly believed that quality in performance, and not just
15 or even principally cost, should be the relevant criterion in
16 the evaluation of those programs seeking grants from the
17 Corporation.

18 After some initial confusion, an advisory committee
19 was created, including members of the field and the others,
20 which has worked with the Corporation staff in the
21 development of performance criterion, a subject which will
22 have our attention later this morning. That effort may not

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1 yet have reached its ultimate fulfillment, but at least it is
2 a start in returning to a more cooperative and less
3 confrontational era. To that extent, the Corporation has
4 indeed been more polite.

5 It is tempting to speculate whether it was the
6 euphoria over these improving relations or some less worthy
7 cause that lay behind the Board's request for a 50 percent
8 increase in funding. It is difficult, in a more sober
9 moment, to believe that in these times of huge budget
10 deficits, there was any realistic hope that such an increase
11 would result.

12 The cynical may believe that it was only an
13 inexpensive way to present a very favorable face to the field
14 without any real expectation of success. Still, it must be
15 admitted that both PAG and the ABA requested even larger sums
16 with the same prospect of success.

17 It now appears that we may once again face a year
18 in which the increase in the appropriation falls short of
19 meeting the inflationary increase in cost, with the resulting
20 pain of having to freeze already inadequate salaries, curtail
21 service, and perhaps close offices. The poor, justice in
22 this country, deserve better.

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1 The major event of the past year, of course, has
2 been the effort at reauthorization of the Corporation which
3 has not been accomplished since 1977 and has not existed
4 since 1980. Early on, we made our views known to the
5 relevant congressional bodies. A Board committee, chaired by
6 Buzzy Alluto, seemed to be moving in somewhat the same
7 direction until it was pushed off course when the matter came
8 before the full Board.

9 While we do not view H.R. 2039 as perfect, we do
10 believe that it contains some very desirable and necessary
11 improvements and would be a welcome piece of finished
12 legislation.

13 The Senate committee bill improves on some of the
14 shortcomings of the House bill but apparently will not come
15 to a floor vote in this Congress because of opposition from
16 the White House and the minority of the Senate committee. We
17 deeply regret that Senator Rudman's untiring Herculean
18 efforts on behalf of civil legal services for the poor will
19 apparently not be crowned by a new statute.

20 I believe these annual gatherings have been a
21 welcome addition to the Corporation's agenda. I am sorry
22 that we have been unable to attract greater participation by

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1 representatives of field programs.

2 I am of the opinion that an allocation of
3 Corporation funds to defray expenses associated with
4 attendance by program representatives would be money well
5 spent. The more we can come together and discuss issues and
6 problems of common concern, the more likely we are to meet
7 the common objective of providing high-quality representation
8 to indigent citizens with legal problems.

9 As I said when I began, I am pleased to make this
10 third, and likely my final, appearance at these annual
11 sessions. On each occasion, I have come as president of
12 DLADA, a position I shall shortly relinquish. I hope,
13 however, that these sessions will continue and that my
14 successor may represent us on future occasions. Thank you.

15 (Applause)

16 MR. WITTGRAF: I may not be here next year either,
17 Bill.

18 (Laughter)

19 MR. McCALPIN: There are those, George, who vote
20 for that.

21 MR. WITTGRAF: I won't ask for their names, all
22 right?

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1 (Laughter)

2 MR. WITTGRAF: Well, if you're not and if I'm not,
3 I'll hope that somebody is carrying on this tradition in our
4 absence.

5 Thank you for being with us these three years that
6 we have gathered in Washington, and St. Louis, and now in
7 Minneapolis, and let me add my thanks to the thanks you've
8 received from many other people across the country for your
9 efforts these many years to ensure adequate funding for civil
10 legal services for the poor. And as you well know, and as
11 you just suggested, it's a fight that is never over.

12 And we need more people like you who are willing to
13 fight it as part of your professional life. And I'm
14 motivated by your example, as I know my colleagues are, to
15 continue the fight. And even if you and I aren't actively
16 involved, hopefully others be as well. Thank you.

17 MR. McCALPIN: Thank you.

18 MR. WITTGRAF: At this time, it's my pleasure to
19 introduce to you another friend of the legal services
20 movement from Iowa. And when I say "another," I say
21 "another" in relationship to our congressman from central
22 Iowa, Neal Smith, whom I think all of you have heard of and

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1 many of you hopefully have had the opportunity to meet.

2 And I would encourage you, if any of you do have
3 the opportunity to meet or visit, if you would go out of your
4 way to do so this year or in the years to come, because as
5 chairman of the House Appropriations subcommittee that
6 oversees the Legal Services Corporation's appropriation and
7 as the third ranking member of the full House Appropriations
8 Committee, probably soon to be the second ranking member of
9 that committee, he is not only a very good ally, but he is
10 also a very influential ally.

11 And I think that what, albeit limited and less than
12 what we had hoped for, success we have had in increasing
13 federal funding during the last three fiscal years has been
14 due in no small measure to the support of Neal Smith. So we
15 do have a great friend there, and I encourage you, as I've
16 said, whenever you have the opportunity, to thank him for the
17 support that he has given us.

18 In addition to that friend, we have a friend with
19 us today from Iowa, from Des Moines, a native of Des Moines,
20 Judge Leo Oxberger. Judge Oxberger, like many of us, was a
21 private practitioner for a number of years before he stepped
22 up to the District Court bench, the bench of original

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1 jurisdiction in the State of Iowa, and served there for
2 approximately 10 years before then-Governor Bob Ray in Iowa,
3 upon the creation of a new Court of Appeals in 1976, asked
4 Judge Oxberger to become the chief judge of the Iowa Court of
5 Appeals. And Judge Oxberger has been the chief of that court
6 since 1976.

7 Not only is he a distinguished jurist within the
8 State of Iowa and known well to his colleagues on the bench
9 across the country, but he is a long-standing supported of
10 the civil legal services movement, one of the original board
11 members of the Polk County Legal Aid Society in Des Moines,
12 the head of the Advisory Committee appointed by then-Governor
13 Bob Ray in Iowa to help with the expansion of legal services
14 funding across the balance of the state in the 1970s. He's
15 been very active in the movement. And I've asked

16 him today to share some of his thoughts, some of his
17 insights, and some of his goals, hopes for this movement for
18 the future with us. At this time, it's my pleasure
19 to introduce another Iowa supporter of civil legal services
20 for the poor, Judge Leo Oxberger. Judge.

21 (Applause)

22 JUDGE OXBERGER: Thank you, George. Your reference

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1 to Neal Smith allows me to take a little ironic credit for
2 Neal Smith being in Congress. We, in central Iowa, had been
3 represented by a Republican congressman for 20 years, and I
4 was the Republican county chairman when Neal Smith first ran
5 for Congress. And with that success record, I didn't do as
6 well, and Neal was elected as a Democrat from central Iowa.

7 (Laughter)

8 JUDGE OXBERGER: I now know what "old blue eyes"
9 meant when he said, as he looked at audience, "Hey, you cats,
10 you are my kind of people."

11 Up here, I can feel the love in this room. We
12 share interest in helping people who need our help. I wish I
13 could sing like Sinatra or make you laugh like Cosby, but
14 fortunately I was not asked to entertain you. However, I
15 hope I don't dampen your enthusiasm to go from here to make a
16 difference in our new world order.

17 As a child, I grew up in a family in poverty. And
18 as a consequence, I have always had an affinity for the poor.
19 After graduation from law school, most of my practice
20 consisted of representing lower-income people in a variety of
21 legal problems. And at about the time I became the Iowa
22 district judge in 1969, I also became a member of the Board

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1 of Trustees of the Legal Aid Society. I served on that board
2 until, by Supreme Court rule, I was required to resign.
3 And as George mentioned, I was the first chairman of the Iowa
4 Legal Services Advisory Board.

5 I am now completing 24 years of judicial service.
6 During the first half of that service, I thought we were
7 making great progress toward the lofty concept emblazoned
8 above the steps of the Supreme Court of the United States,
9 "Equal justice for all."

10 The late '60s and early '70s were exciting days for
11 legal services programs, both for Iowa as well as across the
12 Nation. Issues that had never been litigated before because
13 poor people did not have lawyers were now being litigated in
14 all courts. Welfare, consumer, and tenant rights were being
15 advocated and becoming realities, both through court
16 decisions as well as legislative enactments.

17 Many people today active with legal services
18 programs, as staff members and members of the boards of
19 directors or as volunteers, do not know or may not recall
20 that in the early years of legal services programs, bar
21 associations were opposed to the federal funding of lawyers
22 for poor and resisted the naming of nonlawyers to legal aid

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1 boards.

2 I am happy report today that the Iowa Bar
3 Association is very supportive of the Legal Services program.
4 And all boards and commissions in the legal profession and in
5 the courts in Iowa have nonlawyer members. Many working
6 families cannot afford to secure the services of an attorney.
7 I have always felt the current goal of providing funding so
8 that two lawyers for every 10,000 poor people is
9 unrealistically too low and at the same time fails to
10 recognize the larger number of people who also cannot afford
11 an attorney.

12 It was important then and it is still important
13 today that the legal services movement should provide legal
14 representation to people who cannot afford an attorney and
15 particularly that we should stop penalizing those who are
16 employed by denying them basic rights, whether it be legal
17 services or medical care.

18 For the past 10 years, the legal services movement
19 has been at a near standstill because of the lack of adequate
20 funding. Priority-setting has restricted Legal Services
21 lawyers from handling many of the legal problems of
22 low-income people. Inadequate staff programs have become

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1 more inadequate by the cutbacks in funding at the same time
2 there have been increases in the cost of operating programs.

3 I am ashamed to say that the State of Iowa
4 currently fails to provide one penny of support for civil
5 legal services. Twice the Iowa legislature has appropriated
6 \$500,000, which were vetoed. Other states in this area have
7 recently adopted IOLTA, that's "Interest on Lawyers' Trust
8 Accounts," as a funding mechanism and then do not make it a
9 mandatory requirement to fund legal services for poor.
10 It is essential, I believe, that each states government
11 accept responsibility to meet some of the legal services
12 needs. It's not just a federal problem.

13 At the present time throughout the United States,
14 our justice system is under tremendous pressure from
15 inadequate funding. We have insufficient judges,
16 insufficient prosecuting attorneys and public defenders and
17 civil legal services lawyers. This is at a time when our law
18 schools are generating more and more graduates each year, and
19 a considerable number of those graduates are unfortunately
20 not finding jobs.

21 Recently, at the American Bar Association in
22 San Francisco, a resolution was on the floor that, had it

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1 been acted upon, would have requested that law schools cut
2 back their enrollments at least a third as a method of
3 reducing the glut of lawyers. Yet the need for lawyers has
4 never been greater when it comes to lawyers to fill legal
5 services needs, lawyers to become judges in vacancies that
6 have not been funded, and to increase the number of
7 other justice system attorney positions that exist or should
8 exist.

9 In addition, we must become innovative in our
10 approach to vast numbers of legal problems that affect
11 families, and particularly low-income families, allowing
12 trained and supervised legal assistants to represent
13 individuals in small claims courts, similar to their ability
14 to represent in administrative agencies, ought to be a
15 priority in those states that restrict representation.

16 As an illustration, in Iowa, we allow any entity
17 other than a person to be represented by a nonlawyer in a
18 small claims court so that the landlord can be represented by
19 a skilled nonlawyer but not the tenant. The debt collector,
20 by the fiction of an assignment, can represent the creditor
21 but not the debtor. And the list goes on.

22 While a great deal of attention has been directed

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1 toward volunteer lawyer projects -- and some of the projects
2 with unbelievably successful records -- the facts still speak
3 very loudly that volunteer programs cannot replace the
4 cost-effective, efficient operation of well-run staff
5 programs.

6 I think it is time that we all understand that
7 legal services needs of this Nation are not going to be met
8 by constantly dividing the same small pie among various
9 providers. It's time that we attack the program, not only on
10 a national level but each state level, to secure adequate
11 funding for legal services for poor at the same time that we
12 secure adequate funding for the whole justice system.

13 Of all the social needs that this country faces,
14 the justice system, a branch of government which includes the
15 ability of people to use our court systems, should require
16 priority funding. We should never forget that the very
17 Preamble to the Constitution of the United States suggests
18 that one of its lofty purposes is to "establish justice," to
19 "promote the general welfare," while "insuring domestic
20 tranquility," and "providing for the common defense."

21 We need to close ranks and work to ensure that the
22 ending phrase of the Pledge of Allegiance will no longer be

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1 an empty phrase when we state "and justice for all."

2 I know I'm speaking to the choir, and I just wanted
3 you to hear again how important your work is to America. It
4 reminds me of a story.

5 It seems that one day an old woman was walking
6 along the beach, she observed a younger woman throwing
7 beached starfish back into the ocean. She approached the
8 younger woman and asked her what she was doing.

9 The young woman replied, she "was saving the
10 starfish by throwing them back into the ocean."

11 The older woman responded, "How can you possibly
12 make a difference? There must be thousands of starfish
13 washed up along the many, many miles of beaches."

14 As the young woman leaned down to throw another
15 starfish into the sea, she smiled and replied, "It makes a
16 difference to this one."

17 Thank you for allowing me to share with you these
18 few thoughts.

19 (Applause)

20 MR. WITTGRAF: Thank you very much, Judge. I think
21 that we all can take your message that we need to do more to
22 get our state governments involved to heart. I don't think

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1 there's any question but what most of the work done by legal
2 services programs and their staffs involve the state court
3 systems and problems that arise under state laws.

4 Obviously, our state governments, in most
5 instances, be it in California, in Minnesota, in Iowa, or
6 else, are just as hard pressed financially as the federal
7 government. But the figures my colleague Mr. Dana has given
8 me are correct, while the federal government is providing
9 some \$350 million a year -- hopefully a figure that is about
10 to increase -- for civil legal services for the poor, our
11 state governments are providing at this time only a little
12 more than \$40 million.

13 And one of our goals, as activists for civil legal
14 services for the poor, should be to make sure that our state
15 governments are providing just as much in financial resources
16 toward civil legal services for the poor as is the federal
17 government, and that one of goals for the second 25 years of
18 the legal services effort should be to get our states just as
19 committed financially as is the federal government.

20 It's a tough, tough task, but I think the judge is right in
21 calling us to that task, and I think that it's one that we
22 need to focus on.

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1 At this time, as indicated in the program, we have
2 three distinguished gentlemen who are going to get down to
3 some nitty-gritty information. Bill McCalpin indicated
4 earlier that the rapprochement, the ability to feel, and the
5 Corporation and staff working together has been exemplified
6 this past year by the laying of the groundwork, the
7 foundation for the comparative demonstration projects.

8 Just yesterday, a committee of our Board selected
9 the recipients of the funds for the comparative demonstration
10 projects, and that effort is just about to get under way. It
11 has had a slow gestation period. I have to confess, the
12 monies were authorized by the Congress effective October of
13 1991, and we're not too far away from October 1 of 1992. I
14 guess it's about 12-month gestation period.

15 That being the case, nonetheless, we have Norm
16 Shumway, Charlie Moses, and D. Miller to share with us some
17 of their thoughts about the history, the present status of,
18 and the critical performance criteria that go with this
19 effort. And I encourage you to pay close attention to their
20 comments, because their comments will be the basis for our
21 break-out groups in a few minutes.

22 And as I indicated at the outset, we will be

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1 reporting and transcribing your comments in those break-out
2 groups, and they will be very important to our effort to
3 continue to evaluate the success of those projects, to learn
4 from those projects, and eventually to find winners in the
5 four categories of the comparative demonstration projects.

6 At this time, it's my pleasure to turn the program
7 over to Norm, to Charlie, and to D, and I'll let one of them
8 decide who gets to go first. Gentlemen.

9 MR. SHUMWAY: I am Norman Shumway, a member of the
10 Board of Directors. In a very large sense, I feel very
11 inadequate to stand before you this morning and talk about
12 this particular program, the genesis of it, the development of
13 it, because much of that occurred prior to my membership on
14 the Board of Directors. And I suppose it's because I'm a
15 relative rookie, what I am going to relate to you is largely
16 on information and belief, and I hope you take it in that
17 context.

18 (Laughter)

19 MR. SHUMWAY: We're here to talk about comparative
20 demonstration projects. And as some of you may know, in my
21 other life I serve as Commissioner of the California Public
22 Utilities Commission. Our business is to regulate utilities,

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1 which historically were monopolies. But over the last
2 several years, there has been a trend, not just in California
3 but in all 50 states across the Nation, to introduce
4 competition into the way that those services are provided to
5 all of us as consumers.

6 We believe that that competition will induce more
7 efficient operation of the utilities. It will result in a
8 lower cost to the consumers and in the process create a
9 better quality of service for those providers that are
10 essential services.

11 I believe that trend is very pervasive today,
12 not just in the area of public utilities, but it's a thought
13 that has been seized upon by many decision-makers and has
14 been talked about now in one context or another by Legal
15 Services Corporation.

16 Legal Services Corporation first began to consider
17 this idea perhaps in 1988, maybe even before. And in those
18 times the talk largely centered around geographical
19 competition. The idea was to open the field so that there
20 would be a seamless network of legal services providers
21 across the country.

22 And in its very early stages, an analogy was drawn

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1 between services that we provide and the competition that
2 exists between private law firms as they seek to attract
3 clients to their clientele. We discussed the use of
4 vouchers. We discussed the use of private attorneys in
5 delivering these services.

6 Eventually hearings were held, and we found that
7 there was a great deal of resistance to those ideas from the
8 field. Many providers said that those ideas would not be
9 workable, that the same kind of competition we look at in
10 those areas could not be translated to what we strive to
11 provide as legal service participants.

12 So in the face of some obstacles, the Board
13 essentially retreated, the idea became dormant for a while,
14 and then a couple of years ago there was a new Board, or at
15 least a new chairman and some new members of the Board, and
16 the idea came before us.

17 In the meantime, Congress knew of this particular
18 idea and very early on put in restrictive measures in
19 appropriations bills -- for example, saying that we could not
20 hire outside consultants for the purpose of developing a
21 program for competition, but rather we would have to develop
22 it in-house with our own personnel.

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1 But in about 1990, the idea took some root, and
2 then Congress became somewhat supportive of the idea. There
3 were still no funds earmarked for the purpose, but there was
4 language contained in reauthorization bills which we know did
5 not pass but nevertheless gave a message that Congress had
6 some intrigue about the idea and perhaps would like us to go
7 ahead with some kind of a program.

8 Now, of course, funds are earmarked to the extent
9 of \$977 million. In our budget, those funds are to be
10 applied toward Board initiatives. But in the conference
11 report that approved that funding, the conferees clearly
12 expressed their preference that we use that money for a
13 comparative demonstration project.

14 So we began to look at options. We talked about
15 setting up a program that would provide rewards for
16 employees. We talked about, again, geographic competition,
17 generally in areas where there were no providers. We talked
18 about head-to-head competition, which was a situation where
19 two providers would be paired off perhaps with overlapping
20 service areas so there would be some commonality between
21 them.

22 And then we talked about the so-called "carrot

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1 approach," which generally won out over these ideas and is
2 the approach now that we have begun to implement as a
3 Corporation. I'd like to think that it was this Board that
4 brought these ideas together that achieved a coalition of
5 different ideas and people, having different motivations
6 perhaps but nevertheless allowing something to come to the
7 fore that we could all get behind and support.

8 What we have now is a program that largely gelled,
9 I suppose, last October when the basic framework of this
10 program was brought before us for earnest discussion. The
11 purpose of the Comparative Demonstration Projects Program is
12 to promote competition but to do so in a way that will
13 improve performance as we deliver these vital services.

14 We hope that this program will develop and will
15 test performance measures that perhaps some day may provide
16 the basis for monitoring all programs. We'll have to wait
17 and see if indeed they have that effect, but that is our hope
18 as we begin to embark upon this program now.

19 What we have is really the product of many years of
20 discussion and thought and I suppose therefore represents a
21 quilt, a patchwork design. It has many colors, many
22 patterns. Some are happy with it, some not so happy. But we

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1 nevertheless have a program that we have been able to launch,
2 and now we're excited about the possibilities.

3 I think the history of getting to where we are
4 today could best be described by citing the titles that we
5 have used for this program. It was originally called
6 "Competitive Bidding." And then we came to call it simply
7 "Competition." And now we call it "Comparative Demonstration
8 Project." The transformation I think is obvious, and I think
9 we have been able to put together a program that meets
10 expectations and ideas of many of you who have been involved
11 with us.

12 A result of what we have embarked upon now we
13 believe could have a very positive impact in the future on
14 appropriations bills and the reauthorization process itself.
15 We think that doing what we are doing will perhaps extend a
16 very positive influence and message to Congress that we are
17 seeking excellence as we strive to carry out the programs
18 which Congress has called us to implement.

19 We believe that in the process everybody should be
20 winners, not just those who may be selected for the projects
21 but all of those who likewise bid on the projects and those
22 who are just watching to see what happens. We hope that for

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1 all of us as providers we will be able to improve our
2 performance, we'll know the criteria by which we should be
3 judged, and in the process we will all be winners.

4 Whether we succeed or not in this endeavor, I think
5 we will find out over the next 18 months of implementation.
6 This really represents just a beginning or perhaps phase one,
7 but now we're on our way, and we will have something to watch
8 as it unfolds.

9 We were pleased with the number of applicants. As
10 we drew the successful numbers yesterday, there were several
11 in each of the four categories that indicated to us that
12 there was a degree of widespread interest and support for the
13 program and that, to us, indicates a very healthy start and
14 something which bodes well for the future.

15 We would like to thank all of you for your
16 suggestions, your ideas, your applications, and, I suppose
17 above all, your tolerance as we have tried to sift these
18 ideas and come up with a program which will fit the purposes
19 that we're all committed to.

20 I look forward to the unfolding of what we've now
21 started upon, and I hope that all of us will work together to
22 make it a success. Thank you very much.

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1 (Applause)

2 MR. MOSES: As Mr. Shumway was saying, basically it
3 was about last October when we began to work with this
4 particular project at its current stages. At that time, this
5 project was assigned to the Legal Services Corporation's
6 Operations and Regulations Committee, of which Mr. Shumway is
7 the vice chair.

8 Under the guidance of that committee, the
9 Corporation staff was instructed and, in fact, found it very
10 useful to work with a national advisory committee of
11 individuals from basically every type of practice from around
12 the country.

13 We went to NLADA, we went to PAG, and got
14 suggestions for individuals that would be good on such an
15 advisory committee, and ended up with a group of
16 approximately 26 people. They were legal services
17 practitioners from rural areas, from metropolitan areas, both
18 program directors as well as attorneys. We were able to have
19 client representatives on our committee. We were able to, in
20 addition to the Legal Services personnel, have distinguished
21 people from other similar organizations.

22 For example, we had input from public defenders, we

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1 had input from basic writers in ethics, and that type of
2 time, as well as something as diverse as the deputy general
3 counsel of General Motors. That was very instrumental and
4 helpful as we were starting to design the project.

5 The advisory group had a very big task in front of
6 it. Working with the staff, we were to design a project that
7 would encompass all of these different concepts that the
8 Board had been talking about, as well as to design a method
9 for implementing the project once we had come up with the
10 basic design.

11 Those discussions culminated with a project
12 designed around cluster groupings of similarly situated
13 programs. There were four clusters created, varying in the
14 cluster according to the geographic size of the area a
15 program covers as well as according to the total budget size
16 that any program had. In fact, those clusters had relatively
17 equal numbers of programs in them.

18 There's been some adjustment of the cluster size
19 throughout the period of the implementation, but the basic
20 concept has always been to allow competition of like or
21 similar programs within each cluster and that there would be
22 an analysis at the beginning of the project of each program

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1 and then an analysis done by the same peer review team at the
2 end of the project to see if the competitive nature of
3 competing for a specific monetary prize would help to improve
4 program performance within those four programs selected.

5 Luckily, we were able to come together with a
6 design that everyone in the Advisory Committee felt
7 comfortable with and our Board of Directors felt comfortable
8 with, and a solicitation was put out for programs, only basic
9 field programs, that were interested in competing.

10 We were very fortunate in that 78 programs
11 submitted applications for this particular comparative
12 demonstration project. That's approximately somewhere around
13 25 to 30 percent of all basic field programs, which I think,
14 for a project of this nature, is a very good percentage.

15 Of course, now, we could only select 16, so we had
16 made the decision early on that the selection would be done
17 by lottery in public. I am very pleased to announce that
18 yesterday that selection did take place at the Operations and
19 Regulations Committee meeting here, and the 16 participants
20 in this demonstration project were selected, along with an
21 alternate in each cluster grouping.

22 Those 16 programs are: For cluster number one,

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1 which has a budget of less than \$1 million and a service area
2 of less than 3,000 square miles, includes these four
3 programs: Legal Services of South Central Michigan,
4 Northwest Florida Legal Services, Contra Costa Legal Services
5 Foundation, and the Legal Aid Society of Charleston in South
6 Carolina. The alternate for cluster number one is Carolina
7 Regional Legal Services.

8 Cluster number two, the four programs selected for
9 that cluster were: Legal Services of Upper East Tennessee,
10 North Country Legal Services, Tulare/Kings County's Legal
11 Services, and Washoe Legal Services.

12 The alternate in cluster number two was Heart of Texas Legal
13 Services.

14 Cluster number three, the selected applicants were:
15 Legal Services of Norther Virginia, New Orleans Legal
16 Assistance Corporation, Westchester/Putnam Legal Services,
17 and the Legal Aid Society of Alameda County. The alternate
18 in cluster number three is Legal Assistance Corporation of
19 Central Massachusetts.

20 Cluster number four will have these four programs:
21 Northern New Mexico Legal Assistance, Legal Aid Society of
22 Metropolitan Denver, Idaho Legal Aid Services, and Legal

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1 Services of Western Carolina. The alternate in cluster
2 number four is Palmetto Legal Services.

3 Of course, the selection of these 16 programs was
4 only the first step in the demonstration project from this
5 point on. Equally important, if not more important, was the
6 design of the measurement structures that would be used to
7 compare these particular programs. And, in fact, our
8 Advisory Committee has been working on these measurement
9 performance criteria for the past nine months.

10 Basically, what we were finding as we started to
11 work on these criteria is that we needed to be able to
12 develop credible standards in order to measure performance at
13 all different levels, standards that the programs in general
14 would accept and understand and be able to implement and
15 recognize.

16 Now, of course, many of you might know that the
17 American Bar Association had previously already created
18 standards for civil legal services providers, but not even
19 those standards would fully encompass everything that we felt
20 needed to be involved in performance standards for legal
21 services programs.

22 What we found was a development of five basic

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1 criteria along with a variety of indicators that we will be
2 discussing here during this morning's session. Basically, in
3 the development of these criteria, one of the key individuals
4 that has been helping us has been D. Miller.

5 And rather than my trying to stand up here and
6 defend a lot of D's work, I think at this point it would be
7 appropriate for me to let D. Miller take over the microphone
8 as we go into the more specific nature of what these five
9 areas are and how we would choose to measure them.

10 MR. MILLER: First I have to figure out what I can
11 read from my notes. Let me just -- what I'll try to do --
12 in, I hope, a very few minutes, although we're pretty far
13 ahead here -- is to give you an overview of a document or two
14 versions of a document that I understand will be available to
15 you when you go back to the break-out rooms.

16 What you should be, in particular, looking for is a
17 document that has a cover page looking like this that says
18 "Performance Measurement of Legal Services Programs for the
19 Competition Demonstration Project," with a date of September
20 '92. It would be very helpful to you in your discussions in
21 the small groups if you have that.

22 Let me say right at the outset that I think it's

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1 fair to say -- Norm Shumway called it "resistance" and
2 mentioned a lot of -- or suggested a variety of motivations.
3 But most people, I believe, who have had a lot of experience
4 with field legal services programs, have been and indeed
5 remain very skeptical about the degree to which competition
6 as a strategy, speaking very broadly, is likely to be a
7 particularly useful or efficient way to improve the
8 performance of legal services programs.

9 And by contrast, I think most of share, in one
10 fashion or another, some sense that other intervention
11 strategies, especially evaluation, followed by targeted
12 technical assistance and targeted training, with a heavy dose
13 of continuing required self-assessment by programs, and
14 indeed with the ultimate threat around dollars, funding, for
15 failure to perform.

16 There is probably a more effective combined
17 package, but overall we share in the common ground, I think.
18 Norm mentioned a coalition. The common ground is an
19 agreement that improvement of performance is the goal here.
20 It's not preservation of programs for their own sake or for
21 the jobs of the people that work in them, nor is it adherence
22 to a particular philosophical concept like competition. The

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1 goal is best possible services with the money available for
2 the client community.

3 So notwithstanding what I perceive as a shared
4 skepticism, it was clear from this time last year that
5 Congress had appropriated the money and the competition
6 project was going forward. We had some choices to make,
7 basically were we going to let it go forward, or were we
8 going to try to put our shoulder to the wheel and make it as
9 useful and positive and successful a process, and that's what
10 we chose and decided to do on the Advisory Committee.

11 It's not by the way, D. Miller's work or D. Miller
12 and Alan Houseman's work. There's an Advisory Committee of
13 26 people, which has, with subcommittees, been working on
14 this since, I believe, right at the beginning of the year. I
15 think we threw out the first ball on something like the 5th
16 or the 6th of January, and it got fairly intense, with weekly
17 meetings, there for a while.

18 There are several Advisory Committee members here
19 that I would urge you to talk to, Alan Houseman, Leona Vogt,
20 Ben Cole, Marion Hathaway are four at least that I've seen.
21 And if I've missed others, I apologize.

22 On the Advisory Committee, we, I think, came to a

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1 consensus that there were at least two principal purposes of
2 this demonstration. One was to test several different
3 intervention strategies or hypotheses, the first of which was
4 going to be competition. The later phases, were there to be
5 funding for them, would include some of the things I
6 mentioned earlier.

7 The second purpose was to -- in order to make this
8 work, articulate from our collective perspective sound
9 performance evaluation criteria in an entire framework and
10 system and then test it, see where it worked and where it
11 didn't work, and make it even better.

12 A collateral byproduct of those two purposes is
13 that in testing it we would learn a lot more about
14 correlations between areas of performance, among areas of
15 performance, the interrelationships, the way excellence in
16 one area tends to correlate or not correlate with excellence
17 in another.

18 Our approach was to look at five broad areas of
19 program performance. One was the program's ability to focus
20 on the most pressing needs in the community.

21 The second is the quality of a program's totality
22 of services, certainly starting with and including, in a

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1 major way, representation of clients but also the other
2 collateral services that it may engage in, such as community
3 legal education, utilization of pro se techniques,
4 involvement with other kinds of dispute resolution
5 techniques, and any innovations that it might come to.

6 The third broad area was the degree to which the
7 program succeeded in achieving widespread access to and
8 utilization by its client community. And by "client
9 community" we mean not just the totality but the major
10 subsets, subgroups, segments thereof.

11 The fourth area that we decided to look at was the
12 overall operation of the program, more of a systems and
13 perhaps administration focus than the delivery-of-service
14 focus. The fact is, for 25 years of evaluation of legal
15 services programs, partly because it's easier and more
16 palpable, but partly because it's important, that's the area
17 that all evaluations have focused on. That is the common
18 denominator.

19 Very few have focused on performance, even fewer
20 have focused on results, but all have focused on the
21 operation of program. So we decided to keep that in there.
22 It might be a surrogate for excellence in other areas, it

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1 might be a flag, the correlations we thought would be
2 important, so we kept it in.

3 The fifth area is efficiency -- not cost,
4 efficiency -- the ability, relatively speaking, to achieve
5 the goals that the program otherwise sets for itself in the
6 most efficient, least costly manner.

7 By comparison, I just want to give a couple of
8 historical references. The Delivery Systems Study, which
9 those of you with a moderate to long-term memory in legal
10 services will remember -- the Corporation did a Delivery
11 Systems Study. Leona Vogt was head of it for most of the
12 decade, much of the decade of the '70s.

13 It looked at four -- principally at four factors,
14 performance factors. It has a different mission, so it's not
15 exactly analogous, but it's relevant. It focused on cost;
16 quality, by which it meant principally quality of lawyering,
17 the representation of individual clients; something that they
18 called "impact," which gets very close to "the most pressing
19 needs" thing; and client satisfaction, which is a subset of
20 results.

21 So, let me just line that up for you. Their cost
22 has evolved into our efficiency, a broader sense, I think, of

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1 kind of a relatively of goals. Their quality of
2 representation has broadened into quality of all activities
3 by a program. Their impact really correlates most closely to
4 our emphasis on a requirement that a program focus its
5 resources on the most pressing needs of the community; that
6 is, impact sort of free-floated out there. It was -- didn't
7 really have any mooring. We have a much more, I think,
8 palpable sense of what a program should be doing.

9 Client satisfaction is folded in, in our schema
10 into -- as one of the results that we look to in assessing
11 the results of the program's activities. And it really
12 didn't look at access, it kind of put access to the side
13 early on.

14 There are, as I think was implied in what Norm
15 said, no real benchmarks here for us. The DSS has its
16 measures. There are the ABA's standards, which were never
17 intended really and don't serve well as a performance
18 evaluation framework. They were more an expression of
19 aspirational goals for Legal Services. They are expressed in
20 a way that necessarily facilitates measurement.

21 We did, in developing these criteria, try to rely
22 and integrate as much as possible, rely on the ABA standards

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1 where they were pertinent. There are also outside efforts by
2 the profession. Some of you may have followed the iterations
3 of the ABA inquiry into quality, not having anything to do
4 specifically with legal services, but much more broadly in
5 the profession.

6 There have been efforts out there. That frame of
7 reference for that inquiry, I think, is far too narrow for
8 Legal Services, as we see the mission of the program.

9 That's just all as background to a comment before I
10 get into the specifics. If we could -- we felt at the
11 beginning that if we could pull this off, if we really could
12 design a performance measurement scheme that worked, that had
13 a consensus of support, it would be an enormous contribution.

14 It was long since past time, as Bill McCalpin and many
15 of you who were around -- some of you who were around at the
16 beginning of the formation of this program, I think, would
17 agree a program 25 years into its existence probably ought to
18 have a way to ensure that it's really accountable to the
19 community it serves and -- so we thought it was a grand
20 effort in some ways that we were on. It did not
21 spring, as I said, fully formed from any of our brows.

22 The premises of the system are that Legal Services

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1 programs have limited resources, that they are going to
2 delivery services to an entire geographical area, that they
3 are the -- thirdly, they're responsible for all the civil
4 needs in the area. Fourth, therefore, that they are going to
5 be responsible for making very tough decisions about how to
6 use these limited resources, and therefore these resources
7 should be, as a matter of almost national mission, focused on
8 the most serious, critical, and pressing needs of the client
9 community.

10 So to take one performance area, the first one,
11 which is the focus on most pressing needs, we -- and then try
12 to break it down into steps, we -- and this is in the handout
13 that you'll be getting. We moved from the performance area,
14 focused on most pressing needs, to a set of criteria, and we
15 looked to see whether the extent to which each of those
16 criteria are met a third set of points of reference, which we
17 called or dubbed indicators.

18 The criteria in the case of this first performance
19 area, most pressing needs, I just want to use this as an
20 example to sort of cue you in to a way that we thought. Our
21 first, the extent to which the program shows evidence of
22 conducting periodic in-depth assessments of the needs of its

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1 client community. A lot of ways you can do it; no one way is
2 magic. It's not a cookbook or a menu approach. But there
3 has to be some assessment process.

4 Second, program -- at the same time, it's not a
5 fixed kind of an approach. It has to be flexible and
6 adaptable to new developments in the law or new crises in the
7 client community. It can't just make its determination in
8 January of the year and say, "Oop, you know, we had a
9 hurricane blow through here and an earthquake, but we're
10 going to ignore all that, and we're going to keep our
11 priorities unchanged throughout the year.

12 Third, that process of assessment and flexible
13 adjustment has to, in fact, come down and land on what most
14 people would reasonably say are pressing needs, as opposed to
15 frivolous side quests.

16 Fourth, the program then must have an effective way
17 of targeting the resources that it has, whatever they are, on
18 those needs, and it must show evidence of having done that.

19 Fifth, it must then adopt strategies to actually
20 move its personnel's actions toward addressing those needs in
21 an effective way.

22 In other words, you can say, we're going to -- most

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1 pressing need is housing, no other pressing need, we're going
2 to put all our attorneys in the housing area. But you could
3 proceed in a spectacularly silly fashion to address housing
4 needs, or you could do it in a wise and skilled way. So you
5 have to look at the quality of the implementation.

6 And lastly, we required that programs go through a
7 periodic self-assessment process, that they look at what
8 they've done, that they assess whether it has been
9 successful, and that they make appropriate changes.

10 We followed that same kind of itemization of
11 criteria. And then looking at lists of indicators for each
12 of the other four areas, that's all pretty much detailed in
13 the handout that you'll be getting. And I would encourage
14 you to try to read it.

15 One practical note: If you are seeing this
16 material for the first time today and some of you -- many of
17 you may be, it is too much, I think, reasonably to expect
18 yourself, and we don't expect you to be able to absorb it all
19 at one sitting or to disgorge all that you have to say about
20 it in one hour-and-ten-minute session.

21 Consequently, feedback on it, comment on it is very
22 important. We're on, notwithstanding all the delay that's

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1 ensured so far, a very accelerated time frame to try to
2 finalize this. We hope to finalize the working model for
3 these evaluations by the middle of October so the training
4 can begin around that time. So it's important that you get
5 your feedback right away.

6 Let me conclude with a couple of observations, four
7 in number, and then a charge to your groups. This system
8 could be characterized, I think, as being a dynamic system,
9 not a snapshot of a Legal Services program. It's the first
10 time that an evaluation has really tried to look at program
11 performance over time, not just where are you in September
12 1992, but where were you a year ago, where did you try to
13 get, how well did you do, where do you expect to go in the
14 future? So it's dynamic.

15 The second is that we don't -- we early on rejected
16 the notion that there was any mystical, simplistic
17 quantitative approach to performance evaluation. There is no
18 magic set of numbers that will do this. It is a much more
19 complex task than that. What we tried to do was to figure
20 out a way to generate a lot of data and information and
21 objective numbers and put it in the hands of peer reviewers.
22 And the peer review, expert judgments about Legal Services'

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1 performance, is the absolute heart of this performance
2 evaluation system.

3 On that, the peer reviewers, as I think many of you
4 know, are just in the process of being selected by the
5 Corporation. The system, I think, will work if the people
6 who are selected are experienced in all parts of Legal
7 Services operations. They have got to be familiar with each
8 of these major performance areas.

9 There is no substitute, we thought, for the
10 judgment of experts. We are aware of other efforts within
11 ABA, and other sectors have tried peer review processes, but
12 the reasons peer review has been criticized in the past in
13 other forums has inevitably been because of design problems
14 in the peer review approach that was being selected, not in
15 the concept itself, but in the technical design problems.
16 We're very confident that, within the framework something
17 like what we've generated, peer review is the way to go, the
18 only way to go.

19 Third observation, these performance areas become
20 the framework within which the peer reviewers make their
21 judgment, so their judgments, in some sense, are going to be
22 subjective. They're going to be -- there's a scoring

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1 approach and all of that sort of thing. But there's so much
2 objective data and the framework is so parallel program to
3 program that we're very confident that it's the best human
4 beings can do, at least at this point, to make those
5 judgments comparable across programs.

6 And fourthly, we are very clear from the outset
7 that we did not know enough about performance measurement or
8 how the lists and structures that we had set up for the
9 particular performances areas would work to allow us to
10 weight those performance areas. So we didn't weight, for
11 example, the program's ability to focus on the most pressing
12 need at more or less than the ability to provide quality
13 representation.

14 We tried to set up a framework where ultimately the
15 peer reviewer will make an overall judgment about the
16 program. We recognize that in the world of scarce resources,
17 a program is not going to be able to do everything that it
18 could possibly do in the access area, for example, without
19 pulling resources away from one of the other performance
20 areas.

21 So a program makes tradeoffs. And what we want to
22 do is set up a structure so that the peer reviewers could

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1 look at the decisions that the program made and evaluate
2 those in terms of reasonableness, rather than trying to
3 precast it and say, this area was worth 20 percent and that
4 was 25. That seemed to us just absurd.

5 So for your groups today, what I would like to
6 suggest -- give you a little bit of a charge here -- is a
7 three-fold task. We would like to know, first, did we
8 blunder hopelessly and miss some overarching performance area
9 or some very important criterion that's just simply not on
10 the list?

11 Secondly, and particularly important -- we
12 developed these lists of indicators that suggest the extent
13 to which the criteria really satisfied -- look at the
14 indicator lists and see whether there are other things that
15 you think should be on there.

16 And thirdly, to the extent that you are able to get
17 into it, any input or advice you can give us about where and
18 how to look for evidence that these indicators and criteria
19 are being met would be very helpful. That's really -- in the
20 way we set out this document that you'll be getting -- the
21 fourth section, called "Measurement Approaches." But we're
22 really looking for sources of evidence, and we really would

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1 like your feedback.

2 I don't have any actual charge to do this, but I
3 would suggest that to make sure that everybody doesn't start
4 with the first area and doesn't have time and doesn't have
5 time to do anything else, that it might be a good idea to
6 just structure it a bit. You're free to reject it, but we
7 have three discussion groups, A, B, and C. Perhaps it would
8 make sense if Group A could try it. We used to focus on
9 performance areas 1 and 5, in addition to asking, "Were
10 there any areas missing at all?"

11 Group B could focus preliminarily on performance
12 areas 2 and 3. And Group C could start at least by focusing
13 on performance area 4. That way we will ensure that we will
14 have captured at least some of your attention on each of the
15 areas as a priority, and that would be helpful to us. Good
16 luck.

17 Please give the feedback -- I don't know -- since
18 I'll be involved in some of the writing, I'd like whatever
19 comments you have, and I think the other feedback probably
20 ought to go, as a point of location, to Charlie at the
21 Corporation. Thank you very much.

22 MR. MOSES: If I can add to that, just so that

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1 everyone understands a little bit of the procedure, what's
2 going to happen, each of the subgroups will have transcripts,
3 so please feel free to say whatever you want to. If you
4 can't say everything that you want us to know, which is very
5 probably in an hour-and-10-minute session, please feel free
6 to give us comments as we work through this.

7 Everything at this point is still in draft stage.
8 The document that D was talking about is even marked "draft."
9 And, in fact, as we work with it, we anticipate that there
10 will be changes and modifications. However, those will have
11 to be done very quickly.

12 A PARTICIPANT: Where can we get the handout that
13 you referred to?

14 MR. MOSES: The handouts will be right in front of
15 each group room. And, in fact, there will be two handouts.
16 You can take either one or the other, I would suggest. One
17 of the handouts is the draft document that D has talked
18 about. The other is a handout that is the specific
19 performance criteria and indicators as they exist, without a
20 lot of the additional information.

21 MR. WITTGRAF: Norm and Charlie and D, thank you
22 very much. I think the perspective and the particulars that

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1 you have given the group are very, very helpful.

2 Before we break into our three groups, does anyone
3 have a particular question that he or she would like to raise
4 with Norm or Charlie or D for the benefit of the whole group?

5 (No response.)

6 MR. WITTGRAF: All right. We can live with that.

7 If you look at pages 2 and 3 then of your
8 conference program, you will see that Group A -- and this is
9 self-defining in terms of whether you go to Group A, B, or C,
10 so I would encourage you to use some judgment. If everybody
11 rushes to Group A because they really want to be with Charlie
12 and Leona, some of you please peel off and go to Groups B or
13 C.

14 But Group A, with Charlie and Leona as the
15 facilitators, will be upstairs in Ballroom A, part of the
16 Greenway Ballroom complex. And I would encourage you to
17 follow D. Miller's admonition that you concern yourselves
18 initially with performance criteria 1 and 5.

19 Group B then, in Greenway Ballrooms B and C, will
20 be with Marion Hathaway and with D. Miller. Again, as
21 suggested by D, concern yourselves initially or primarily
22 with performance criteria 2 and 3.

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1 And then finally Group C, upstairs in the D and E
2 portions of the Greenway Ballroom, with Ben Cole and Ellen
3 Smead. Concern yourself principally or at least initially
4 with performance criteria 5.

5 As I have indicated previously, we will -- excuse
6 me, 4 -- and I misspoke, it was 2 and -- yeah, 1 and 5; 2 and
7 3; 4 -- thank you.

8 The session will be reported and transcribed.
9 Please identify yourselves for the record, not that this will
10 be held against you forever, what you have to say for the
11 record, but please identify yourselves for the record, speak
12 clearly and slowly so that the reporters are able to get down
13 what you've got to say and that we'll get the benefit of it.

14 At approximately 11:45 then, the groups are to
15 break. We will not be coming back together in this room
16 until after the luncheon, so we'll be going from the groups
17 to the luncheon. The luncheon will be immediately next door
18 in this portion of the Nicollet Ballroom. You should be
19 taking with you your green or pink slips that will ensure
20 your getting something to eat this noon. Those will go to
21 the tables where you're at. Bill?

22 Yes, ma'am.

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1 A PARTICIPANT: Charlie, I just want to make one
2 suggestion and that is that D maybe read off what each of the
3 four -- five are, so that if anyone has a burning interest in
4 one, they could at least aim at the right room.

5 MR. WITTGRAF: Good suggestion. D, do you want to
6 -- for purposes of the Groups A, B, and C -- link up the 1
7 and 5, 2 and 3, and 4 of the performance criteria?

8 MR. MILLER: One is the program's ability to focus
9 on the most pressing needs of the community, how it does
10 that.

11 Five is efficiency. Two is quality of the program
12 services, including results. And three, which is linked with
13 that, is access and utilization by the client community. And
14 four is the internal operations and systems and conduct of
15 the program.

16 MR. WITTGRAF: Thank you, D. Thank you, Leona.

17 With that, we will break to those Groups, A, B, and
18 C, and look forward to seeing you all at lunch. Thank you.

19 (Whereupon, at 10:32 a.m., the meeting was
20 adjourned to the Focus Groups.)

21

* * * * *

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(4:35 p.m.)

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CHAIRMAN WITTGRAF: Ladies and gentlemen, if I could have your attention. Again, we'll proceed with the last portion of our conference program. My impression is that we had three really very lively discussions. I'm not sure that it's going to be fair to ask our facilitators to summarize everything that was discussed in their sessions.

As I've been saying all day we have been reporting, we will be making transcripts of these sessions, and if any of you, for any reason, should want copies of those transcripts please don't hesitate to contact the Corporation, most particularly Pat Batie, the Corporation Secretary, and she can help you get a transcript if you're so inclined.

At this time I believe Blakeley Hall, a member of our Board, is prepared to summarize the discussions in the first breakout group, that dealing with the changing needs of clients. Mr. Hall.

MR. HALL: Thank you, George. We did discuss that topic and we had a very good discussion on it. There were a lot of good ideas thrown out, a lot of things that are happening to a lot of providers; I just listed a few of them. So, my report is probably going to be kind of haphazard.

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1 I'll kind of list them as they come.

2 We discussed the overcrowding of schools that a lot
3 of folks have seen due to a great influx of children.
4 Usually a high percentage of those are non-English speaking
5 children. Tomas Olmos, who was a co-facilitator with me, had
6 mentioned that they had experienced a problem similar in
7 nature to this and had challenged schools' allocation of the
8 assets, in other words, where the best -- I'm probably not
9 characterizing it exactly right, Tomas, but where the best
10 teachers were sent, where the funds were sent to. I think
11 that you achieved some equity in that situation, did you not?

12 We talked about the great influx of clients that
13 the AIDS epidemic has brought about, and the particular
14 problems that that has brought on, and the health care rights
15 there. We mentioned the fact that a new area of need seems
16 to be discrimination because you're poor, or at least an
17 emerging area. The idea that a lot of people think that
18 person is poor so, therefore, they're not capable of doing
19 the job. And they don't hire them for that reason.

20 We talked about the education field, how education
21 for children now has become so technical with computers and
22 word processors and so forth and it's more important now than

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1 ever to get that.

2 We talked about immigration, how that's increased
3 the number of clients; probably caused some of the
4 overcrowding in the schools.

5 We talked about the changed in family law, more
6 dads now seek custody. So, some of the providers are seeing
7 more cases like that. There is more emphasis on preventing
8 family violence in domestic relations cases. A lot of the
9 providers are seeing the housing problems; eviction without
10 conviction of drug offenses.

11 We talked about the aging population and the
12 concerns for the health care; and the health problems,
13 concerns that that has brought on.

14 We talked about the increase in the poor population
15 and some of the problems that are particular to that, for
16 instance: I learned that quite a few of those folks are
17 living in shelters. They're tenants, although they don't
18 have the tenants rights as we like to think of. But they
19 stay there month, after month, after month, and in all
20 aspects they're tenants without the rights. Curfews are
21 imposed on them and all types of things. Apparently that's
22 an emerging area.

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1 One provider mentioned that one of the problems
2 that they're having is that the drug subculture moves into
3 the poor areas and the violence comes with it and causes the
4 provider to have to move elsewhere because of that violence
5 and because of the danger. That's cutting down on the access
6 somewhat to the poor.

7 We kind of ended our conversation talking about the
8 lack of sense of stake in the neighborhood that a lot of
9 folks are feeling, and the high frustration level. There has
10 been some violence towards some of the providers. A lot of
11 people need to be served. They have extreme problems but
12 because there is not enough resources to serve them they're
13 not. That has led to some violent situations. I know that's
14 nothing germane to the poor but apparently it's been
15 experience by providers as well.

16 The conclusion was we need more money. Money would
17 solve it. Thank you.

18 CHAIRMAN WITGRAF: Thank you, Blakeley. The
19 second breakout group had to do with the changing needs of
20 the legal services programs themselves and their operations.
21 And to summarize the discussion of that group Linda Bernard,
22 the executive director of Wayne County Neighborhood Legal

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1 Services in Detroit. Linda.

2 MS. BERNARD: Thank you. Our discussion was
3 conducted and facilitated by Mr. Basile Uddo and Ms. Jo Betts
4 Love of the Legal Services Corporation Board of Directors.

5 We focused on what we view as the changes and the
6 needs for legal services really from the 1960s into what is
7 going into the 1990s. I had prepared a paper on the subject
8 which was distributed at the meeting. If anyone is
9 interested in it we can certainly provide you that as well.

10 The discussion focused on four key aspects of
11 practice for legal services programs. The first dealt with
12 business management issues; the second dealt with personnel
13 issues; the third, client service; and the fourth, community
14 issues; as being the key areas in which there would be
15 substantial changes in the needs of legal services programs
16 and their operations in the 1990s and beyond.

17 In our discussion we only got to the business
18 management issue and the subissues that flowed from that
19 subject matter. The discussion began with a discussion about
20 the fact that legal services programs are non-profit
21 corporations, that they're business. And that essentially
22 the program director is the CEO of that corporation and/or

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1 the managing partner of that law firm. And that a business
2 approach needed to be taken by program directors with respect
3 to their obligations as CEOs and as service providers.

4 The discussion talked about efficiency and
5 effectiveness, what is the proper service for clients, i.e.,
6 whether it's litigation, mediation, or perhaps another type
7 of service.

8 As we moved forward in the discussion, however, two
9 key elements came forth. The first dealt with equalization
10 and the funding of legal services, and the second subissue of
11 that was alternate funding of legal services.

12 There were two views on the issue of equalization.
13 My view, and that of some of the people in the room, was that
14 equalization should be accomplished immediately. The only
15 client member that spoke, spoke very eloquently and
16 vehemently on that subject, reminding us all that the money
17 is the clients, it's not the programs'. And that the funding
18 is based on a per poor person basis and that, therefore, the
19 money should follow the client irrespective of the
20 consequences of that action. And that anything other than
21 that results in, if you will, a sophistry, a legal sophistry,
22 that the Corporation and others, perhaps, have proposed, but

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1 it is not fair, it is not right, it's not in accordance with
2 the statute.

3 Other persons in the group felt that that would be
4 inappropriate to move to equalization immediately, keeping in
5 mind, of course, that this discussion has been going on now
6 for about 15 years, so, I don't know how much longer it's to
7 be delayed, justice today, justice tomorrow, or ten years
8 from now -- but in any event.

9 The discussion centered around the fact that there
10 had not been any major increase in funding, that the \$20
11 million or so that we're talking about, taking that away from
12 some programs would hurt them very badly, but as our client
13 member said, bringing the discussion back to where we began,
14 the money is the clients. It is not the programs.

15 It is our obligation as project directors, as
16 program directors, as CEOs, as managing partners, to generate
17 other funding sources for our programs outside of the
18 Corporation, which led to the discussion on alternate
19 funding, which was very, very vigorous and very interesting.
20 So interesting, in fact, that Mr. Uddo recommended that we
21 have a separate conference that deals exclusively with
22 alternative funding issues.

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1 One of the key issues, of course too, was the
2 extent to which the Corporation should control alternate
3 funding sources. It was expressed by the group that for the
4 Corporation to attempt to control alternate funding,
5 discourage those funding sources, because they want to be
6 responsible for the funding they are providing and they don't
7 want any strings attached to it other than those which they
8 provide, whether it's public funding -- or in one instance
9 Rick Teitelman told us about his program where he receives
10 separate grants from the Arch Diose of St. Louis, the
11 Lutheran Church, the Methodist Church, and a couple of other
12 churches whereby he gets the services of five lawyers.
13 It was a very impressive concept and one which showed real
14 creativity, we thought, on his part in terms of meeting the
15 needs of people in his service area.

16 We also talked about attorney's fees awards as a
17 source of alternate funding. And Greg Knoll from San Diego
18 said his rule was that, that should not come back to the
19 office without your fees when, in fact, attorney's fees are
20 available on a particular case.

21 There was discussion, too, about how the
22 Corporation could help in the search for alternative funds,

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1 and how they could be more effective in Congress, for
2 example. Although the proposal was for \$525 million only
3 essentially two members of the Board were actively involved
4 in the discussions with members of Congress concerning that,
5 and that if perhaps all of the members of the Board could
6 have actively been involved with Congress in lobbying them on
7 this issue we might have been more successful than we were.

8 And as a follow-up to that, that if the
9 Corporation, like most corporate boards, focused on policy
10 issues rather than in some instances, internal management
11 issues and micromanagement issues, then perhaps all field
12 programs, and the Corporation of course, could enter into the
13 benefit of that kind of a very directed focus by the Board.
14 So, that was another funding -- that the Corporation could
15 pursue alternate funds.

16 There was discussion about the Martin Luther King
17 dinner, how that was an effective fund raiser for another
18 program. And how you use various other legal associates from
19 the Black Women Lawyers of Texas to the NAACP. All sorts of
20 organizations are utilized in Fort Worth Texas to provide
21 either services or funding, but on a very innovative and
22 creative approach.

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1 Once again, Mr. Uddo recommended that we have an
2 alternate funding conference that focused just on all the
3 many very good ideas that many people have in the room with
4 respect to achieving alternate funding activities for their
5 programs. Mr. Uddo also stated that about 90 percent of the
6 Board's time this year had been dealing with funding issues,
7 line item, if you will, budget issues, and not on the
8 operations issues as it had in the past.

9 The discussion closed with just two comments with
10 respect to personnel issues. The first was a suggestion that
11 there be a loan -- that the Corporation, rather, actively
12 pursue either a loan forgiveness program with Congress for
13 lawyers who practice in legal services organization.

14 I pointed out that the gentleman whose name is on
15 my report along with me owe \$60,000 in school loans. He'll
16 be 65 years old before they are repaid. And that in order to
17 attract and keep talented young people we've got to do
18 something about the fact that these school loans are
19 outstanding and our salaries don't nearly begin to meet
20 whatever their needs might be to really repay them in a
21 judicious fashion.

22 If, in the alternative, the Corporation itself

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1 could provide grants to lawyers who say worked three years to
2 five years, or something like that, in a legal services
3 program, that could be directly targeted by them for loan
4 repayment in much the same way we did the meritorious grant
5 proposals and so forth. But this is a reward for service to
6 the poor and to the community.

7 The second personnel issue which we did discuss was
8 the issue of pensions, and the fact that many legal services
9 programs do not have a pension in place, although we are
10 honoring people today, myself included, Dave Griffin from our
11 office, who have served 25 years in a program.

12 Ultimately what we're doing is we tell people who
13 have provided service to the poor that when they grow old
14 they too will be poor, and that to the extent that the
15 Corporation can provide direct funds, direct grant funds from
16 either Congress or the Corporation or from some other source,
17 in order to address the issues of pensions, for example, for
18 people who have given more than 10 years of their life to
19 legal service. It would be to the benefit of everyone
20 concerned. So that the people that they're honoring today
21 who at 25 years of service will not be client eligible if, in
22 fact, they leave the program.

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1 CHAIRMAN WITTGRAF: Thank you very much, Linda.
2 The third group discussing the changing types of support
3 needed by legal services programs was led in its discussion
4 by Howard Dana and Nancy Kleeman and they can't trust one
5 another, I guess, to summarize adequately the discussion so
6 they're each going to take a pass at it.

7 MS. KLEEMAN: I can't read his notes and he can't
8 read mine. A theme that seems to run through all three of
9 these is that the lack of money affects everything, including
10 support.

11 And to jump into where we were in the middle of our
12 discussion our group also brought up the issue of pensions
13 for legal services attorneys and the issue loan forgiveness.

14
15 We took a slightly different tack on the loan
16 forgiveness and also training for legal services attorneys
17 and other staff in suggesting -- the suggestion was made that
18 perhaps the Corporation could try to seek money from some
19 other federal resources, for example, through Department of
20 Education programs for loan forgiveness and for training.

21 And there was some discussion of the analogy to
22 Rural Medical -- the doctors who serve in rural areas, there

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1 is a federal program for loan forgiveness and some state
2 programs for that that might be models.

3 We talked a bit about having the Corporation be
4 involved in some enhanced public relations efforts; you may
5 want to say a little more about that. There was quite a
6 discussion about reducing reporting requirements and
7 prohibitions that would then free up programs to have more
8 time to do the direct service work.

9 One suggestion, very concrete suggestion, that was
10 made, would be for the Corporation to catalogue all the
11 proposed innovative projects and let everyone in the field
12 know what's going on in those projects, and not just what's
13 going on in the ones that got funded but also in the
14 suggestions that were made so that other people might be able
15 to pick up on some of those ideas.

16 There was also quite a bit of discussion about how
17 LSC might be able to act as a conduit to appropriate
18 resources for program people; somewhat of a technical
19 assistance role. Several people commented on really missing
20 the function that regional offices played, saying that we
21 don't necessarily need regional offices but it would be very
22 helpful for people in the field to have people you know, who

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1 know you, who know what you need, to know; have some way to
2 identify who those people are and have them know who you are.

3 A concrete suggestion that was made in that regard
4 would be to have an article in one of the legal services
5 publications about who to contact about what; just little
6 descriptions of some of the Corporation's staff and more
7 precisely what their assignments are and how people can reach
8 them for support.

9 We had some discussion about Professor Power's
10 program at Drake Law School, and a couple of very concrete
11 suggestions were made there as well. One of the main
12 comments was that in times of limited dollars training is one
13 of the things that gets cut out of budgets first. Moving
14 from that -- I think there was pretty near unanimity that in
15 order for people to attend the Drake Programs there have to
16 be scholarships and there has to be travel support from
17 someplace in order for that program to be available as a
18 resource.

19 Also, there was some discussion about using legal
20 service related cases in the trial advocacy programs using
21 examples of expert witnesses who would be the kind of expert
22 witnesses legal services people would see in their practice.

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1 I'm sure I'm skipping some things. Why don't you
2 fill in.

3 MR. DANA: Only two that I noticed. We had some
4 discussions about the need for the Legal Services Corporation
5 to get back into the business of promoting networking and
6 training to be a -- there was some nostalgia about the role
7 that the Corporation played in promoting networking and
8 training in the days of old.

9 And all of a sudden the subject of monitoring came
10 up. I can't imagine why. The observations were that the
11 monitoring that recently occurred in this part of the world
12 was terrific by comparison to a prior monitoring visit.
13 People were great, they did the best we could. The feeling
14 was that it would have been wonderful if the people involved
15 had had some experience in providing legal services to the
16 poor and could discuss and get into the substance as opposed
17 to the procedure of what the program was doing.

18 It was a familiar subject. I ask the probably 10 or
19 12 executive directors in the room the following question:
20 If you gave up, either yourself or some senior executive
21 within your organization, for one week a year when that
22 person, either you or your colleague, went off to monitor

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1 another program, would you make that sacrifice if you knew
2 that when it was your turn to be monitored there would be
3 two, or one or two, legal services directors from somewhere
4 else in the country who could come and monitor you.
5 Uniformly the people in our room said that would be
6 wonderful. And then they got into the stories about the good
7 old days when that was standard.

8 I have heard that there are executive directors out
9 there who say, "We are so stressed and so stretched, that our
10 employees are so valuable, that we could not do without
11 either myself or someone else for one week a year. That
12 would be too great a sacrifice." My question to all of you
13 here: Is there an executive director or a senior executive
14 in legal services in this room who feels that that would be
15 too great a trade?

16 Let the record reflect -- I don't know if I've
17 asked that question correctly, but I don't see anybody
18 jumping up. Do people think that would be a good idea?

19 THE AUDIENCE: Yes.

20 MR. DANA: Incidentally, people who have been
21 involved in this all say that the monitor learns a tremendous
22 amount and it is very helpful to the program from which the

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1 monitor comes to have that crosspolinazation. And in a
2 professional organization I think it's -- I home that we try
3 that one of these months.

4 MS. KLEEMAN: Let me just throw in two additional
5 comments. One, on the enhanced role for LSC in encouraging
6 networking, one of the comments was to have LSC provide more
7 support for mechanisms that have developed out there like MIE
8 and some of the things that are being used for technical
9 assistance by the programs so that programs that need that to
10 use those resources can have access to MIE, to NLADA, to go
11 to meetings.

12 The other thing that we certainly don't want to
13 lose was I think the uniform support in the room for the
14 tremendous resources that are provided by the existing
15 national and state support programs, and the need for
16 continuing strong support for national and state support,
17 both in substantive law and in all the kinds of training and
18 networking and other things that state support is especially
19 able to provide.

20 MR. DANA: Our group was a terrific group. Did we
21 leave out anything that we shouldn't have except with the
22 reference to the Vice President? Thank you all.

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1 CHAIRMAN WITTGRAF: Thanks to all of you, Blakeley,
2 Linda, Howard, Nancy. I'm not sure, Professor Power, but you
3 may need to instruct Mr. Dana a little bit on how to phrase
4 questions to the jury, or in this case the assembly, but
5 aside from that we had wonderful summaries.

6 As I said at the outset this afternoon our board of
7 directors, our President O'Hara, and his staff are concerned
8 with the suggestions, the ideas that you have. And we
9 apparently have gotten many suggestions, many ideas, this
10 afternoon. And we thank you for them.

11 We will be pouring over, to varying degrees, the
12 transcripts from these sessions. But this is exactly the kind
13 of input we want. Certainly some of the things are far more
14 doable than others. I don't think there is any question but
15 what the increase in funding the Corporation receives for
16 fiscal year '93 will be a small increase. And I think most
17 of that increase is going to go to the field, to the basic
18 field grant recipients, so that the extra monies that can be
19 used for some of these special efforts are very limited.

20 But to the extent that we have the opportunity, to
21 the extent we have the staff resources and the financial
22 wherewithal, we are going to try to take advantage of the

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1 suggestions that we've gotten today. At this point --
2 Linda?

3 MS. BERNARD: I would just make one comment on what
4 you said, Howard, concerning monitoring. One of the things
5 too, you might consider as you're thinking about letting
6 project directors assist in monitoring, is looking at the
7 need for whether or not there is really a need for the
8 extensive type of monitoring activities that have been
9 conducted in the past.

10 Perhaps you might also consider a two or three year
11 grant cycle for programs, pending, obviously, Congressional
12 funding, and then do the extensive monitoring visits that
13 you're doing.

14 Many of us have grants from a number of other
15 organizations. We are monitored by those as well. But
16 nothing is a week long, and nothing has nine, or ten, or
17 eleven people. There may be one or two people, they come in,
18 they're there for maybe a day, two days, at the max three
19 days, and they generate their report.

20 I'm sure the -- our independent auditors and all
21 that sort of stuff -- the amount of reporting that we do to
22 the Corporation now through our independent auditor,

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1 certainly through the refunding application, through all the
2 other reports and everything that the Corporations requests
3 gives the Corporation a hands-on approach to its 325
4 grantees. Perhaps it doesn't need to monitor in the way that
5 it has in the past and it might consider monitoring more like
6 other business funding organizations, Ford Foundation,
7 cities, states, et cetera, in a much more limited fashion.

8 MR. DANA: Thank you.

9 MS. BERNARD: Which would eliminate the need for
10 project directors except in those instances.

11 CHAIRMAN WITTGRAF: That was, eliminate the need
12 for project directors generally or just in the monitoring
13 process?

14 MS. BERNARD: No, no, no, except when you --

15 CHAIRMAN WITTGRAF: These are tough financial
16 times, I wasn't sure how helpful you were trying to be.

17 MS. BERNARD: Except in those situations where you
18 were doing this more extensive monitoring. I mean, you have
19 a number of reports. We're generating a lot of data on every
20 grantee already, and then monitoring on top of that, I mean,
21 you've got all the data -- if there is an exception, if there
22 is a question, something like that. That perhaps you don't

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1 need to be monitored as frequently and perhaps the grant
2 cycle would not have to be on an annualized basis thereby
3 kicking in the monitoring situation in the way that it has
4 been in the past.

5 CHAIRMAN WITTGRAF: Forgive me, I was needling you
6 a little bit.

7 At this time, having gone through a long day, we've
8 asked two of our colleagues, Harrison McIver, the project
9 coordinator of the Project Advisory Group, and Jack O'Hara,
10 who has been able to sit on the hot seat as president of the
11 Legal Services Corporation for the past year, and at this
12 point we anticipate that Jack is going to continue at least
13 for a little while, and we commend him for having made it
14 through a year. Harrison and Jack have the enviable
15 opportunity to summarize what it is we've done today. They
16 get a lot of latitude in doing that but they only get about
17 20 minutes or so to do that. But at this time, and I don't
18 care which of the gentlemen would like to go first, it is my
19 pleasure to call on -- Harrison. Harrison?

20 MR. MCIVER: Do you want me to come up?

21 CHAIRMAN WITTGRAF: Yes, sir. You're a better
22 target up here.

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1 MR. MCIVER: I'd like to thank the Legal Services
2 Corporation for inviting me as a representative of the
3 Project Advisory Group. I'm here in place of Dick Taylor who
4 had another commitment and who sends his regrets and wished
5 that you had a successful conference. And I can report to
6 him that you have had one.

7 I would like to pause to say that PAG is
8 celebrating 25 years as being the national organization of
9 legal services programs. And ironically PAG has its origin
10 as a part of the legal services program of OEO. Obviously,
11 we left the Corporation, but it was started there. This year
12 at the Toronto meeting of the National Legal Aid and Defender
13 Association we'll be celebrating our anniversary. November
14 11th, that Wednesday, has been set aside for PAG's 25th
15 anniversary date. We will have a forum that afternoon and
16 that night we'll have a reception. So, we invite you all.

17 I want to commend the Legal Services Corporation
18 for bringing together program staff, board members, LSC staff
19 and representatives of the national organizations in a
20 context which provides opportunities for dialogue to ensue.

21 This hopefully will lead to better understanding
22 and to help tear down the barriers which have been created

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1 due to a history of suspicion on all sides. Presumably we
2 all have similar goals in mind, that is to provide equal
3 access to justice to those in this society who are less
4 fortunate.

5 Notably we would all agree with Dr. Martin Luther
6 King who said, "Injustice anywhere is a threat to justice
7 everywhere." Today's session topics provide an opportunity
8 for us all to hear and to learn first-hand that the
9 comparative demonstration projects are not merely to get
10 additional funding to programs in the field.

11 Ironically, the origin of competition, or
12 competitive bidding, came out of a political move from the
13 extreme right to dismantle programs by eliminating
14 presumptive refunding which programs now enjoy. With that
15 specific threat aside for the moment we have learned today
16 that these projects are to afford an opportunity to test
17 performance criteria which we hope will serve to support more
18 objectivity in the evaluation, review and monitoring of
19 programs.

20 Obviously, no system is perfect and radical changes
21 in the projects at this time are highly unlikely. But where
22 changes can be made in terms of improvement they should be

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1 countenanced. Indeed, the Legal Services Corporation should
2 consider the implications of the environmental factors within
3 the respective program communities, that was brought to my
4 attention during a session I attended.

5 In defining pressing critical needs I would submit
6 that developers had no intentions of imposing national
7 priorities in contravention of 1620. There is some indication
8 of national priorities being set in terms of identifying
9 pressing critical needs.

10 We hope that the criteria of peer reviewers would
11 result in teams reflective of people with true experience in
12 delivery of legal services to the poor. I challenge you, the
13 legal services program staff, to follow up with suggestions
14 in writing. And I challenge the Legal Services Corporation
15 to receive reasonable proposals and give strong consideration
16 to them.

17 This afternoon's session was designed to convey
18 that the needs of our clients do not stagnate but they are
19 ever changing. In addition to what was shared with you in
20 your breakout sessions, and emphasized to some extent in
21 remarks by the panel, there are certain things we already
22 know which offer unique challenges to all of us.

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1 We know, one, that there are changing demographics
2 of poverty. Since the 1970s almost every racial group and
3 family type have added new members to the ranks of poverty.
4 Increased number of married couples with children are among
5 the poor. The rate of growth of white males exceeded those
6 of white women and African-Americans of both sexes going to
7 the ranks of poor. The number of Americans joined the poor
8 with full-time jobs has grown at an alarming pace. African-
9 Americans, Hispanics, children and female-headed households
10 continue to be disproportionately poor. In fact, 3.6 million
11 infants are born in poverty each year.

12 Also, by the turn of the century women and
13 minorities will comprise the majority of the workforce. With
14 an attorney to client ratio of approximately 7,000 to 1, as
15 compared to 320 to 1 in the general population, we must
16 continue to review program priorities for there are other
17 factors, for example, the importance of education is
18 significant because of the needs for our clients to be
19 prepared to operate in a high-tech society.

20 Legal approaches to address a myriad of problems
21 may not exist while legislative and administrative advocacy
22 are remedies and will most likely will be required, thus and

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1 indeed, new forms of advocacy must be explored, ADR and the
2 like, in the sense of advocacy.

3 There is another side of this. Yes, programs must
4 be adaptable to changing client needs and priorities. But of
5 equal importance there must be a Legal Services Corporation
6 led by a board of directors and senior staff who are
7 visionaries, who appreciate the dynamics of those client
8 needs and are willing to advocate in all arenas as necessary
9 to secure the tools and funding our programs, and necessarily
10 our clients, so desperately need.

11 I must state that the conference of the house and
12 senate which occurred today resulted in too little for Legal
13 Services Corporation. \$357 million is not enough. The
14 recent census indicates that more than 34 million people live
15 in poverty, an increase of 16 percent since 1980. And
16 recently that figure has ballooned into over 35 million. And
17 that figure is before the devastation of the hurricanes
18 visiting Florida, Louisiana and Hawaii.

19 Yes, there are challenges ahead. It will take the
20 cooperative effort, a coalition, as Harriet stated earlier,
21 to traverse the canyon of obstacles laying in our path. We
22 can work together, we must work together, to avail the full

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1 array of tools and funding adequate enough to afford equal
2 access to justice so that equal justice under law will no
3 longer be merely an inspirational goal but one that is real
4 in this country. Thank you.

5 (Applause.)

6 MR. O'HARA: I'm not going to try and top that.
7 Before I begin my remarks, which I noticed on there they are
8 supposed to be concluding remarks, I just want to say a
9 couple of things privately.

10 The first is to Bill McCalpin. Bill said this
11 morning that he was relinquishing the presidency of NLADA,
12 this was his third year, and that he may not be around next
13 year. I would hope that he might reconsider and would show
14 his smiling face because we're always happy to see him. He's
15 a man that's dedicated a great part of his life to legal
16 services and also to his country.

17 And in regard to that service to our country, Bill
18 and I know, both, as old marines from way back, that usually
19 when you're coming off the line you'll find a bunch of guys
20 coming in to replace you, and the remarks go back and forth,
21 and it's, "How was it? What's it like?" And there is one
22 phrase we always pass on to other marines and that's Semper

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1 Fi, Mac. I say to Bill, Semper Fi.

2 (Applause.)

3 MR. O'HARA: I also want to say he's been a great
4 help to me this year in cleaning up, I think, some of the
5 things that were difficult between the field and the
6 Corporation over the last several years. I have to also say,
7 Bill, I think if you'd been in that session with me this
8 afternoon you would have observed somebody that doesn't
9 believe in taking any prisoners, and that's Linda. She not
10 only runs a good program, she runs a good session.

11 You know, there are a lot of things that we agree
12 on. I think I hear sometimes there are more things we
13 disagree on. I think that as we go down the road the things
14 we disagree on are becoming less and less. I hope that we
15 can continue that way.

16 I wish that I were -- you know, I grew up in New
17 York City, which is a real melting pot, and I lived next door
18 to the canter for the local synagogue. A canter is the
19 gentleman who does a lot of the singing and chanting, much
20 like in the Catholic church they have the Gregorian chant,
21 which some of you may know about.

22 Anyway, I became very good friends with the canter

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1 and he used to tell me a lot of stories. And one of the
2 stories he told me about I read recently. It was about a
3 woman who lived in a three-room flat in New York and she went
4 to the rabbi and she was complaining that the apartment was
5 too small and could he do something about it. And the rabbi
6 was known in the community as a man of great resources, and a
7 man who could solve many problems.

8 So, he thought about it for a few minutes and he
9 said, "Move your in-laws in next weekend." So, she thought
10 about it and the next weekend she moved her in-laws in. And
11 the next week she came back and she said, "It's still too
12 small." So, he says, "Move your other in-laws -- your mother
13 and father in this week." So, she did that.

14 The following week the same story. So, he said,
15 "Move your son and daughter in and their families." And then
16 finally she went back the last week and he said, "Okay, now,
17 move them out this weekend, everybody out." And the next
18 Monday she came back and she said, "Rabbi, you're such a
19 wonderful man, my apartment has gotten so much bigger."

20 I wish that some of the things that we were trying
21 to solve we could solve that way. I wish I were the rabbi,
22 but I'm not. But I think in the last year we've solved some

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1 of the problems between the Corporation and the field, some
2 of them were not really problems.

3 I look at some of the achievements we've had, the
4 refunding application has been reduced drastically. I think
5 the monitoring has been improved. A lot of the credit for
6 that should go to a lady who is sitting out here who runs
7 that particular program, Susan Sparks.

8 I want to address Linda's comments regarding
9 monitoring because we have, in fact, been discussing some of
10 the very things that you've mentioned in your remarks, and
11 I've mentioned it to the Board; that we hope to reduce the
12 number of people on monitoring teams, we hope to reduce the
13 time frame between monitoring trips, we hope to reduce the
14 number of things we have to look at.

15 But you must remember we have a duty to monitor.
16 That's required. So, we will continue to do it. But I think
17 you'll see a different type of monitoring, a type of
18 monitoring that's going to be more helpful.

19 Those of you who have been monitored in the last
20 year know that when the monitors have come back and have told
21 us about problems that you've had we've gotten to other
22 programs who have expertise in that area and we're trying to

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1 get them to work with you to provide that expertise through
2 our Office of Technical Assistance, which is headed by Leslie
3 Russell, seated in the back. I don't know whether all of you
4 know Leslie. Leslie, would you stand up and let everybody
5 see who you are?

6 Now I want to get up to today and kind of wrap up.
7 This morning we talked about the competition project. I know
8 that there was not adequate time for everybody to review the
9 documents which you were handed today. We would have had to
10 have another two or three hours in each of those sessions to
11 hear everybody's concerns and then reach an understanding or
12 agreement with regard to the measurement of performance in
13 programs of varying size, in varying locations around the
14 country, and covering different geographical areas; talking
15 about the development of performance criteria, it is
16 continuing.

17 And as Dee Miller suggested in his comments to you,
18 if you have comments to get back to up please send them to
19 us. Send them to me, send them to Dee. We'll make sure
20 they're heard and acted upon.

21 The second thing I heard was the concern over the
22 type of individuals who will be doing the peer reviews, and

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1 about how to handle program reviews by an individual who may
2 not have any experience with that type program. There was
3 concern over their credentials.

4 And I know that the gentleman from San Diego, Greg
5 Knoll, a good friend, mentioned some of the criteria and
6 credentials which he thought the peer reviewers should have,
7 and I agree. They should not only have those credentials,
8 they should have more. And we'll be looking for more. We'll
9 be looking for the best people we can find.

10 I have to say that the applications, if you want to
11 call them that, that I have received to date for people who
12 want to participate in the peer review program are
13 outstanding. They are just a wonderful bunch of people, many
14 of them with over 20 years experience in legal service work.
15 They've worked in programs, some have worked in the
16 Corporation. A lot of them have gone on to the private
17 sector. We've got people in law schools who are applying who
18 have worked in all three of these areas. So, I'm looking
19 forward to having a bunch of peer reviewers that you will
20 readily accept.

21 Earlier this afternoon we talked about the changing
22 needs of clients. I think our panelists have covered all of

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1 those things. There are two things that I wanted to mention
2 in regard to some of the things that were said here. One is
3 that there was a concern about young attorneys coming into
4 the program with these huge loans. We are not incognizant of
5 that. We recognize that. We have been looking at this for
6 some time.

7 What I would hope is that we can get a program
8 whereby we can encourage young people to come into the legal
9 services programs and actually pay off some of their loans,
10 but I'd like to tie it with a provision before Ways and
11 Means, so that that payment which goes to pay off the loan is
12 not taxable income to the young attorneys. That, I think,
13 will help them a little more. And if we could pay it off in
14 a three or four year period I would be happy to do that. The
15 pension plan we're also looking at.

16 The last thing I want to cover is in the session
17 with Linda there was a suggestion that LSC should sponsor a
18 conference to discuss some of the approaches being taken by
19 programs for alternate funding and that they could share this
20 with the other programs around the country.

21 And I agree, this is important. But there is one
22 thing that I think we're all forgetting about. It's great

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1 that we tell each other about these things but there is one
2 other place we have to tell, and that's a place called the
3 U.S. Congress. We have to get the best possible information
4 to the committees if we want to get the money that's needed
5 to really help the client population that's out there.
6 Because that client population, while we're standing here --
7 or you're sitting and I'm standing, is growing. And it's a
8 new client population, it's people that have never been
9 unemployed before, it's people that have never faced eviction
10 from their homes before, it's people that have never been on
11 welfare.

12 And in one of the sessions today I heard somebody
13 say, why is it necessary to spend time on education, that's
14 why it's necessary to spend time on education. We have all
15 those people plus we have all of the people in the
16 communities from the far east and south east asia who do not
17 speak our language. We need to get to them and Tomas Olmos,
18 his name was mentioned earlier, I don't know if he's still
19 here, he has a pilot project in Los Angeles, it's going to be
20 one our grants in the meritorious and innovative grant
21 program, and from that we hope to learn some things about how
22 to reach out to the communities where these people are so

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1 that we can get them the help they need.

2 Lastly, I just want to say to the Board that I've
3 enjoyed the year that I've had here. I know we laughed last
4 year when people said they were testing me to see whether or
5 not I was still sane, whether I would come here after there
6 had been something like nine presidents in ten years.

7 I want to say to all of you that this is a good
8 Board to work with. They have argued their positions and
9 held strong on them but when they've made a decision they've
10 gone forward with that decision, and that decision has always
11 been, in my mind, in the best interests of the clients and
12 therefore, in the best interests of the program. With that
13 I'll conclude my remarks, Mr. Chairman.

14 (Applause.)

15 CHAIRMAN WITTGRAF: Harrison and Jack, thank you
16 very much. There is little I can add to the eloquence and
17 heartfelt comments of you gentlemen. I do want to make sure
18 that you all realize that this conference wouldn't have come
19 off as relatively smoothly as it did today without the
20 support of our Corporation Secretary, Pat Batie, who I think
21 is probably out behind the doors.

22 (Applause.)

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1 CHAIRMAN WITTGRAF: I hope you've all had an
2 opportunity to meet Pat, or at least know who Pat is. She
3 has two very capable assistants, Ruby McCollum and Tryphenia
4 Dickens. They're getting ready for the reception. They're
5 wanting to keep the ball rolling. But I would be remiss in
6 suggesting that for me and the Board, or for Jack as the
7 President of the Corporation, that this was all our doing.
8 In fact, an awful lot of the work, most of the work really
9 was done by those three individuals and they deserve the
10 credit for it, and whatever credit there is to be given for a
11 day that's gone along pretty smoothly.

12 I don't want to be maudlin but I will say that on
13 behalf of myself and our Board of Directors to Jack O'Hara
14 that we really appreciate the job that Jack has done for us
15 and with us during the past year.

16 (Applause.)

17 CHAIRMAN WITTGRAF: You all who represent field
18 programs, you all may have thought a year or so ago after we
19 were in Jackson, Mississippi, and hired Jack, asked him to
20 take on this task, that we had done a strange thing. We did
21 it very quickly because we wanted to keep going, we wanted
22 some stability, we wanted to move forward. Jack was good

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1 enough to agree to take on the task.

2 He hadn't had a background of experience in legal
3 services programs but he had had a great deal of governmental
4 experience, a great deal of experience in the Federal
5 Government and on the Hill.

6 I would like to think that what you all have found
7 during the last year, if nothing else, is that in Jack O'Hara
8 you have an individual who is committed to the most
9 successful Legal Services Corporation, and the most
10 successful legal services programs across the country
11 possible, and you have a man who is willing to listen to you,
12 your ideas, your concerns, your criticisms at any time of day
13 or night.

14 And at least for a while here with the rest of us
15 Jack is going to continue to be the president of the
16 Corporation. I think his commitment is going to continue as
17 it has the past year to our common effort, and I think he's
18 going to continue to be just as open to all of you during the
19 next year as he has been this past year. And I hope you'll
20 take advantage, as you see fit, of that openness and that you
21 won't hesitate at any time to contact him or to call him.

22 As I said, I guess when we began in St. Louis,

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1 Bill, a year ago, or at least last December, we've been at
2 odds, the Board and the Corporation staff, the field, we'll
3 continue to some extent to be at odds. It is, by nature, as
4 we discussed in one of the groups this afternoon, a bit of an
5 adversarial relationship, or to some extent regulator and
6 regulated, or -- I hate to say parent and child, that may
7 sound a little too paternalistic, but there are some natural
8 tensions, let me suffice it to say, in the relationship
9 between the Corporation and the field.

10 But we on the Board, the Corporation staff, are
11 committed to the notion that we can accomplish an awful lot
12 more together than we can apart. And we are committed, and
13 the reason we're here today, and the reason we were in St.
14 Louis last December, and the reason we were in Washington a
15 year ago before that, was because we are committed to trying
16 to go forward together hand in hand rather than fist to fist.
17 And that will continue to be our effort in the months and the
18 years ahead.

19 With that in mind I sincerely thank all of you
20 who've made the commitment of time and precious program
21 resources to be with us today in Minneapolis. We do
22 sincerely want and need, and will utilize, your ideas and

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