

LEGAL SERVICES CORPORATION

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MEETING OF THE BOARD OF DIRECTORS

- - -

3 March 1978

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Morning Session

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The Board met, pursuant to adjournment, at 9:00 A.M. in Room 405, Marvin Center, George Washington University, 800 21st Street, N.W., Washington, D.C., the Honorable Roger C. Cramton, Chairman of the Board, presiding.

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BOARD MEMBERS IN ATTENDANCE:

Mr. Cramton, Mr. Kutak, Mr. Smith, Ms. Worthy, Ms. Rodham, Mr. Ortique, Ms. Esquer, Mr. Trudell, Mr. Broughton, Mr. Engelberg.

PRESENT:

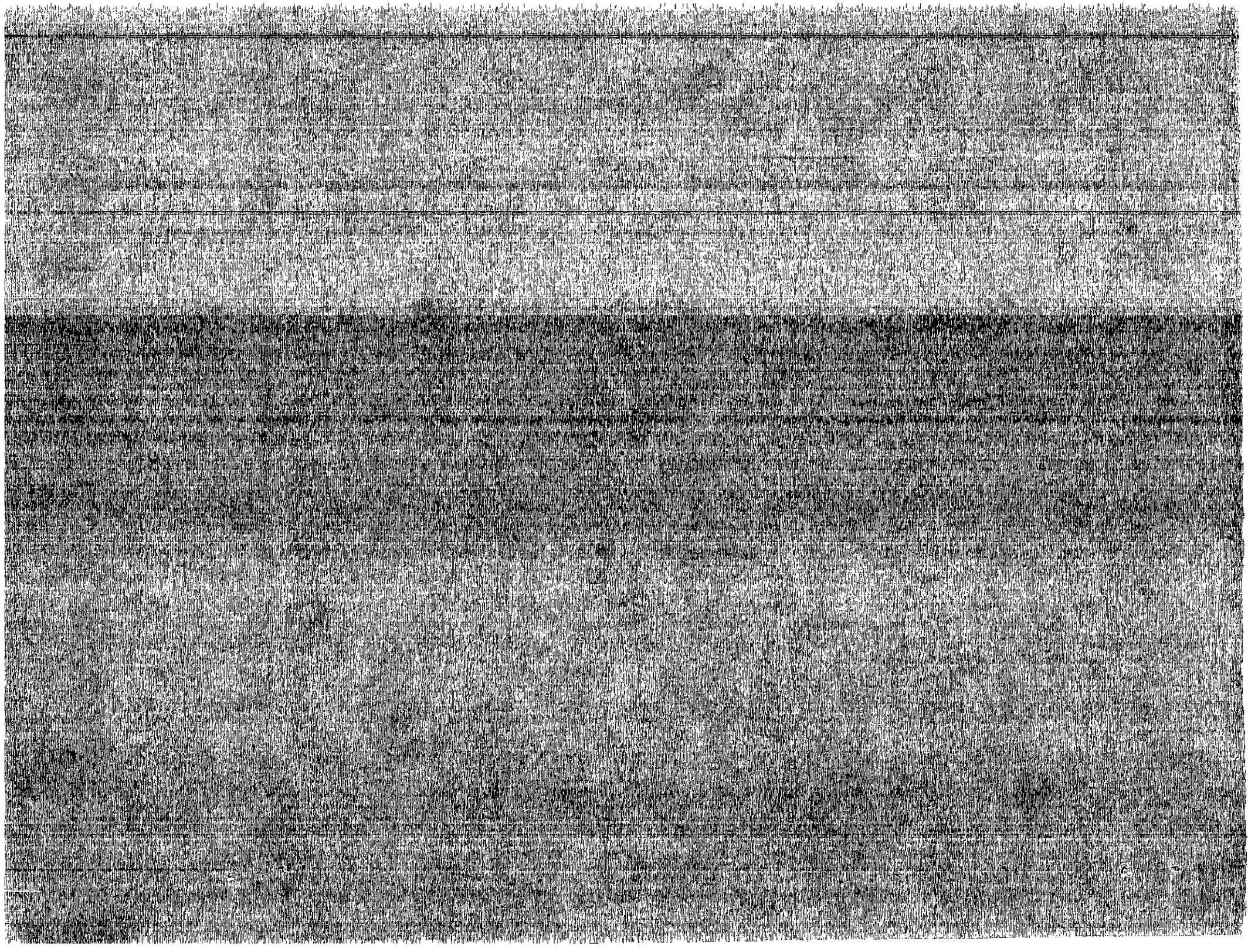
Mr. Ehrlich, Mr. Bamberger.

ALSO PRESENT:

Ms. Daniels, Mr. Jones, Mr. Thomas, Ms. Felter, Mr. Carter, Ms. Garrett, Ms. Walker.

VISITOR:

Mr. Veney, Mr. Levy, Ms. Higgins.



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16 Rodham, Mr. Ortique, Ms. Esquer, Mr. Trudell, Mr. Broughton,
Mr. Engelberg.

17 PRESENT:

18 Mr. Ehrlich, Mr. Bamberger.

19 ALSO PRESENT:

20 Ms. Daniels, Mr. Jones, Mr. Thomas, Ms. Felter,
21 Mr. Carter, Ms. Garrett, Ms. Walker.

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P R O C E E D I N G S

9:15 A.M.

1
2
3 MR. CRAMTON: The meeting will come to order. There
4 was one item that was raised in connection with the report of
5 the Committee on Provision of Legal Services that I think we
6 ought to start with and finish up this morning and that was
7 Mr. Ortique asked about problems that have been encountered,
8 if any, with the Loan Repayment Program and I'd like to start
9 with that item if Dick Carter or others are available to re-
10 port on it.

11 Revius, I don't know what you had in mind, but go
12 ahead.

FURTHER DISCUSSION: COMMITTEE ON PROVISION OF LEGAL SERVICES

13
14 MR. ORTIQUE: Well, of course, all the members of
15 the Board received a copy of a letter from a young lady who --
16 I said young lady and it may not be a young lady, but --

17 MR. CRAMTON: An attorney.

18 MR. ORTIQUE: Yes.

19 MR. CRAMTON: Sex and age are irrelevant.

20 MR. ORTIQUE: Maybe where you come from.

21 (Laughter)

22 MR. EHRLICH: To this issue.

23 MR. ORTIQUE: In any event, we have the letter and
24 she complains that she's been with Legal Services a long time
25 and so has her husband and that because they have faithfully

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1 paid their loan back that it seems like they're being penal-
2 ized.

3 When I was in California the other day a number of
4 lawyers -- not a number, two as a matter of fact -- indicated
5 that they were concerned that they would not be able to bene-
6 fit by the program.

7 It's my understanding that the Board, in its wisdom,
8 decided that this was the best way to handle this because of
9 the limitations on the funds.

10 There's a couple of things that we've got to be pre-
11 pared to address, however. One is that when you get right down
12 to it the loan repayment project consistutes a raise in pay
13 for a number of lawyers, whatever that number is.

14 Two, that it is very possible that because we have
15 the cut-off high, that is, of \$3000 or more that it means that
16 the older lawyer who may have only a \$500 or \$1000 balance --
17 the very lawyer that we would want to retain is the lawyer who
18 will reap no benefit and, therefore, will pout or, even worse,
19 decide well, they're not fair at that Corporation and so I do
20 not want to be a part of it.

21 The other thing is which is closely related to it is
22 that I think one of the main objectives of the program is that
23 we would like to see what effect does this have on the retention
24 of our most capable attorneys.

25 This is a three year program. It seems to me that we

1 may have some further questions to answer in terms of what
2 happened in those three years that apparently can't do anything
3 about -- that is, lawyers leaving who -- we've got an experi-
4 ment going on and it's going to take us until 1980 to decide
5 whether it's been a good program or a bad program or what
6 other things we ought to be doing to assist in encouraging l-
7 yers to stay.

8 You've got to always measure those questions by the
9 factor that the older attorneys are the ones that are the
10 experienced attorneys, the well qualified attorneys are the
11 ones that we would like to retain and that these lawyers are
12 -- constitute the majority of the people in our programs and
13 that the amount of money that we have appropriated is so small
14 that we don't reach the majority of the lawyers and that's the
15 gist of the concerns that I have.

16 MR. CRAMTON: Well, we're fortunate to have not only
17 Dick Carter here again, but a couple of members of the staff
18 who may not have been introduced to all members of the Board
19 Linda Garrett and Margaret Walker, respectively.

20 Have both of you met all members of the Board before?

21 MS. WALKER: No.

22 MS. GARRETT: No.

23 MR. CRAMTON: Well, we're delighted to have you with
24 us and this opportunity to have your report of the program.

25 MR. CARTER: Let me begin by just discussing a little

1 which raised a serious problem that it should be small.

2 There will be only 250 lawyers in Legal Services par-
3 ticipating in that program and 100 candidates for jobs who are
4 coming in this summer who will participate in that program.
5 It's not very many people, especially when you consider that
6 there are over 3000 lawyers in Legal Services now and we are
7 anticipating having about 5000 at the end of this year and
8 about 7000 at the end of fiscal '79.

9 So, in the two and a half years of this program we
10 are going to reach a very small number of people with that
11 \$1,000,000 program.

12 The second decision that was made was to try to use
13 it as an experiment to look at the effect of loan repayment on
14 retention and recruitment. That decision, of course, was a
15 wise decision I think. It was argued, discussed, long and hard
16 as to whether or not it could be any benefits and how we would
17 know whether it could be any benefits and it was decided there
18 should be a study rather than a general benefit program without
19 knowing what the effect of such a benefit program might be.

20 So, we did some analysis of the amount of the loans.
21 We found that there are -- the loans ranged from a low of \$500
22 to highs of well over \$10,000 among Legal Services lawyers.

23 We found that the average amount of loans for Legal
24 Services lawyers for minority lawyers is about \$5200. It was
25 suspected they would be higher. The retention studies show

1 that they should be higher. It was found that they were high-
2 er at about \$5200 in loans for white lawyers at about \$4000 to
3 \$4200.

4 The decision was made, then, to try to get at the
5 number of people who would be most affected by the possibility
6 of repayment in making their decision about whether to stay in
7 Legal Services and the cut-off was made just below that average
8 amount, the cut-off being at \$3000.

9 That cut-off also tied in with what the Board told
10 us about spending approximately \$1200 a year per participant
11 on this program, because the \$1200 a year could work out over
12 the two and a half years to approximately a \$3000 balance in
13 the loan repayment.

14 There were many who argued, of course, as the people
15 who wrote to you and to Revius that this is not going to help
16 people who have paid off most of their loan, but, of course,
17 one can argue that those are the people, in effect, have al-
18 ready made the decision to stay, they've been here a number of
19 years, it has paid off, and if it is not a benefit for people
20 who have made that commitment, unfortunate as that may be,
21 but is an attempt to study whether we can have any effect on
22 those who have not yet made that commitment, then those are
23 not the people we would reach.

24 MR. CRAMTON: Is that the assumption that there's
25 one moment in time when people make the decision to stay or

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1 remain or -- I would think it's much more of a continuous pro-
2 cess of decision making that comes up in the second year, it
3 comes up again in the third year, and it may come up again in
4 the fifth year, and the seventh year. There's no one pivotal
5 moment in time is it?

6 MR. CARTER: Of course. What was pointed out, though,
7 was that someone who has been in Legal Services for six to
8 eight years has paid off most of the loan, is not the person
9 who is most likely to be affected.

10 MR. CRAMTON: I don't understand. It may individual-
11 ly be they might be affected more or you might affect them with
12 a smaller amount of money and allow more people to be benefit-
13 ed by the same amount of money if they receive less than the
14 \$1200 a year.

15 MR. CARTER: There were, converse to that, many
16 people, including those who were on the Committee that made
17 the recommendation in the retention study that was done for
18 the Vice President that it should be much higher.

19 There were many who said that the \$3000 was much too
20 low, that we are not going to hit the people with the greatest
21 need, with the greatest amount of outstanding debt, that we may
22 not reach enough minority attorneys if our random sample does
23 not include more at the highest level of greatest need.

24 So, obviously, it was an attempt to reach something
25 in the middle that was close to the average, that was below the

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1 average, that would include the average, but not go well below
2 that.

3 The third aspect of the program that should be --

4 MR. CRAMTON: Just one point: I understand the de-
5 sire to impose a maximum limit on the amount of benefit that
6 an individual attorney could get under the program.

7 I guess I don't understand why the minimum level be-
8 cause you can spread it to more people by having a minimum lim-
9 it without costing any more money. In fact, you spread your
10 existing funds over a larger sample. In other words, I think
11 the maximum and minimum are different questions.

12 MR. CARTER: Of course, but the lower the minimum,
13 the more people you are likely to include who have smaller
14 amounts of outstanding loans.

15 MS. GARRETT: One of the issues we took into consid-
16 eration in setting the \$3000 minimum was that we wanted people
17 to be able to participate in the program for the full duration
18 and one of the reasons we took \$1200 per year and made it con-
19 sistent because we had considered going just paying whatever
20 their quarterly payment was and, in some cases, depending on
21 how people negotiated their loans a quarterly loan might be
22 \$100 for one person, \$300 for another and we wanted to have a
23 uniform sampling of a set amount of money to be able to reduce
24 loans by \$3000.

25 In some cases, we'll wind up with people who have --

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1 we will totally eliminate their loan burden. In other cases,
2 we will eliminate it by \$3000 and it gives us a standard
3 straight across the board by which to measure.

4 MR. CARTER: Just very briefly, the third aspect of
5 the program is the random sample which is another question that
6 has been raised by some people of why don't you take into con-
7 sideration all the characteristics of a person, how they got
8 into the loan, whether they went through a private or a public
9 school, the size of the loan, what other outstanding debts
10 they have, what family pressures they may have, and so forth.

11 It was finally decided that the best way to simply
12 get a good cross section and study a large segment of people and
13 try to have a control group that could be studied at the same
14 time to create a random sample procedure and we are using the
15 standard statistical random sampling procedures which Margaret
16 could explain much better than I for the selection of the par-
17 ticipants in the program.

18 There will be a control group for both the attorneys,
19 for the 250 attorneys and a control group for the 100 law grad-
20 uates who are coming in and, of course, as some of you may not
21 know, we have discussed a law graduate does not become eligible
22 until in fact they obtain a job and are secure in a job in Leg-
23 al Services.

24 MR. CRAMTON: Does that suffice because some of these
25 same questions were raised and the matter was fairly thoroughly

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1 aired before the Committee on Provision of Legal Services. I
2 recall participating in them and raising many of these issues
3 myself.

4 MR. ORTIQUE: I think that the main thing is that
5 the staff has got to be prepared to respond logically to the
6 questions that are going to be raised and I wanted to do two
7 things: One, to raise the questions and, two, remind them
8 that these questions are out there and we've got to be able
9 to document these -- the responses -- that you're making.

10 I told Clint yesterday that I don't consider myself
11 a social scientist, although I trust that I can understand log-
12 ic.

13 MR. KUTAK: Mr. Chairman, in that regard I didn't
14 quite understand: Has the program actually been launched or
15 has the -- or are we trying to ascertain what would be the cate-
16 gory of eligible people if we did launch it?

17 MR. CARTER: No, it has been launched.

18 MR. ORTIQUE: It's been launched. That's the big
19 problem, Bob. That's why I said we've got to have answers now
20 and not -- to the questions that are being raised. If it had
21 not been launched, I think we would have a full blown review
22 of it.

23 MR. CARTER: The applications went out in the Fall
24 with all of this set out, that is, the limits that would be
25 accepted and so forth.

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1 are leaning very much, as Revius had expressed them, and that
2 is acknowledging the potential divisiveness in it, we have to
3 argue as understandingly and sympathetically for the counter-
4 vailing good which we really believe, the spirit and the inspir-
5 ation behind this action, was -- would -- compel us to do.

6 MR. CRAMTON: Mr. Trudell?

7 MR. TRUDELL: I really don't know anything about it,
8 but what are the tax implications because of the recipient --

9 MR. KUTAK: Income and forgiveness of debt.

10 MR. TRUDELL: What kind of insurance does the Corpor-
11 ation have that once it gets under way that if this person
12 bails out for whatever reason, it boils down to really no more
13 than a raise, in a sense, or a higher salary.

14 MR. CRAMTON: The objective was to try to discover
15 whether a program like this would have a favorable effect on
16 retention and recruitment and this plan is an experimental pro-
17 gram in order to develop information.

18 If it turns out that it's ineffective in retention
19 and recruitment -- that is, the same proportion of people who
20 are getting loan forgiveness leave the program -- then it might
21 argue that that's not a fruitful way for the Corporation to
22 address the problem of retention and recruitment in putting in
23 millions of dollars into it in the future.

24 So, it is an experimental program. One suggestion
25 I would make it may be desirable to get some kind of a construc-

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1 cussed at the various regional PAG meetings, Project Advisory
2 Group meetings and there is a lot of enthusiasm for the program.

3 I think if Barbara were here, she would tell you about
4 a lot of the encouraging letters that she got once it was an-
5 nounced before it was turned over to us.

6 MR. ORTIQUE: Well, we're spending \$1,000,000 in order
7 to either spend more money later or not spend any at all in
8 this category in the future, one or the other, and I think that
9 that is a part of the justification for doing such a program.

10 If we went into a full-fledged loan forgiveness pro-
11 gram nationwide, we know it would cost millions of dollars.
12 We, as a responsible group, would not want to do that unless
13 we had some basis for doing it and this is the basis for doing
14 it.

15 I understand all the reasons, I think as I said yes-
16 terday to you, Dick, I understand them. I want to make sure
17 that those people in the field appreciate them if that's pos-
18 sible.

19 MR. CRAMTON: Is there any more on the Loan Forgive-
20 ness Program, any more questions or discussion?

21 (No response)

22 MR. CRAMTON: Thank you very much.

23 MR. CARTER: Thank you. I'm glad, too, that you had
24 a chance to meet Linda and Margaret and if you have any ques-
25 tions, I'm sure they --

1 MR. CRAMTON: Further advantage.

2 MR. CARTER: I might also point out that in relation
3 to Linda's work, the recruitment program, today there is a Job
4 Fair in this building which we are working with RAZA of the
5 G.W. Law School on and it's going on on the next floor down.

6 MR. CRAMTON: We now move to the report of the Com-
7 mittee on Personnel. Mr. Smith?

8 COMMITTEE ON PERSONNEL

9 MR. SMITH: Mr. Chairman, the Committee on Personnel
10 met in Chicago on February 2nd. That was before the new Com-
11 mittee assignments were made, of course, and Revius Ortique and
12 I were the two members of the Committee who were present. Sam
13 Thurmond wasn't able to be at the meeting but the president of
14 our Corporation was present, as was Roger Cramton, the Chair-
15 man, and Robert Kutak, who was there for a meeting the following
16 day, attended and participated in the discussion of our Person-
17 nel Committee.

18 There were a number of things discussed and a couple
19 that are up for action, as you note, on the agenda, but the
20 first thing on the agenda for discussion and report here is the
21 Compensation and Classification System and I think, perhaps, we
22 need Hal Thomas and Clint Bamberger at the witness table for
23 this.

24 REPORT ON COMPENSATION SYSTEM OF THE CORPORATION

25 MR. SMITH: Tom will make the initial presentation.

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1 I think we may also want to involve them in the discussion.

2 As you know, Mr. Chairman, and older members of the
3 Board realize, too, that ever since the Corporation started
4 its existence we have been talking about and working toward a
5 very well established classification compensation plan, but we
6 haven't had any. We've had to just sort of make do until a
7 few months ago when the work on this plan was completed and you
8 have it in your agenda books under the tab compensation classi-
9 fication plan and it is very comprehensive.

10 It does apply to all of the personnel and, of course,
11 as you'll recall from our By-Laws, the salaries of officers,
12 those designated officers, are set by the President after con-
13 sultation with the Board.

14 Salaries below the classification of officers are
15 administrative matters set within the budgetary limitations
16 and allocations made administratively, but we felt it's impor-
17 tant that this matter be discussed by the Committee as it was
18 and that it then be presented to the entire Board so that you
19 will see what system does prevail for setting and establishing
20 salaries and classifying of all the employees below the level
21 of officers.

22 I think the presentation of this be made by the presi-
23 dent with the assistance of the other two persons. Tom?

24 MR. EHRLICH: Thank you. As Glee indicated, when we
25 began back in October, '75 we did inherit a set of personnel

1 procedures from the transition staff and we also inherited
2 some salaries, of course, of those who kept on in regional
3 staff around the country. It became clear fairly quickly that
4 we would need a salary system, we'd need a revised set of ad-
5 ministrative procedures.

6 It also became clear that there was a tension and
7 there will remain a tension between the desire to have an or-
8 ganization of people, not of papers, to have one that has flex-
9 ibility and compassion and humanity and interest and not much
10 heavy, plodding bureaucracy, but on the other had some sets of
11 arrangements would be needed in an organization of a couple of
12 hundred people.

13 That tension is there. It will remain there. I know
14 all of you will do your best to see to it we have no rules or
15 requirements beyond what's absolutely necessary and I know
16 everybody in the Corporation basically does agree with that.

17 We hoped last summer to have the salary system and,
18 frankly, I hoped to be a lot further along in terms of revised
19 administrative procedures. In that period the then director of
20 administration resigned and not too long after that the Corpora-
21 tion's office manager who came from the transition group left
22 as well as the director of personnel.

23 That offered some opportunities and one was to find
24 an extraordinary director of administration which we have in
25 Hal Thomas. It also, I hope you will realize, created some

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1 problems.

2 Hal has been acting director since last fall. He now
3 has an office manager and as of next week, but not yet, a per-
4 sonnel director will be in place. The salary plan which is in-
5 cluded in your documents is a working plan. It's not set in
6 concrete, but it is a basic approach and, as I say, for an or-
7 ganization of this size we do need some approach.

8 Our basic philosophy has been and will remain. We
9 are an organization dedicated to helping poor people. We can't
10 pay a dollar more than we think is absolutely necessary to get
11 the best people. There's no question about it -- in Washington
12 the salaries are very high. The cost of living is very high
13 and there are problems. We haven't gotten all the best people
14 we wanted and we've often lost particularly clerical staff to
15 competing groups.

16 Obviously, there's a difference between asking some
17 clerical staff to forego income and asking some others, but in
18 all events that has been our basic operation and I for one, at
19 least, am very proud of the basic staff we have in terms of
20 their dedication and their abilities to do the job that you
21 have called on them to do.

22 We are now, as Hal will answer your questions in de-
23 tail if you wish, in the process -- or will be with the person-
24 nel manager -- of going through with the personnel committee
25 all of the personnel procedures and what we propose to do is to

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1 come to the Committee and say here's an area in which we think
2 that there probably ought to be some change and here are the
3 kind of changes that we're considering and what is your advice
4 and counsel on them.

5 Take leave policy as an example because I know Mel
6 Broughton asked about those particularly. We have, as you'll
7 see in our procedures if you've looked at them, a whole series
8 of procedures about leave.

9 Some of them may well be exactly the ones we should
10 have forever. Some of them may be subject to review and change,
11 but that's the kind of thing we come back to the Committee as
12 soon as the personnel manager can do so and say here's what we
13 now have, here's what we're thinking of changing. What are
14 your ideas?

15 I'm quick to say that I don't think one in Hal's pos-
16 ition can do other than try to deal in terms of the particular
17 problems and the particular staff that he has and try to be
18 sure that's the best working set of arrangements, but we cer-
19 tainly will try to and will, I know, with Chairman Smith work
20 with the Personnel Committee to be sure you have as full a
21 sense as you want of what the arrangements are and we respond
22 to your own views about those arrangements.

23 Now, if, Clint, you or Hal want to go further, please
24 do if you do and then if you have questions, we'll certainly
25 respond to them.

1 MR. THOMAS: I have no particular comments unless
2 there are questions.

3 MR. SMITH: Mr. Chairman, I think those comments and
4 explanations by the President together with the very extensive
5 memo and detailed copy of the plan that's in the book should
6 give the presentation all right and I suppose the next on that
7 point on our agenda would be questions on this particular sub-
8 ject.

9 MR. CRAMTON: Is there any question or discussion?

10 (No response)

11 MR. CRAMTON: From members of the Board?

12 MR. BROUGHTON: Yes, Mr. Smith, and I'm a newly ap-
13 pointed member of this Committee.

14 What do you envision the particular role of the Com-
15 mittee is in the area of setting salaries or what is the role
16 or do we have any guidelines?

17 MR. SMITH: Yes, I think I explained that to you in
18 a letter, Mel. My feeling is ---

19 MR. BROUGHTON: Well, I got your letter, but I didn't
20 understand precisely what the function of the Committee is and
21 I tried to indicate that in the response.

22 MR. SMITH: Well, our By-Laws require that the Presi-
23 dent, in setting salaries of those designated as officers of
24 the Corporation, shall set the salaries after consultation with
25 the Board and it was the recommendation of the By-Laws and Reg-

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1 ulation Committee and the recommendation, also, of our Chair-
2 man that a Personnel Committee be created in connection with
3 that among many other functions, the normal functions of a
4 Personnel Committee on any Board, public or private industry
5 for that matter, and with regard to setting of salaries that
6 then the President would consult through the Personnel Commit-
7 tee with the Board on the salaries that he sets for those desig-
8 nated as officers.

9 Now, those below the category of officers, which would
10 include the considerable bulk, of course, of all the employees
11 of the Corporation, the setting of the salaries is an adminis-
12 trative matter.

13 The feeling was, though, that the President would
14 share with the Personnel Committee as representative of the
15 Board his plan which is what was done here in sharing this
16 compensation classification plan, but we viewed that, the set-
17 ting of those salaries, as strictly an administrative matter.

18 The Board's participation in the setting of the sal-
19 aries at the level below officers comes when you adopt a bud-
20 get and you have a number of dollars set for salaries and then
21 the allocation of the salary budget is administrative. So, I
22 think the answer is that we're a sounding board of a sort for
23 some of the administrative action, but it's really a decision
24 to be made by the President and his staff.

25 The category of officers, though, and we have a reso-

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1 lution coming up in a moment to expand that category of offi-
2 cers somewhat from its present status to include more people in
3 the category of officers, in that category there is a specific
4 By-Law requirement that the President consult with us.

5 I think in the area of salaries that pretty well out-
6 lines our function.

7 MR. BROUGHTON: Well, that was a By-Law change that
8 was made not too long ago, right?

9 MR. SMITH: That's right. I think it was the meeting
10 before last, probably the October meeting.

11 MR. BROUGHTON: But it really gives the Committee --
12 it gives neither the Committee nor the Board any power per se
13 in setting the salaries of the officers, as a result of that
14 By-Law change?

15 MR. SMITH: Well, except that the President sets the --

16 MR. BROUGHTON: Well, I vote against that change.

17 MR. SMITH: Well, I think it was a very good change.

18 I happened to be on the Regulations Committee that recommended
19 it, but the President is required to consult with the Board be-
20 fore setting the officers' salaries and I don't think -- I know
21 with the current President, I wouldn't anticipate with any Pres-
22 ident, when the President serves his pleasure to the Board I
23 wouldn't anticipate there'd be any problem about the President
24 consulting with the Board and that being a meaningful consulta-
25 tion, if the President does set them after that consultation.

1 MR. BROUGHTON: Yes, well, I'm not suggesting that he
2 wouldn't consult with the Board. I'm saying as I viewed that,
3 that was a relinquishment of power by the Board to the adminis-
4 tration and whether that's good or bad --

5 MR. SMITH: I don't view it as such because I just
6 indicated I think that consultation would definitely be mean-
7 ingful.

8 MR. CRAMTON: I think a more important question is
9 the extent to which the Committee on Personnel and the Board
10 is going to participate in general policy questions that relate
11 to personnel compensation and personnel practices and it was
12 my view expressed quite strongly at the meeting of the Commit-
13 tee on Personnel in Chicago that the Committee ought to consid-
14 er the question of the percentage increases in general and the
15 pools of money that would be available for salary increments in
16 particular fiscal years, that that was, indeed, a matter of gen-
17 eral policy that ought to be considered and discussed by the
18 Committee on Personnel and reporting to the Board because it
19 has important budgetary and political implications.

20 There was some disagreement in the Committee on that
21 question, but that's at least my view that that's an important
22 function and responsibility of the Committee and the same thing
23 about all these matters.

24 If the Board conceives there to be important ques-
25 tions about holidays or leave policy or anything in the general

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1 personnel policy area, then the Committee on Personnel would be
2 the appropriate matter to consider those questions and to re-
3 port to the Board and for the Board, then, to take the action
4 that it thought appropriate.

5 The notion is to have the Board stay away from rou-
6 tine detail and getting mired down into an enormous succession
7 of minor matters which are not very significant, but at the
8 same time be able to assist the staff and be able to exercise
9 its responsibility intelligently on questions of larger import
10 and the Committee is designed -- I also have asked the Commit-
11 tee as the discussion yesterday indicated and I hope the Board
12 concurs to be the vehicle of the Board on which the space needs
13 of the Corporation, its facilities needs and so on, would be
14 filtered and reported to the Board and if we do have to look --
15 enter into new leases and so on or renegotiate our existing
16 lease that it would be this Committee that would be consulted
17 on that, advise the President, and be the vehicle by which for-
18 mal recommendations on those matters, if Board action is re-
19 quired, would come to the Board.

20 I hope those arrangements are acceptable to the Board.
21 I think this Committee can save us a lot of time and energy and
22 be very, very helpful to us.

23 MR. SMITH: I think it will provide Board input in
24 lots of instances with more detail and as a sounding board, in
25 effect, for Tom and the chief administrators that the kind of

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1 detail that couldn't be brought to a total Board, but it would
2 still give them an indication of Board feeling as they get re-
3 action of the Committee on alternatives.

4 Mr. Thomas as director of administration and with the
5 newly appointed personnel director is working on the revision
6 of the personnel handbook and at our meeting in April, Mel, it
7 is hoped that some alternatives, as Tom mentioned, will be
8 brought to this Committee to use them as a sounding board for
9 in the development of that personnel handbook which is princi-
10 pally an administrative matter, but it does give some Board in-
11 volvement through the Personnel Committee.

12 The minutes of our Committee meeting in Chicago re-
13 flect what the Chairman just said was stated very emphatically
14 there by the Chairman and by Mr. Ortique that wanted Tom to
15 bring to this Committee and to the Board subsequent cost of
16 living increases and other things of a general nature, not
17 specific instances, specific individual employees, of course,
18 but the general policy matters of cost of living increases and
19 others and the minutes reflect that Mr. Ehrlich, in response to
20 Mr. Ortique and our Chairman's suggestion, indicated that that
21 would always be the policy in the future that the Board, through
22 the Personnel Committee, would be notified in advance of con-
23 templated cost of living increases.

24 MR. CRAMTON: And there's a pool available for merit
25 increases, also.

1 MR. BROUGHTON: I didn't understand that and I have
2 not seen a copy of the minutes of the meeting. Of course, I
3 was just appointed a short while ago, but I agree with the
4 Chairman so far as -- and I didn't understand -- his point of
5 view I share, but I have not understood that from anything
6 you've said up until now and it was certainly not in your let-
7 ter. I mean, as to what you vision the function of the Commit-
8 tee to be.

9 MR. SMITH: The letter was before the meeting and the
10 things I'm now telling you plus what the Chairman told you are
11 things that occurred at the meeting.

12 Now, I view them as being perfectly consistent with
13 what the letter outlined as being our intent--and these are
14 further --

15 MR. CRAMTON: I think they are. They are elabora-
16 tions.

17 MR. BROUGHTON: Well, is the Chairman's point of
18 view now what the Committee considers to be a part of its fun-
19 ction or not?

20 MR. ORTIQUE: That's the reason I raised my hand to
21 speak because I wanted to underline that, Mel.

22 MR. BROUGHTON: I mean, now that I'm on the Commit-
23 tee, I'd like to know what we're supposed to do.

24 MR. ORTIQUE: The Chairman says that there was dis-
25 agreement with what he said. There was no disagreement with

1 what you said, Mr. Chairman, what you said this morning.

2 There was disagreement with some of the embellish-
3 ments that you were making at the meeting. For example, you
4 raised specific questions about specific -- a certain person
5 had moved from X dollars to another level.

6 I said that that was not the business of the Commit-
7 tee.

8 MR. CRAMTON: And I agree with that.

9 MR. ORTIQUE: Okay, fine. But, certainly, how the
10 -- a -- raise whether it's a cost of living raise or a five per
11 cent increase, 10 per cent increase, whether the President would
12 be recommending how that impacts on the total budget or the
13 relationship of the cost of personnel to the total amount of
14 money that we're spending on the poor is, to me, an important
15 policy question that this Board is totally responsible for and
16 that we would be responsible for and we expect that Committee
17 to watch over that very carefully.

18 I don't think there was any disagreement about that
19 and I think that this does respond very positively to the ques-
20 tions that Mel had raised in his letter as to how this impact
21 our responsibility as Board people and I think that the Presi-
22 dent assured us that he recognized the lines of demarcation and
23 that he would respect them and I was well satisfied with his
24 pledge for that and that's that.

25 MR. SMITH: And that pledge is reflected in the min-

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1 utes and if I'm right, I'm going to ask Mr. Thomas to send a
2 copy of those minutes to all the members of the Board.

3 MR. CRAMTON: I think that would be a good idea.

4 MR. SMITH: I reviewed them and particularly the
5 new members of the Committee, but I think all members of the
6 Board should have a copy of those minutes of our Chicago meet-
7 ing.

8 It helps to set the tone since that was the first
9 meeting of the Personnel Committee and it does show things
10 that have now been discussed as being contemplated by -- for --
11 the direction of Committee action.

12 MR. BROUGHTON: Well, up until now are you saying
13 that we had no compensation plan per se except that which went
14 on when the transition staff was in charge?

15 MR. SMITH: I'd said that and Tom reiterated it and
16 the memo here indicates it, too.

17 MR. BROUGHTON: Well, the memo referred to the Cor-
18 poration and it really is not the Corporation by that is not
19 the Board. I mean, the Board, as I understand it, and I had
20 expressed myself on this previously, but the Board has never
21 participated up until now and, of course, the Personnel Commit-
22 tee is a new creation --

23 MR. SMITH: That's right.

24 MR. BROUGHTON: -- with respect to the fixing of
25 any salaries other than the initial salaries set for the Presi-

1 dent and, perhaps, executive vice president at the time they
2 started.

3 MR. CRAMTON: No, I don't think so.

4 MR. SMITH: The President, the executive vice presi-
5 dent, and I believe three other officers.

6 MR. BROUGHTON: I'm saying the Board.

7 MR. CRAMTON: I think it went beyond that, too. I
8 think that at several executive sessions which were limited to
9 discussion of personnel matters, the President and executive
10 vice president did report their plans in general terms about
11 prospective salary increases and compensation plans, but we
12 did not participate in the kind of degree of detail that's con-
13 templated we would do so now and it wasn't as thorough and de-
14 tailed and it certainly wasn't public and we don't have minutes
15 of it and the like, but, you know, I don't think it's fair to
16 say that the Board didn't participate at all and we always
17 could have stepped in and participated more, but we chose not
18 to.

19 MR. SMITH: It was an inherited plan and we modified
20 it some.

21 MR. BROUGHTON: Mr. Chairman, I don't say that we
22 passed that, but I don't think, as far as I can recall, that
23 we were ever told. Now, I made a request more than a year ago
24 and got, but maybe that's our fault that -- but I don't recall
25 that we were ever provided a salary schedule of employees in

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1 which it was said this is what we propose to do as of such and
2 such a date and we're supplying this to you for information or
3 any consultation.

4 Now, I'm not suggesting that that's our proper role,
5 but I don't recall that we ever got down to any specifics or
6 were advised and it frankly came as quite a shock to me when
7 I learned that some of the salaries had gotten to the extent
8 that they have gotten.

9 Now, you can take into account that this is Washing-
10 ton, D.C.

11 MR. ORTIQUE: I suppose, Mel, that we were enamored
12 all the time by the -- I'm saying that's collective we, not
13 necessarily an individual feeling -- reminders each time that
14 the relationship between the amount of money that we were spend-
15 ing and the cost of administration was low.

16 That, to me, sticks out in my mind about the only
17 thing that we really heard, I suppose, at every meeting. Now,
18 it's very true that we knew that new people were being added.
19 It was reported to us when we moved from X number of employees
20 to Y number of employees to Z number of employees, but, quite
21 frankly, I think that we were derelict in our duty not to have
22 been mindful of how rapidly we were growing and to have gotten
23 details and I think that better late than never.

24 We didn't have a Personnel Committee before. We got
25 a Personnel Committee. We met and we faced up to the questions

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1 and we came out with some agreements that I think the Board
2 can live with now and it just merely points up that you can't
3 be hypnotized by growth and development and all these other
4 things without trying to pay some attention to a detail, such
5 an important detail, such as how much money we're paying in
6 terms of salary as it relates to your total budget.

7 MR. CRAMTON: Well, I hesitate to -- from the new
8 Board members point of view and from the point of view of the
9 members of the public, this rehashing of alleged past dereliction
10 is not very useful, but I would just at the risk of getting
11 us further into that remind -- well, I'm not supposed to,
12 but I guess I'll pass it up, but there was a Board meeting at
13 which the -- at which Mr. Broughton was not present, but at
14 which Mr. Ortique was in which the full salary structure was
15 handed out and discussed by members of the Board and there was
16 discussion by the President of prospective increases and the
17 Board appeared to be satisfied.

18 In other words, I think we're being a little unfair
19 to the staff and, anyway, we ought to be forward looking and
20 not retrospective in any event. What difference does it make
21 whether --

22 MR. BROUGHTON: Well, I can only speak for myself.
23 I'm not presuming on the Board as to say as such time as this
24 was -- came -- knowledge to me. I expressed my concern and I
25 think that without going further -- and we adopted a policy at

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1 the December meeting whereby the salary schedule of any employee
2 of the Legal Services Corporation could be made available to
3 anybody making a written request and I think I have made a
4 written request, Mr. Chairman, and I have received the salary
5 schedule.

6 MR. CRAMTON: All members of the Board received it
7 at the meeting which you did not attend.

8 MR. BROUGHTON: And I don't know whether any members
9 of the Board have it, but I would like -- I have a copy here
10 that I would like to make available. I don't know whether
11 new members of the Board have seen this.

12 MR. SMITH: It's in your book.

13 MR. BROUGHTON: Okay.

14 MR. KUTAK: Mr. Chairman, I realize that there are
15 different philosophies and I do respect those that have been
16 expressed because I not only realize that I am not always right,
17 but that I sometimes come at these things from a different
18 angle and in this instance that of a practitioner who realizes
19 that really the best investment this Corporation can make is
20 in its people.

21 Maybe it's its only investment because this is a
22 people organization. I must say I wince when I hear a chara-
23 cterization of our efforts as being derelict because I really
24 have never felt that we were in that kind of a situation. I
25 think we have a remarkably small staff. I don't know where the

1 adjective should go -- whether we have a small staff that's re-
2 markable or a remarkably small staff.

3 I think it fits both cases. It's lean as well as
4 bright. I don't think anybody can say that it is fat or it
5 is overburdened, that is to say with people. It is overburden-
6 ed with work.

7 I think we are cognizant of a very -- responsibility
8 that both Mel and Revius have referred to about the fact that
9 we are not only a people organization, but a people organiza-
10 tion dedicated to serving the poor and, therefore, we're to be
11 ever jealous about every dollar that we spend.

12 We should not, on the other hand be apologetic for
13 those dollars spent. I, for one, would want my colleagues to
14 know that I feel that administration has done a remarkable job,
15 if, indeed, in some instances have been too tight, frankly,
16 with their own budgets to, perhaps, even the detriment of some
17 of the progress that we are all eager to make.

18 You are right, Revius, when you say that we have been
19 constantly reminded because it's an item Congress constantly
20 asks us -- what is the relationship of overhead to service --
21 and we are enormously proud, as we have a right to be proud,
22 of the incredibly low ratio.

23 Now, to be sure, we do need what Mel has asked for
24 and what we are getting -- guidelines, directions, standards,
25 classifications, analyses, and a systematic way by which we can

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1 regulate our progress, but, indeed, reinforcing the very argu-
2 ment that we have had about these things is the fact that we've
3 not had the manpower to get them is because we've been so tight
4 on the spigot so to speak, so firm on the spigot.

5 So, I really want myself, at least, speaking only as
6 one individual to be on record, however, as applauding admini-
7 stration for what I think has been a very prudent and a very
8 proper use of its little funds for administrative staff and I,
9 for one, would stand up to anyone and cost justify that as a
10 very wise and essential expenditure of money.

11 Again, my point is it is so important that we hire
12 the very best individuals and that these individuals would be
13 able to be -- be able to compete for not necessarily, and when
14 Tom said it I winced, at the lowest, cheapest dollar because,
15 frankly, the problem we just alluded to earlier that we pay an
16 awful lot for them, we invest thousands of dollars recruiting
17 and thousands of dollars training and then when we by pinching
18 a penny lose them, we're not only in a vicious circle, but a
19 very counterproductive practice.

20 We don't want to be extravagant, certainly intend to
21 be frugal, but I think we, on the other hand, need not to be
22 apologetic for this record that we have made. Now, I, for one,
23 submit that all of us can be confident that we have discharged
24 our responsibilities adequately as Board members -- in fact,
25 properly as Board members.

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1 MR. ORTIQUE: Bob, you have acknowledged that we
2 have different philosophies. Nothing you said regarding the
3 staff do I disagree with. I said to Tom at the meeting in
4 Chicago that they had an excellent job in my view.

5 MR. KUTAK: You did.

6 MR. ORTIQUE: That I did not feel that they had in-
7 creased the staff to the proportions that the number of times
8 we have expressed that we were concerned about -- that is, we
9 didn't want to create another bureaucracy.

10 I didn't think that we had come close to that. I
11 said, and I still maintain, that this Board if we were hiring
12 150 people in a private corporation, I would suspect that we'd
13 have a Personnel Committee before two and a half years time and
14 I still say that. I believe that. I think that one of us
15 should have thought of that very early on for the purposes that
16 I have expressed and whether we want to label it dereliction or
17 whatever, I --

18 MR. KUTAK: I support that.

19 MR. ORTIQUE: Okay. As long as we are in agreement
20 on that, then we have no --

21 MR. KUTAK: I support the creation of such a Commit-
22 tee and I applaud the participation of this Board to continue
23 in close contact.

24 MR. ORTIQUE: In the short time that I have gotten
25 to know these new Board people I don't think that they're go-

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1 ing to look at us with any suspicion or anything else.

2 They know that we're human. They know that we are
3 as capable of erring on the side of right or wrong as they
4 are and when I come back to look upon what they are doing a
5 year from now as a member of the public, I will feel that they
6 will probably have made some errors on the side of dereliction
7 just as we may have.

8 MR. CRAMTON: Would it be proper to call the atten-
9 tion of the Board to the classification and compensation plan
10 that's before you and ask if there are comments or questions
11 directed to that?

12 MR. SMITH: Well, that's what we did in the initial
13 part of the presentation. Tom presented it and we have Clint
14 and Hal here and that was where I turned it over to questions
15 on that. The questions led us a little afield.

16 MR. CRAMTON: Are there questions or comments on the
17 classification?

18 MR. BROUGHTON: We don't have anything to report on
19 the question of leave policy now which we don't have.

20 MR. SMITH: No, I think I mentioned that that is for
21 -- that is something that our new director of administration,
22 Hal Thomas, and the new personnel director that is going to be
23 working with him on that. They're in the process of reworking
24 the whole employee/personnel handbook including leave policy
25 and they're going to be bringing some alternatives to our Com-

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1 mittee meeting in April. This Committee's going to meet in
2 April and they're going to bounce some of those alternatives
3 on leave policy and all the other personnel matters off us be-
4 cause they're developing a new handbook.

5 There, again, we've had carry-over personnel policies
6 and we're going to have a complete, new policy now including
7 the leave question that you asked about in particular.

8 MR. BROUGHTON: Well, at the moment, then, we do not
9 have a leave policy?

10 MR. SMITH: Yes, we do.

11 MR. CRAMTON: Yes.

12 MR. EHRLICH: We have a whole series of procedures
13 concerning leave arrangements and they're in the handbook and
14 I'd be delighted to review them with you as we reviewed them
15 with the Committee at its last meeting and, as I said to the
16 Committee, those are the ones that we use and it covers
17 whether or not this particular day is a holiday or that parti-
18 cular day and how many days particular individuals have and --

19 MR. CRAMTON: Does Mr. Broughton have a copy of that
20 set of materials? He ought to pick one up while he's here and,
21 Mr. Thomas, would you get Mr. Broughton that set of materials
22 and I gather the staff is in the process of revising them and
23 reconsidering them and some of their ideas about possible
24 changes. These questions are going to be ventilated with the
25 Committee at its next meeting.

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1 If they haven't been distributed to the Board, the
2 entire Board, at this point, I wonder whether we really ought
3 to get into the details of it today.

4 MR. BROUGHTON: I'm not suggesting it. I'm just say-
5 ing I have never understood that we had a specific leave poli-
6 cy straight across the board for all employees -- officers and
7 so forth.

8 MR. SMITH: Well, if I might, Mr. Chairman, let me
9 just quote briefly from the letter I wrote Mr. Broughton on
10 January 11th that I think summarized real concisely and the
11 whole Board maybe in answer to his now question could share
12 this.

13 The current policies provide the accumulation of leave
14 on the basis of 24 days paid leave per year to employees at
15 the rate of one day per pay period and this allowance is for
16 all purposes, including sickness, personal vacation, and so
17 forth, with the exception of such things as jury duty, court
18 leave, bereavement leave, voting leave, and military service.

19 One of the questions being raised and now under re-
20 view by our director of administration is whether vacation and
21 illness should be treated together as personal leave as they
22 are now treated or whether the same should be separated, that
23 is vacation and sick leave be separated.

24 Leave procedures are implemented presently by division
25 directors with regard to their particular division informing

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1 Clint or Tom of vacation plans and such plans are approved if
2 the leave credit is available to the employee and there is no
3 conflict with Corporation business.

4 When there is a conflict, the division directors ad-
5 just their plans accordingly, but that has rarely happened.
6 Each division director in turn takes care of the coordination
7 of vacation plans of his or her own staff in the same way.

8 Tom and Clint are, of course, covered by separate con-
9 tracts with our Corporation and under current procedures, leave
10 can be carried over from year to year without a maximum limit,
11 though, of course, the basic requirement would always pertain.

12 That is, that the Corporation's needs and best inter-
13 ests must be considered in the use of accumulated leave. Nor-
14 mally, not more than 15 days of earned leave may be taken at
15 any one time, but that rule may, in appropriate circumstances,
16 be waived as it was by our President in the case of Clint Bam-
17 berger's recent extended leave.

18 I think that summarized and shows that we do have an
19 across the board policy as to how it's accumulated, how it is
20 granted, and the general administration of it, but it's under
21 review and our Committee is going to see the reviewed plans.

22 MR. BROUGHTON: All right.

23 MR. CRAMTON: Mr. Engelberg?

24 MR. ENGELBERG: I just have a related question for
25 Tom and Clint. I take it local grantees' salaries are set --

1 that's set by the grantee in their grant proposal and they give
2 a budget for a local salary?

3 MR. EHRLICH: Yes, in each program under its local
4 Board, the project director is responsible for setting those
5 salaries.

6 Our regional staff looks at the salary schedule and
7 the problem, frankly, has been low salaries, high turnover,
8 and a move toward comparability.

9 MR. ENGELBERG: Well, the reason I raised that and I'm
10 going to say that I completely agree with everything that Bob
11 Kutak said, but the reason I raise that, particularly in light
12 of the group discussion we had at the support center with
13 people yesterday is that my feeling is that a lot of the senior
14 field people, particularly in high cost of living areas, Los
15 Angles, et cetera, -- I would like, if possible, to have them
16 have the flexibility to be able to hold people and I realize
17 this is a complicated issue and I guess my question is would a
18 grantee be frowned upon by the Corporation if they try to do,
19 in some ways, what the Corporation is trying to do, particular-
20 ly in the high cost of living areas -- that is, get salaries
21 at a level where they can hold highly experienced lawyers?

22 MR. EHRLICH: No, they would not be frowned on, but
23 quite the contrary. They'd be endorsed and that's one of the
24 major pushes to get comparability with the public sector --
25 District Attorney's offices and the like -- and we had to push

1 very hard. So it's far from being frowned on. It's supported
2 and that's happening.

3 MR. ENGELBERG: Well, to follow up on that, is it fair
4 to say that those say, take again the support centers, that
5 have held the senior salaries down have really done so on their
6 own initiative as opposed to any pressure from, you know, the
7 Regional Office or the Corporation? I mean, that's been sole-
8 ly how they want to slice up their budget?

9 MR. SMITH: Mr. Chairman, are we ready to move to the
10 next point on my report?

11 MR. CRAMTON: I have two questions about the classifi-
12 cation system and compensation plan and I'd like to raise them
13 very quickly and, actually, they may be more comments and those
14 who attended the Committee meeting in Chicago have heard them.

15 The compensation plan calls for essentially two in-
16 creases a year for each employee -- for a cost of living in-
17 crease at one time of the year that's apparently automatic and
18 geared to the change in cost of living and, second, the merit
19 increase on the anniversary of the individual employee's hir-
20 ing and I expressed several concerns with that policy because
21 my view is that it tends to lead to larger pay increases than
22 are necessary and not enough emphasis on merit and productiv-
23 ity in pay increases.

24 My own strong preference is for a single evaluation of
25 each employee very largely on a merit basis once a year with

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1 cost of living taken into account. The problem about doing it
2 twice is everybody, without regard to productivity, always gets
3 the cost of living increase and since organizations never ter-
4minate people, even the very occasional instance which I hope
5 we never have of mediocre or marginal people is that they share
6 in an increase even though it might not be justified.

7 They should be encouraged to look elsewhere and one
8 way to do that is by no increases for such individuals because
9 usually organizations are not prepared to terminate them.

10 MR. KUTAK: Mr. Chairman, in that regard, would your
11 observations have any reinforcement in the President's message
12 yesterday with respect to reorganization of the Civil Service?

13 MR. CRAMTON: They certainly would. It expresses a
14 similar viewpoint. Of course, it's applicable -- his proposal
15 -- only to the very top management of the Civil Service, but
16 also I dislike the notion of the merit increases being made for
17 each employee at a separate time scattered without the year.

18 I think that makes it impossible for the Board or for
19 a systematic approach to what the pool of money that's going to
20 be made available for merit increases. It also tends, because
21 it comes up separated from the cost of living increase, to
22 mean everyone is going to get a merit increase because the judge-
23ment tends to be viewed as being very adverse.

24 You can't soften it by giving -- if you have a zero
25 to eight range once a year, you can give somebody a two per cent

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1 increase and they still get something even though, in general,
2 they're not even keeping pace with the cost of living, but if
3 you separate them out and they come up for merit once a year
4 with a range of zero to five or whatever it's set by the staff,
5 the tendency is going to be that they get something and you
6 add that to the six per cent that they get automatically and I
7 think that the tendency over time will be for pay increases
8 that average higher than they probably should and without ef-
9 fective opportunity on the Board to participate as it should
10 in those discussions.

11 I much favor a one time a year merit only with cost of
12 living taken into account and I think that's a preferable posi-
13 tion and I would hope that the Committee would consider that
14 question.

15 A related question relates to what the comparability
16 standard ought to be. We've been given some comparability ma-
17 terial and it relates to the Federal Government and it relates
18 to certain selected occupations in private industry.

19 I think very, very strongly that the comparability
20 should always be given comparable data on Legal Services pro-
21 grams, operating programs, in the areas in which the Corpora-
22 tion also operates.

23 That means our comparison should always be, in addi-
24 tion to government and private corporations, private industry,
25 to the Legal Services Offices in Washington, Boston, New York.

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1 They're very large numbers of people. They have accountants,
2 they have lawyers, they have paralegals, they have secretaries.

3 Many of the same occupational classes it's true they
4 don't have. Some of the kinds of managers that we have, you
5 clearly have to look elsewhere, but I think that that compar-
6 ability aspect should be added and I think, in general, that
7 that approach will show that our salaries are extremely high
8 by comparison to those in the field.

9 Now, that may mean that those in the field are lower
10 than it ought to be. On the other hand, it does pose a grave
11 problem and it's a continuing problem that we ought to think
12 about.

13 I think there should be a lot of interchange between
14 the Corporation's staff and the Legal Services Programs in the
15 field. That is, people should come from the field, work for
16 the Corporation, and then go back and vice versa.

17 Because our salary level is so much higher than that
18 in the field, I think we are virtually precluded from that pos-
19 sibility. If a person comes from the field, goes in the Cor-
20 poration, the salary increase is so large and the salary scale
21 is on such a different level that I think they are gone for-
22 ever from the operating programs.

23 They won't go back and, in a certain sense, they real-
24 ly can't go back because once you get used to a higher stan-
25 dard of living, it's a one way street. Even the most ideal-

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1 istic people with family obligations will not cut back and that
2 point and all I say is I don't say that my views are right on
3 this. I just say that I think it's a problem that I hope the
4 Committee on Personnel will consider. I hope the Board will
5 consider it because it has lots of long term implications in
6 terms of the staff of the Corporation and its relationship to
7 the field and I know, I know, from conversations I've had with
8 people in the field that there is a great depth of feeling in
9 the field on this issue.

10 MR. BROUGHTON: Mr. Chairman, I think that you made a
11 tremendous statement, a significant statement and it's one of
12 the concerns I've had in raising this and it's no reflection
13 on staff at all.

14 Two things: I think what you pointed out is so true
15 and you're here in Washington and I'm not going to get onto
16 bureaucracy, but I hope the President will take care of that as
17 he's started out to do yesterday, but it seems to me from what
18 I hear we're at a great difference between what's going on
19 here in that area and what is out in the field, number one, and
20 secondly, I think we need to be mindful that we're asking for
21 increased appropriations and you say that we're proud of the
22 fact that our administration cost is at a low percentage, but
23 I don't think that's -- we should just simply say that. I
24 think we -- that, to me, is not the whole story.

25 I think there's increasing concern, believe me, and I
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1 think you share this out in the country as to the status of
2 salaries at the Washington level and the Federal Government.

3 New York Times two Sundays ago had a very deep analy-
4 sis on the subject. U.S. News and World Report -- I sent this
5 to Mr. Smith -- had a story recently and you see that continu-
6 ously as to -- as far as the comparison with private industry,
7 for example, how the salaries in Washington are getting way
8 beyond those comparable positions in private industry.

9 So, I think we have a concern to the total expenditure
10 whether it be low administrative cost -- by comparison, I don't
11 think speaks to the entire issue and I do think, as our Chair-
12 man has more effectively stated than I have, that we have a
13 grave concern about the difference here at this level and that
14 which is out in the field and the people out in the field are
15 working awful hard, too.

16 MR. EHRLICH: We'll be pleased to give you comparable
17 figures in terms of Legal Services Offices around the country,
18 as we've offered to do in the past.

19 MR. BROUGHTON: Thank you.

20 MR. SMITH: Mr. Chairman, Mr. Trudell wants --

21 MR. TRUDELL: I think the results from all the efforts
22 and time that's gone into this compensation system should be
23 shared probably in some way with the Boards of local programs,
24 you know, to address your concern which is a real concern in
25 terms of trying to come up with comparable salaries for field

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1 attorneys for that particular community because, you know, hav-
2 ing been around a few boards I think they do struggle with this
3 and what Bob said in terms of investing in people that you need
4 to really keep something going for it to grow, you have to take
5 care of them or otherwise you're going to lose them.

6 MR. EHRLICH: Yes, good idea.

7 MR. CRAMTON: Mr. Engelberg?

8 MR. ENGELBERG: Yes, let me just -- first of all, I
9 think you made a very good point about this interchange thing
10 and I think it is a problem.

11 I don't think the answer, though, is to keep the Cor-
12 poration salaries so low that, in turn, --

13 MR. CRAMTON: It might be a merit increase system,
14 though.

15 MR. ENGELBERG: Right, and the merit thing is another
16 point, but I guess my feeling is, and it gets back to the field,
17 that I think it's one thing to attract young lawyers and par-
18 ticularly given the fact that we all know there's a buyer's
19 market and to pay them less than they could get on a Wall
20 Street law firm or whatever.

21 On the other hand, I think -- I know the staff strong-
22 ly agrees with this -- that when you get the kind of people,
23 you know, that have been in this program seven, eight, nine
24 years, it's just outrageous, and I think the Corporation feels
25 the same way, that they have to be penalized to stay in the

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1 program and I think -- I guess -- my long range concern would
2 be to get those senior positions in the field, in the high
3 cost of living areas, up where they should be and so that you
4 get to the point where at least the middle management and sen-
5 ior levels of the field and the Corporation are roughly compar-
6 able.

7 You know, I don't think it's going to have to be the
8 same and then the kind of interchange you're talking about
9 would be feasible. What I would like to see, recognizing the
10 buyer's market and recognizing a difference in lawyers out of
11 law school and retaining these lawyers or other people of four,
12 five, six years of experience that are good, is to get those
13 salary levels up which I assume everybody's cognizant of.

14 MR. KUTAK: Steve, to reinforce that is something
15 that I think I said before, but I think it reinforces your
16 feeling and it has been a dominant impulse in my thinking since
17 I've served on the Board.

18 I can always remember what Chief Justice Warren said
19 when the Criminal Justice Act of 1964 was passed. He said the
20 bar must remember that this is a program for poor defendants,
21 not for poor lawyers and I think our inspiration, I hope, is
22 not to attract poor lawyers, but to serve poor people in the
23 very best way we can and that really requires a feeling of not
24 only comparability, but a really total feeling of complete
25 professional adequacy or otherwise I think we are going to

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1 make not only a mockery of our illusions to the code of profes-
2 sional responsibility, but a mockery of our trust to our cli-
3 ents.

4 MR. ORTIQUE: I just wanted to make a brief comment
5 and that is that I was very pleased with the overall handbook
6 for what we're doing here in Washington.

7 I don't know and I wouldn't try to examine each de-
8 tail, but what I worry about and what I would want the staff
9 to be ever mindful is the possibility that we are not looking
10 closely enough at how we can assist, how we can encourage, and
11 I was glad to hear Clint make the comment that, in response to
12 your question, Steve, that we want to encourage those Regional
13 Offices to improve their salary situation so that we can at-
14 tract some good people.

15 I worry about those Regional Offices in terms of the
16 capability of the personnel there. I worry about the project
17 directors, some of whom have been around a long time and I'm
18 just afraid that they are satisfied.

19 If they had to go out in the field, out in what I call
20 civilian life and make a living, they might not be able to make
21 any more, perhaps, less than what they're making there and that
22 bothers me and I don't want them to feel comfortable and so
23 I would encourage the staff to try to raise those salaries so
24 that we can say truthfully and honestly we can't afford to pay
25 you this kind of money because you're not worth it.

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1 I know that's a tough decision to make, but -- and I
2 suppose that other than Clint Bamberger, there's nobody in
3 this room that's been with Legal Services as long as I have --
4 1964.

5 So, I know a lot of these guys who've been there since
6 that time and they may be getting a little satisfied with their
7 positions and I'd like the staff to be looking at that to make
8 certain that we don't have comfortable people down there at
9 the regional office level and those project directors.

10 MR. CRAMTON: Any more comments or discussion?

11 (No response)

12 MR. CRAMTON: Thank you very much, Hal and Clint.
13 Before we go to the next item, Ruth Felter has inquired about
14 luncheon plans because some tentative arrangements have been
15 made here in the University Club about a room and she wants to
16 know whether she should cancel that or go ahead.

17 It's my expectation that we will complete our work be-
18 fore noon and the question is whether Board members prefer to
19 scatter to the winds or whether they prefer to have lunch to-
20 gether at that point.

21 MR. KUTAK: I'd like to have lunch together if we
22 could.

23 MR. CRAMTON: Why don't -- some people may prefer, I
24 think, to either go home or have alternative arrangements, but
25 why don't we have a show of hands of those who would be avail-

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1 able and then Ruth Felter could make -- who'd be available at
2 noon?

3 (Show of hands)

4 MR. CRAMTON: One, two, three, four, five, six --

5 MR. BROUGHTON: I have a -- if the planes are flying--

6 MR. CRAMTON: All of us may have a problem about get-
7 ting out of town today, but apparently I think a table for six,
8 maybe in the main dining room without the private room would
9 suffice. Do you think so or is there a reason for a private
10 room? I think we can just go through the buffet and have a
11 table for six or seven in the main dining room.

12 MS. FELTER: Fine.

13 MR. SMITH: Mr. Chairman, the second item, report
14 from our Committee is under the tab in your book Resolution on
15 Officers and you will recall that section 1601.28 of our By-
16 Laws designates certain officers and then says that such other
17 officers shall be determined by the Board.

18 RESOLUTION ON OFFICERS OF THE CORPORATION

19 MR. SMITH: Off and on during the past two or three
20 years we have had discussion about other officers. In fact,
21 at one time we had quite a lengthy discussion about whether or
22 not General Counsel should be designated as an officer I remem-
23 ber and there were some rather strong feelings that perhaps
24 General Counsel should be an officer.

25 You'll find under this tab the motion that I want to

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1 make and I'm sure you recognize that it could be expanded and
2 there could be a lot more persons designated as officers or
3 could be left as it has been with the very minimum number of
4 officers, but after a great deal of consideration at our Com-
5 mittee and a great deal of discussion both ways as to whether
6 it should be expanded or restricted, the consensus of everyone
7 present at the meeting was that this was the proper distance
8 to go in designation of officers and, incidentally, this is
9 the recommendation of our President, Tom Ehrlich.

10 MR. BROUGHTON: Can you give us the pros and cons of
11 the matter?

12 MR. SMITH: Yes, perhaps it's more appropriate that I
13 make the motion first and get a second to it and then under dis-
14 cussion I'll ask the President to tell you some of the reasons
15 behind his recommendation.

16 Mr. Chairman, I would move that the officers of the
17 Legal Services Corporation shall be, in addition to those des-
18 ignated by 1601.28 who are President, secretary, treasurer, and
19 comptroller; an executive vice president, a general counsel, a
20 director of field services, and a director of program support.

21 MR. ORTIQUE: I second the motion.

22 MR. SMITH: All right, now the President might respond
23 to Mr. Broughton's question about --

24 MR. BROUGHTON: Well, I was asking you, as the Chair-
25 man of the Committee, if you could tell us what the Committee

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1 pro or con.

2 I'm interested in knowing what the -- why the recom-
3 mendation.

4 MR. SMITH: Well, of course, one of the bases for de-
5 signating some additional officers is the question you asked
6 earlier in the meeting because the officers are the ones who
7 come within the requirement of the By-Laws that their salaries
8 be set by the President after consultation with the Board,
9 while others that aren't designated as officers are just set
10 by the President administratively.

11 So, this brings within that requirement a greater num-
12 ber of persons. It also, I think, indicates just a little bit
13 greater significance and responsibility to the person designat-
14 ed as an officer as would be true in any Corporation.

15 Those designated as officers carry just a little bit
16 higher degree of authority and responsibility and a little
17 more prestige.

18 We don't, as Mr. Kutak was mentioning, have any speci-
19 al PERKS for officers, no limousine or any other special bene-
20 fits, but I think it's mainly the question of prestige and
21 authority and responsibility to the Board because the officers,
22 in a sense, are more directly responsible to the Board than are
23 other employees.

24 MR. CRAMTON: I think that the consultation provision
25 also governs in terms of initial appointment. That is, the

1 President appoints the officers, but after consultation with
2 the Board and the consultation process is expected rather than
3 just as with the non-senior staff of the Corporation. We want
4 the President to just go ahead and hire the people that he
5 wants..

6 MR. KUTAK: And we know that these people work so
7 closely in a direct one to one relationship with the Board mem-
8 bers and committee. At least, I find that the case with the
9 General Counsel.

10 MR. BROUGHTON: But is this restricting the President's
11 authority or expanding it? I can't tell.

12 MR. SMITH: Well, it restricts it a little bit as far
13 as the consultation of employment on these persons because when
14 these persons now being added are not officers, they would just
15 be employed by him without consultation and their salaries be
16 set without consultation.

17 MR. BROUGHTON: This requires him to come to the
18 Board before the fact?

19 MR. SMITH: That's right.

20 MR. BROUGHTON: Now, he can come and just simply re-
21 port that I've employed Mr. or Mrs. X.

22 MR. SMITH: I think one thing, also, that reinforces
23 his decision on recommending these officers is the current sal-
24 aries. These are the persons that already under his authority
25 to set salaries without consultation, these people not having

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1 been officers heretofore, they're the ones who's salaries are
2 set at the highest level indicating consistency in his recom-
3 mendation that they now be designated as officers.

4 MR. CRAMTON: There also is -- I would make another
5 point. When we drafted the By-Laws we listed only a very small
6 number of people who were required under the District of Colum-
7 bia Non-Profit Corporation Law for a non-profit corporation to
8 have and the reason we did is we were very unsure at that time
9 how the structure of the Corporation would develop, I mean,
10 who would turn out to be the principal divisions and the prin-
11 cipal officers and so on.

12 We've now had nearly three years of experience and
13 it's clear that the training program, for example, that Dick
14 Carter has is a big operation. It's very important. We spend
15 a lot of money on it and so on and it's very clear that field
16 support, as it's developed under Charles Jones, is a very
17 large and important operation and he reports regularly to the
18 Board and so we're making practical choices based upon how the
19 Corporation is, in fact, involved in terms of the people who
20 essentially are the senior staff and this is a recommendation
21 that the President makes, but it seems to me it follows up
22 what was implicit in the earlier action of the By-Laws to leave
23 it open to the Board to designate some other people at a later
24 date.

25 Is there further discussion?

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1 (No response)

2 MR. CRAMTON: Are you prepared for the motion? Mr.
3 Veney?

4 MR. VENEY: I'm sorry. It seems to me the Board
5 giveth and the Board taketh away. I'm very confused about
6 that.

7 MR. BROUGHTON: Could you come a little closer?

8 MR. VENEY: Haven't you given your President certain
9 authorities that seem now to be restricted by your saying he's
10 got to come to you about salaries, things of that nature?

11 I'm very concerned about that.

12 MR. CRAMTON: It's all very consistent. We decided
13 at several points that with respect to a limited category of
14 people to be designated at an appropriate time, the President
15 should consult both in terms of appointment and also in terms
16 of compensation and we're now getting around to the second
17 part of that -- that is, designating the precise list of people
18 -- and that was always contemplated and that's what I'm saying.

19 We're just getting around, finally, to doing it.

20 MR. BROUGHTON: Well, I think he raises the question
21 I raise. As I understand it, in the present framework, the
22 President doesn't have to consult with the Board as to the
23 salaries of the people of the positions listed here in the re-
24 solution. If we pass this, then he does have to do that.

25 Is that the point you're making?

1 MR. VENEY: That's precisely the point.

2 MR. BROUGHTON: You raise the same question I raise
3 whether we are taking and giving in the same resolution.

4 MR. SMITH: By the way, I would point out that this
5 was at the President's recommendation, though, too, and it does
6 more than just the consultation on salaries and appointments.
7 It also carries with it this designation of authority and pres-
8 tige and so on and the principal persons involved in the admin-
9 istration of the Corporation, and I would also point out that,
10 really, the President consulting on appointments and salaries
11 of these particular persons isn't anything new.

12 Without this requirement he's already done that in
13 past practice. It's really conforming the By-Law in this par-
14 ticular point to what's been the practice.

15 With regard to these particular designated ones, the
16 President has consulted with us and whether -- at length on at
17 least a couple of them, I would say.

18 MR. CRAMTON: Is there further discussion on the mo-
19 tion?

20 (No response)

21 MR. CRAMTON: Are you prepared for the question?

22 (No response)

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

24 (Ayes)

25 MR. CRAMTON: Those opposed, no.

1 MR. BROUGHTON: No, I just --

2 MR. CRAMTON: Can we have a show of hands? All those
3 in favor, please raise your hand.

4 (Show of hands)

5 MR. CRAMTON: Mr. Engelberg, Mr. Trudell, Ms. Rodham,
6 Mr. Cramton, Ms. Esquer --

7 MR. ORTIQUE: Time -- I was consulting.

8 MR. CRAMTON: -- Mr. Ortique, Mr. Kutak, Ms. Worthy,
9 and Mr. Smith. Opposed?

10 (Show of hands)

11 MR. CRAMTON: Mr. Broughton. The record shall so
12 indicate.

13 Do you have more business?

14 MR. SMITH: Yes, Mr. Chairman, under the tab Resolu-
15 tion on Outside Compensation.

16 APPROVAL OF RECEIPT OF OUTSIDE COMPENSATION
17 BY E.C. BAMBERGER AND T. EHRLICH

18 MR. SMITH: You will recall that our By-Laws require
19 approval by the Board when there's any outside compensation to
20 be received by officers of the Corporation. You'll find under
21 that tab two items that were discussed at our Committee meet-
22 ing -- one, Clint Bamberger, executive vice president, receipt
23 of an honorarium from the Australian Broadcasting Commission
24 in the amount of \$113,00 and, since our Committee meeting, Mr.
25 Bamberger has been surprised by a receipt of a check in the

1 amount of \$24.70 from the Australian Broadcasting
2 It was something he didn't know they were
3 send him as an honorarium. He has returned the check
4 because they deducted Australian income tax which
5 not have done. So, it will be something more than
6 his suggestion is that we include an item there and
7 right with me to include it that he be authorized
8 Latrobe University in an amount not in excess of \$1500
9 would be the \$24.70 plus the restoration of Australian
10 tax incorrectly withheld and those two items for
11 ger and the one for Thomas Ehrlich from Cleveland
12 College of Law in the amount of \$1500 which he had
13 time ago, I think, and had not accepted yet pending
14 by the Board.

15 I believe it was to be presented at our meeting
16 ing, but we didn't have a Personnel Committee yet
17 presented to you and --

18 MR. CRAMTON: Yes, the Chairman was deli
19 had it in his briefing book to raise it at the meeting
20 the hubbub of the meeting I overlooked it and Mr.
21 not remember to remind me until the meeting was over
22 what I did is to suggest to the President that he
23 check or not receive the amount until the Board has
24 opportunity to pass on the item.

25 MR. SMITH: So having explained before the

22

1 motion?

2 (No response)

3 MR. CRAMTON: Are you ready to vote?

4 (No response)

5 MR. CRAMTON: All those in favor of the motion, please
6 say aye.

7 (Ayes)

8 MR. CRAMTON: Those opposed, no.

9 (No response)

10 MR. CRAMTON: The record will show that the Board un-
11 animously supports the motion.

12 MR. SMITH: Mr. Chairman, one other matter. You al-
13 luded to this yesterday and again this morning that you had
14 expanded the Personnel Committee which had been authorized
15 by the Board to also include facilities and would you like to
16 have a motion at this time to confirm what you have done or
17 do you think it's necessary?

18 MR. CRAMTON: I think it would be desirable because
19 it's just my view as Chairman that that's -- we did have an
20 ad hoc committee on facilities at one point, but it does seem
21 to me that the Personnel Committee's in the best position to
22 exercise that function and I think it would regularize it to
23 have the Board pass on it and, in fact, to change the title of
24 the Committee, if they think it's desirable, to Personnel and
25 Facilities.

1 MR. SMITH: I was Chairman of that ad hoc committee
2 and I think the change is desirable and you mentioned it yes-
3 terday and today, too, and I would move that the Personnel Com-
4 mittee of the Board -- the title be expanded to Personnel and
5 Facilities and that its duties and functions be expanded ac-
6 cordingly to relate to facilities for the Corporation as well
7 as personnel matters.

8 MS. RODHAM: Second.

9 MR. CRAMTON: You've heard the motion and the second.
10 I gather this proposed arrangement -- we've talked about it
11 over the telephone -- does meet the approval of the President.

12 MR. EHRLICH: Yes, it's a very good idea.

13 MR. CRAMTON: Is there discussion on the motion?

14 (No response)

15 MR. CRAMTON: All those in favor of the motion, please
16 say aye.

17 (Ayes)

18 MR. CRAMTON: Those opposed, no.

19 (No response)

20 MR. CRAMTON: The record will show that the Board un-
21 animously supports the desirable enlargement of the functions
22 of the Committee on Personnel and Facilities.

23 MR. SMITH: That concludes our report, Mr. Chairman.

24 MR. CRAMTON: Thank you very much. We are now to, as
25 I understand it, item seven -- reports by the President. Mr.

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1 Ehrlich?

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REPORTS BY THE PRESIDENT

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MR. EHRLICH: Three very brief items: First, is requested by the Board concerning Conflicts between Poverty Groups within the Same Community.

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CONFLICTS BETWEEN POVERTY GROUPS WITHIN THE SAME COMMUNITY

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MR. EHRLICH: We have hired, as the Board urged, an outside consultant, Professor Michael Reese of the University of Southern California Law Center who has agreed to act as an independent consultant to prepare the report requested by the Board at its last meeting concerning the clusters of problems involved with conflicts among groups in poverty communities and possible approaches that might be adopted by the Corporation to those.

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He is well qualified in terms of background and abilities. Like a number of others that discussed this project with us, he was tied up in the first couple of months, but I hope later this Spring we'll have his report and, at the same time, we have been pressing on the New York scene to try to insure that the two -- that the varying groups involved in that set of problems are working together and I'm pleased to report that as far as I can determine from both the program and the regional staff that those efforts are going ahead.

Nancy LaBlanche who has been head of the NFY program there has just left to start a new Legal Services program in

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1 upper New York State, but when I talked to her earlier this
2 week she assured me that the arrangements she thought were go-
3 ing forward very well and that the kind of collaboration and
4 consultation described in the --

5 MR. ORTIQUE: She's still in the Corporation -- in --

6 MR. EHRLICH: In Legal Services.

7 MR. ORTIQUE: -- Legal Services. Okay, fine.

8 MR. EHRLICH: Yes, she is. She's a remarkable direc-
9 tor and we will be back in touch when we have the materials
10 from Professor Reese in terms of the next steps in that area.

11 MR. KUTAK: Mr. President -- Chairman -- it might be
12 an extremely gracious gesture on the part of the Board if we
13 would, indeed, send a copy of these constructive and progres-
14 sive reports to our former colleague Marshall Breger.

15 He had retained and, in fact, expressed such an in-
16 tense and deep interest in this whole area that I think it
17 would show a thoughtfulness I hope always characteristic of
18 the Board to do so and I would ask the leave of the Board that
19 our President do so.

20 MR. EHRLICH: One of your other thoughtful colleagues
21 already asked that and so you have no fear that we will keep
22 him in touch with that situation.

23 MR. CRAMTON: One comment on Professor Reese's work --
24 I hope he will bear in mind or the staff will bear in mind in
25 talking with him the possible role of a subject that we talked

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1 about yesterday of Law School Legal Aid Clinics in solving some
2 of these problems between poverty groups.

3 I was impressed by the fact that in Philadelphia, for
4 example, when there are conflict situations and poor people on
5 both sides of a case, the Legal Services Office in Philadelphia
6 refers all those cases to the Temple Legal Aid Clinic and that,
7 at least, is one mechanism which is capable of meeting some of
8 this problem.

9 Further comment or discussion on the President's Re-
10 port which was called for by the Board at the last meeting?
11 Now, I assume that we will not receive systematic reports on
12 this question at every Board meeting, but we will receive a
13 report and discuss the question when Professor Reese comes in
14 with his report and the staff, perhaps, has some recommenda-
15 tions to make.

16 MR. EHRLICH: If there is anything to report, you'll
17 have it.

18 MR. CRAMTON: I would like to suggest on that that
19 that report and the staff recommendations on it when it comes
20 in go to the Committee on Provision of Legal Services.

21 I mean, it seems to me that it really is a question
22 about -- on -- the organization and arrangements that are made
23 and the provision of legal services and I think the Board would
24 be helped in handling an issue like this if issues and staff
25 thinking was first explored in a Committee setting and so I

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1 would just suggest that we follow that course rather than just
2 the Board getting -- the Board may want to see the report, also,
3 but it would help to have it funneled through the Committee.

4 Is that agreeable?

5 MR. ORTIQUE: I think as long as the Board members do
6 receive a copy of the report at the same time as the Committee
7 is getting it, then we may want to make suggestions to the
8 Board or may want to present options or whatever that comes
9 out of the report.

10 I think you're correct. Somebody needs to look at
11 it and give the Board its options or a recommendation, but I
12 think the Board, then, the entire Board, ought to receive a
13 copy of the report at the same time.

14 MR. EHRLICH: Second, when we designed the agenda, we
15 hadn't yet had the orientation session for new Board members
16 at which we went over, at some length, 1977 Amendments to the
17 Legal Services Corporation Act as, of course, we did with the
18 old Board members at a previous meeting.

19 1977 AMENDMENTS TO THE LEGAL SERVICES CORPORATION ACT

20 MR. EHRLICH: I should add, first, that one of the
21 key architects and helpers in that enterprise, ^{Gail} Dale Higgins of
22 the House Subcommittee on Judiciary Staff is here and I know
23 all of us are grateful for her efforts, but also I know Alice
24 Daniels and I will be pleased to answer any questions about
25 the Act if you have further ones.

1 We're now, of course, in the process of doing -- the
2 regulations of doing the reports called for in the Act and I
3 think we've gone over that reasonably well, but if there are
4 questions, we'll answer them.

5 (No response)

6 MR. EHRLICH: If not, then, finally, on lease negotia-
7 tions concerning space in the Woodward Building --

8 LEASE NEGOTIATIONS CONCERNING SPACE IN THE WOODWARD BUILDING

9 MR. EHRLICH: -- we are still working with our land-
10 lord in that building and hope to work out a lease. We have
11 not done so yet. At the same time we've been pressing hard
12 for alternative sites that we can find space to lease and if
13 we're not able to work out a satisfactory arrangement that will
14 protect long run interests of the Corporation, naturally we
15 will have to shift to other space, but at this point, at least,
16 the issue is unresolved.

17 We will stay in touch with the Committee on Personnel
18 and Facilities as we have in the past.

19 MR. KUTAK: Mr. Chairman, there was one thought with
20 respect to the earlier item that if I could I'd like to go
21 back to.

22 Although it was not asked for by the Congress and I
23 certainly could even legitimately wonder whether or not it
24 would be welcomed by the Congress, but one thing which I remem-
25 ber done with the Criminal Justice Act that was very construc-

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1 tive after several years experience, in fact, built into the
2 Statute was a request that there be an evaluation of the Act
3 in light of the experience under it and hence the famous amend-
4 ments of 1970 to the Criminal Justice Act that dramatically
5 broadened and improved, if you please, the character of de-
6 fense counsel services for the poor.

7 I wonder -- good grief, first of all let me say that
8 the Committee on By-Laws and Regulations isn't looking for an
9 assignment and whether or not, second of all, it's premature to
10 do so, but perhaps we could flag for maybe a year or so out
11 there and perhaps maybe even in conjunction when we file our
12 final report on the Legal Services delivery study that we
13 might do an evaluation of the Act and its experience under its
14 present mechanism to see in which ways it might be revised or
15 which ways it might be developed so as to have the capability
16 or the authority or, indeed, some sort of response to the pres-
17 ent framework.

18 In other words, even though we ourselves have not been
19 asked for it, maybe at some propitious time out there whether
20 it's 18 months or two years it would be propitious in connec-
21 tion with some official communication with the Congress to
22 give them an evaluation of the Act as amended and to see
23 whether or how it might further be amended to be consistent
24 with our findings and evaluation.

25 MR. EHRLICH: We did do that in a sense in terms of

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1 the '77 amendments and I think it's a good idea to keep in mind
2 for the next step and we will.

3 MR. CRAMTON: Concerning legislative matters general-
4 ly, I recall a reference in one of the items we got to some
5 oversight hearings that were promised in the Senate as part of
6 the -- would you fill us in on the details of that and when or
7 whether -- I assume it's not whether, but when those hearings
8 are going to be held and what the likely focus of them will be?

9 MR. EHRLICH: Senator Nelson, Chairman of the Human
10 Resources Committee in the Senate assured Senator Hatch at the
11 time of our authorizations hearings and thereafter that there
12 would be oversight hearings this year, 1978, and as I under-
13 stand it from staff, they're currently scheduled for June of
14 this year.

15 As soon as we have a firm date we will, of course,
16 notify the Board. That will be, in other words, after the
17 Appropriations Hearings are through since we expect the House
18 hearing will be next week and the Senate hearing is expected
19 at the end of April and then in June we'll have that oversight
20 hearing by the Human Resources Committee in the Senate.

21 MR. CRAMTON: Is there any indication of what the fo-
22 cus of that quote oversight hearing would be and whether -- to
23 what extent it's going to be superintended by Senator Nelson
24 and to what extent it's going to be an inquiry by Mr. Hatch?

25 MR. EHRLICH: I think it's going to be led, of course,

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1 by and cheered by Senator Nelson. The general notion was an
2 overall review of our activities of the kind we've had in
3 terms of the authorization hearing last year and I suspect
4 they'll raise the same kinds of questions then and seek counsel
5 from those in the client community in Legal Services programs
6 as well as representatives of the Corporation.

7 MR. CRAMTON: At several times in the past we've had
8 discussions about whether or not the Corporation ought to take
9 a position on certain legislation and, if so, under what kind
10 of circumstances or conditions.

11 I wondered if there were legislative proposals that
12 the staff knows of now that are pending in Congress in which
13 there has been some suggestion or desire that the Corporation
14 express a position or testify or take a position and, if so,
15 what plans you have of getting the advice of the Board on
16 those questions?

17 MR. EHRLICH: Well, we follow the arrangements as dis-
18 cussed at several earlier meetings of working through the Regu-
19 lations Committee and our General Counsel is in touch with the
20 Chairman of that Committee when and if issues arise in which
21 the Corporation might be asked to take a position on the whole.
22 Unless it relates very directly and squarely with Legal Ser-
23 vices and poor people, of course, we don't.

24 There are all sorts of things that people would like
25 us to talk about in terms of housing and environment and so

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1 forth that we say that isn't our mandate and our focus. We do
2 not do it, but our General Counsel is in contact through the
3 Regulations Committee on issues that do arise and we do try
4 to be sure in all cases in which there is a group in the Legal
5 Services community generally that may wish on behalf of eligi-
6 ble clients to express views that the Committees involved seek
7 their counsel.

8 That's often the most helpful way in which we can pro-
9 ceed.

10 MR. CRAMTON: I had one specific area in which it
11 seems to me that it's an open question as to whether or not it
12 sufficiently impacts on the work of the Corporation so that we
13 ought to take a position and that is the various bills having
14 to do with -- that actually came up in connection with the dis-
15 cussion of the Legal Services Corporation Act extensions hav-
16 ing to do with compensating defendants who are -- for attorney
17 fees when unsuccessful actions are brought against them and
18 then some of the various attorney fee provisions that now the
19 Justice Department has put forward.

20 Is that an issue on which the Corporation staff is
21 taking a position or thinks we ought to take a position and is
22 that issue going to be brought to the Committee and the Board
23 at a point? I gather that consultation with the Board is a
24 question -- with the Committee -- of whether or not the Commit-
25 tee thinks initially that a position ought to be taken and if

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1 a decision is made that yes, a position should be taken, that
2 absent an emergency and inability to consult with the Board,
3 then the proper step would be a recommendation at the next
4 Board meeting.

5 MR. EHRLICH: Absolutely, and it obviously depends on
6 the kind of issue that --

7 MR. CRAMTON: Of course.

8 MR. EHRLICH: -- is involved and the circumstances.
9 Usually, when we're asked to comment, we're asked very quickly
10 or not at all and, in most cases, as I say, it doesn't seem
11 well to get involved in other controversies and many in Legal
12 Services think that the Corporation should never take stands
13 on any issues.

14 In some cases, either because the Chairperson of a
15 Committee has said I want to hear you, it has been more or
16 less essential that we have done so. In this case we did get
17 for comment several kinds of bills involving attorneys' fees.
18 Indeed, as you know, Senator DeConcini attached an amendment
19 to the Legal Services Act Amendments of '77 requiring the gov-
20 ernment to pay certain prevailing parties' attorneys' fees.

21 So far, it's been our view that although, of course,
22 Legal Services people are, in general, -- have -- some impacts
23 since there are a number of groups expressing their views, it
24 would be not well for the Corporation not to take a view.

25 We'll certainly be in touch with the Chairman of the
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1 Regulations Committee if there's any view in any way different,
2 but --

3 MR. CRAMTON: We have not responded to the request
4 for comment and advice on the attorney fee provisions.

5 MR. EHRLICH: That's right, and what we try to do is,
6 obviously, we have meetings and informal contacts all the time
7 on a variety of issues and we ought to be sure that those in
8 Legal Services with particular positions or those in NLADA, too,
9 are involved in these issues.

10 MR. CRAMTON: David Levy, NLADA?

11 MR. LEVY: Yes, Mr. Chairman, I just wanted to say
12 on that one proposal as an example that NLADA is taking a more
13 active position on following these and --

14 MR. CRAMTON: Yes, I would hope that it did on mat-
15 ters like that.

16 MR. LEVY: And specifically on the attorneys fee in
17 the attorneys fee area there's a sense among the community that
18 that is a defensive position that it takes that doesn't affect
19 our clients as directly as one would think on first sight at
20 this moment.

21 We are afraid of losing attorney fees provision, equal
22 employment type suits, consumer actions where there are already
23 provisions and this kind of thing and we're monitoring that
24 and those provisions in that sense, but right now there's a
25 lot of talk and the proposals have not been as specifically

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1 affecting our clients as one would think.

2 MR. CRAMTON: Is there anything going on on the Hill,
3 Ms. Higgins, that we ought to know? This is Gail Higgins who
4 is the staff person for the House Judiciary Committee headed
5 by -- Subcommittee headed by Mr. Kastenmeyer that has authority
6 in the Legal Services field. I'm glad you could be here today.

7 MS. HIGGINS: It's interesting you raise the issue
8 of attorneys' fees because that is one that our Subcommittee
9 has looked at this year already and we may, though there's not
10 much time left in the session, look further and Senator Nelson
11 is having more hearings on the bill that's very similar to the
12 amendment that we had to leave at the conference.

13 So, that's an issue that we would like to hear more
14 from Legal Services about. I have tried. I have contacted
15 the National Research Institute which I understand is doing
16 something in that area and we would certainly welcome any of
17 your thoughts as well as the Research Institute's views on
18 the subject.

19 MR. CRAMTON: Well, I hope you understand why we feel
20 somewhat reluctant as a Corporation to take a position on the
21 wide range of legislative proposals that effect poor people in
22 the United States.

23 MS. HIGGINS: Well, we do realize that attorneys'
24 fees is an issue of access in that sense. It is directly re-
25 lated to your goals. There are also bills that magistrate re-

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1 form and other bills that we've looked to hear from you, and
2 I think usually we do hear from the local programs and the
3 actual practitioners out in the field.

4 MR. CRAMTON: Does this complete the Reports of the
5 President?

6 MR. EHRLICH: Yes.

7 MR. CRAMTON: That brings us, then, to item eight:
8 Proposed Board Meeting Dates.

9 PROPOSED BOARD MEETING DATES

10 MR. CRAMTON: At the last Board meeting, the Board
11 established a firm date of May five and six for San Diego.

12 I don't recall the actual form of the motion, whether
13 the July six and seven date was tentative or set, but, anyway,
14 we talked about those specific dates in July six and seven and
15 we talked about -- and I gather you're now thinking about Octo-
16 ber six and seven and November 30 to December one as two sub-
17 sequent dates.

18 MR. EHRLICH: Well, we did set, obviously, the Board
19 can change them, the May dates in San Diego and we have the
20 hotel there, the Coronado in San Diego and July six and seven
21 set in Washington.

22 It seems to us, at least, if we can set them as far
23 in advance as possible, it's much more convenient for Board
24 members and if you want to follow the practice of having two
25 of the sessions out of town, it's helpful to know that as far

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1 in advance as we possibly can.

2 If you want, for example, to have the October session
3 some place else, it's well to know that.

4 MR. CRAMTON: The -- is there a motion or discussion
5 on this item? I mean, I would take it that it is established
6 that we will meet, unless there's a desire to reconsider the
7 matter at this meeting, in San Diego on May five and six at
8 the Del Coronado Hotel.

9 Then -- yes?

10 MR. SMITH: I was just going to say, Mr. Chairman,
11 that was an actual action and the one in Washington was just
12 tentative, but --

13 MR. CRAMTON: That's my understanding, so I think we
14 ought to take action on the July date at least and then we
15 ought to set, I think, the following two dates tentatively so
16 Board members would save the dates on their calendars.

17 MR. SMITH: That's what I was preparing to do.

18 MR. CRAMTON: Would you make an appropriate motion?

19 MR. SMITH: I would move that the Board meet on July
20 sixth and seventh in Washington, D.C. and that that be a firm
21 date and place and October sixth and seventh and November 30th
22 and December first be tentative dates with the location to be
23 determined later.

24 MR. ENGELBERG: A point of information, Mr. Chairman,
25 under Mr. -- Glee's motion that means that at the July meeting

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1 we would then make a definite commitment on the October and
2 November dates and the only commitment now would be on the
3 July dates?

4 MR. CRAMTON: That's right, but that all Board mem-
5 bers should save those dates. We very rarely change from the
6 kind of tentative dates that are set in advance. We've follow-
7 ed the practice in the past, but would be responsive to the
8 views of the new Board members of alternating in general be-
9 tween a Thursday/Friday meeting and a Friday/Saturday.

10 Some Board members prefer to have the opportunity to
11 be home with their families on Saturday and Sunday and other
12 Board members prefer to have ordinary business days at home
13 rather than in their offices and so we've compromised between
14 having one meeting on a Thursday/Friday and the next meeting
15 on a Friday/Saturday, but we'd entertain, obviously, the views
16 of the new Board members on that and other questions about
17 meeting dates.

18 MR. TRUDELL: Out of curiosity, where have Board
19 meetings been held?

20 MR. CRAMTON: We have held all of our Board meetings
21 in Washington except for a meeting at Window Rock, Arizona in
22 the Indian Nation, in Salt Lake City which was a kind of a
23 looking ahead think piece in the Summer and we had one other
24 in New Orleans and in Austin, Texas.

25 In our four years, we've had two meetings a year out

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1 of Washington and I think on the average four or five meetings
2 in Washington. So, we've generally held six or seven meetings
3 a year and most of them have been in Washington.

4 We've gone outside Washington for a variety of reasons.
5 One of the reasons is that many members of the Board have
6 thought it's advantageous to have some contact with some dif-
7 ferent people in the field.

8 That was particularly evident when we went out to
9 DNA because it allowed us an opportunity to be introduced to
10 the special problems of Indian programs, but even when we went
11 to Austin, for example, and I'm sure when we go to San Diego
12 we will see different members of the public attend because
13 people from the local programs and from the regional offices
14 attend.

15 That happened in New Orleans. We had a lot of people
16 from the South who came in who we don't normally see at our
17 Board meetings and the Board learns from that and we're visi-
18 bility out in the field. I think the general purposes for go-
19 ing outside Washington are two-fold. That is, it's a special
20 purpose in terms of the Board learning something about a par-
21 ticular group such as Indians or, second, the ability of the
22 Board to meet with different groups and organizations in the
23 field.

24 MR. KUTAK: Mr. Chairman, I will second the motion
25 that was made by Glee. There is some extensive discussion on

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1 the table last night about another admirable alternative site
2 for the Board at some time -- the Midwest in general, indeed,
3 even Omaha in particular, but I sense that I would be -- that
4 I would appear presumptuous and therefore I am reluctant.

5 I don't want, however, to leave the connotation that
6 I am not inhospitable because I would welcome such a meeting
7 there at any time that you thought it would be convenient.

8 At any event, after that I would like to ask my col-
9 leagues if they would entertain a motion to reset the Regula-
10 tions Committee meeting which is now scheduled, the date is
11 set for April sixth for Omaha rather than Atlanta and I would
12 say that -- I have not yet had an opportunity to check specifi-
13 cally with my colleagues, but if they find that that would be
14 more convenient for them, of course, we'd be totally delighted.

15 MR. EHRLICH: There is plane service there?

16 MR. ENGELBERG: How about Washington?

17 MR. KUTAK: You might be able to piggyback because
18 perhaps Personnel could tie into that if they would like.

19 MR. BROUGHTON: Mr. Chairman, I was going to mention --

20 MR. CRAMTON: Can we deal with the Board meetings and
21 then Board members can talk about Committee meetings.

22 MR. KUTAK: I'm confident once the Committees get
23 there, the Board will be overwhelmed about their desire to re-
24 turn.

25 MR. CRAMTON: I'm informed by the President that the
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1 staff has made tentative arrangements for the Washington meet-
2 ing at three different hotels -- one, the Arlington Hyatt House
3 which we've never stayed before and which has a meeting room,
4 one at the, possibly, Mayflower which many of us are staying
5 this time, and at the Ramada Inn where we've had two meetings
6 in the past.

7 I would entertain -- be interested in your reactions
8 and ideas, at least those members of the Board who've had ex-
9 periences with these. My own preference, I guess, of the two
10 that I know which are the Mayflower and the Ramada Inn to
11 pick the Ramada Inn, but the -- it may be that the Hyatt House
12 would be better, even, than the Ramada.

13 MR. EHRLICH: I think it's marginal, but for those
14 who raised some concern about Ramada last time, the Arlington
15 Hyatt House may avoid some of those problems.

16 MR. KUTAK: Where's Arlington Hyatt?

17 MR. ORTIQUE: One block from the Ramada.

18 MR. CRAMTON: That's in the sam Key Bridge area.

19 MR. KUTAK: That's not the one at the 14th Street
20 Bridge area?

21 MR. CRAMTON: No.

22 MR. SMITH: Should we vote on the pending motion?

23 MR. CRAMTON: Yes, let's vote on the pending motion
24 on this Washington meeting and the two tentative dates in Octo-
25 ber and December.

1 Is there discussion? The place of the October and
2 December meetings will be set later. There was a second to
3 the motion?

4 MS. WORTHY: Yes, I did.

5 MR. CRAMTON: All those in favor of the motion, please
6 say aye.

7 (Ayes)

8 MR. CRAMTON: Those opposed, no.

9 (No response)

10 MR. CRAMTON: The Board unanimously agrees to meet as
11 specified in the motion and please save those October and Decem-
12 ber -- November/December -- dates and we'll harden those up
13 at subsequent meetings.

14 Now, what about the place of meeting?

15 MR. SMITH: I would like to see us at the Arlington
16 Hyatt House.

17 MR. CRAMTON: Why don't you so move?

18 MR. SMITH: All right, I will. So moved.

19 MR. KUTAK: So moved.

20 MR. CRAMTON: Is there any objection to that?

21 (No response)

22 MR. CRAMTON: Hearing none, we instruct the staff to
23 inquire this July meeting to try the Arlington Hyatt House for
24 both guest rooms and meeting rooms and I hope we can also work
25 out some amplifications so that particularly when members of

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1 staff are addressing the Board, the audience can hear.

2 MR. EHRLICH: We'll try to have a sound system for
3 all future meetings.

4 VOICE FROM THE AUDIENCE: Thank you.

5 MR. EHRLICH: You're welcome.

6 MR. KUTAK: Well, Mr. Chairman, then I'll renew my
7 inquiry of my colleagues whether they would like to have the
8 Regulations Committee meeting switched from Atlanta to Omaha.

9 MR. BROUGHTON: Mr. Chairma, if it will not burden
10 his inquiry too much, I'd like to make a similar inquiry with
11 respect to the Personnel Committee and, also, the Audit and
12 Appropriations. Steve and Hillary and I have discussed this
13 so far as a date is concerned, but now that the -- most of the
14 -- Board members are members of two Committees, I think we're
15 going to have a little bit of a scheduling problem if we do
16 not make an extra effort to coordinate and I'm wondering, and
17 I mentioned this to Glee yesterday, whether we could back to
18 back some of these, particularly those that may be meeting in
19 Washington.

20 For example, I can't remember now who's on which Com-
21 mittee, but on the Personnel, for example, if you're meeting
22 here, the Audit Committee can meet the same day or the next
23 day. Presumably, that would --

24 MR. CRAMTON: There's a lot to be said for that.

25 MR. SMITH: In fact, that is the reason the Personnel

1 Committee met in Chicago when we did.

2 MR. BROUGHTON: I think since we're going out to the
3 West Coast and, of course, that's true here, I think that all
4 of us agree that our meetings in conjunction with the Board
5 meetings oftentimes are subject to delays in travel and it is
6 helpful if we can have a Board meeting in between rather than
7 running it right on the night before the meeting.

8 MR. KUTAK: You mean the Committee meeting?

9 MR. BROUGHTON: Yes.

10 MR. CRAMTON: I think the Committee meetings held the
11 night before or the morning of the Board meeting are not very
12 effective and they have great difficulty in terms of having
13 full attendance and there's no opportunity for the staff to
14 refine something and then circulate it to members of the Board
15 in the briefing book in advance of the meeting.

16 I mean, you tend to just repeat the discussion which
17 you then go through the following day at the Board meeting.
18 So, in general, my preference is if a Committee has something
19 to do, it do it at a separate meeting in between. Otherwise,
20 not meet --

21 MR. SMITH: Well, in addition, under our new regula-
22 tions, if a Committee develops something that requires Board
23 action, it takes at least 15 days to get it ready.

24 MR. BROUGHTON: Well, we discussed having the Audit
25 and Appropriations subject to Glee's rules some time during

1 the period April one to April 15th. The exact date we haven't
2 set, but --

3 MR. SMITH: Mr. Trudell is on the Regulations Com-
4 mittee and the Personnel Committee and so we have been wonder-
5 ing and I talked to Tom Ehrlich we were going to be at Omaha
6 for the Regulations and if Mr. Trudell was going to be there
7 and probably Roger would be there, also, if it were convenient
8 for you, Mr. Broughton, we might have the Personnel Committee
9 met in Omaha the day before or the day after the Regulations
10 Committee.

11 MR. KUTAK: You'd be most warmly welcomed and the
12 rates are very low.

13 MR. EHRLICH: It may even be possible the same day.

14 MR. CRAMTON: I think it's possible you could have
15 three hours in the morning and three and a half in the after-
16 noon.

17 MR. KUTAK: I think, however, I'd like to put the
18 Regulations Committee members on alert, though, that I think
19 we're going to have a full day of discussion. We've sort of
20 passed a number of things in anticipation of our new colleagues
21 coming on and I really think we really should at least not
22 contemplate a half day meeting.

23 So, what we could do, nevertheless, is I assure you
24 that there will be --

25 MR. CRAMTON: If the Personnel Committee thinks that
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1 it needs only three hours, though, it might meet the night be-
2 fore if there's some overlap and save people a lot of travel
3 time.

4 MR. BROUGHTON: Mr. Chairman, it seems to me that Mr.
5 Kutak's going to get his wish much sooner than he expected and
6 maybe we'll all converge in Omaha some time in early April.

7 MS. RODHAM: That's fine.

8 MR. KUTAK: I think it would be a lot of fun.

9 MR. BROUGHTON: It might be the best way to do it.

10 MR. KUTAK: Quite seriously, for the first time I can
11 honestly say that there are ample facilities for all of you.

12 MR. CRAMTON: Well, the Chairmen of the various com-
13 mittees who are working with Ruth Felter ought to coordinate
14 the Committee dates and she can be of assistance in terms of
15 trying to coordinate the staff and Board member convenience in
16 terms of the Committee meetings between the next --

17 MR. KUTAK: Okay, but I will count on Regulations
18 meeting in Omaha on April sixth and anybody else coming who
19 can.

20 MR. CRAMTON: Is there any other business to come be-
21 fore the Board at this meeting?

22 MR. ENGELBERG: Bob, is Omaha in the United States?

23 MR. KUTAK: Excuse me?

24 MR. CRAMTON: Mr. Bamberger?

25 MR. BAMBERGER: There is no charge for the room if you

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1 eat lunch there. If you don't eat lunch there, you pay for
2 the room. Lunch is in the room for members now.

3 MR. ENGELBERG: Do we go now?

4 MR. BAMBERGER: You can go when the Chairman says you
5 can.

6 MR. CRAMTON: I will entertain a motion to adjourn.

7 MR. ORTIQUE: Please, keep me informed of the other
8 Committees in Omaha because we're meeting in St. Louis because
9 it's so convenient. We would want to know what they're doing
10 on this.

11 MR. CRAMTON: I will entertain a motion to adjourn.

12 MR. ORTIQUE: Before you adjourn -- Mr. President, I
13 would like to request that we have a follow-up report on the
14 Indian situation.

15 You recall I was very much interested in whether we
16 gave them some increased personnel and not that I want to get
17 into the specifics, but I do think that that's a special area
18 and at the next Board meeting I'd like to have a brief report
19 on that.

20 MR. CRAMTON: Do you want to mention briefly some of
21 the ideas you had about some items for the next Board agenda,
22 particularly a report on the task force? The Board might just
23 focus their attention for a minute because we've got it on
24 whether or not there are items that you know of now that you
25 would like the staff -- the President -- to think about inclu-

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1 sion on the agenda for the May meeting.

2 MR. EHRLICH: We can discuss this, obviously, infor-
3 mally as well, but our plan had been to take the results of
4 the varying task forces that were discussed at the last meet-
5 ing, their reports which will provide, as you know, no more
6 than a framework and some preliminary thoughts about directions
7 over the next years and Leah Wortham and I will be putting
8 those together.

9 We'll discuss approaches with a number from the field,
10 but our thought was before having any more widespread discus-
11 sion to come back to the Board for the first day of the meet-
12 ing in May to have a general review of directions of the Cor-
13 poration over the next few years so that we could then develop
14 and revise those reports further before going out more exten-
15 sively to client groups, to staff attorneys, project directors,
16 and others in the program as well as in the bar and elsewhere
17 to get their views.

18 So, we could come back after the Summer and have a
19 revised document that will not be a blueprint, but will give a
20 sense of directions for the Corporation, to come back to the
21 Board in the Fall with that at the same time as we're develop-
22 ing the budget for 1980 which should, if we do it right, re-
23 flect this long range planning process.

24 I do think it's as critical a set of issues as we
25 face, where we're going when minimum access plan is completed,

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1 and I know Board members I've discussed it with agree it de-
2 serves our attention.

3 So, that we have talked about in terms of, first,
4 discussion. I know we'll have matters, Mel, on the Appropria-
5 tions and Audit as we've discussed and some other items as
6 well.

7 MR. CRAMTON: And the President and I invite all
8 Board members and particularly Committee Chairmen to inform us
9 very promptly about matters that they want included on the
10 agenda. We're going to have to start being much more -- think-
11 ing ahead a lot more than we've done in the past on that be-
12 cause of the government and the Sunshine thing when it goes
13 into effect and making sure that our agenda does include all
14 the itmes that we want and that means that forethought has to
15 be given by everybody of items that they would like included.

16 We've done it before, but sometimes by telephone just
17 a couple of weeks before the meeting and I'm saying that our
18 past convenient practice may not be good enough any more.

19 MR. SMITH: Mr. Chairman, may I make an inquiry and
20 just firmly establish this Personnel Committee meeting, then,
21 for 8:00 the evening of April fifth, the night before the Regu-
22 lations Committee meeting in Omaha. It's all right with Ms.
23 Worthy and me and with the owner of the conference room if it's
24 all right with Dick and Mel.

25 MR. CRAMTON: It sounds like a good idea.

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MR. KUTAK: And anyone else who wants to set anything.

MR. SMITH: Tom would be coming out the day before anyway, wouldn't you?

MR. EHRLICH: I certainly will now.

MR. BROUGHTON: I will let you know within the next few days. April fifth, is that what you said?

MR. SMITH: Yes, the night of April fifth at 8:00 o'clock.

MR. ORTIQUE: And you would be on the sixth?

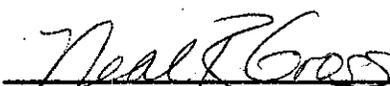
MR. KUTAK: Yes, I'm on the sixth and the other meeting could be on the sixth, too. Any other Committees could meet concomitantly.

MR. CRAMTON: Or you could meet the sixth, anyway. Well, we stand adjourned.

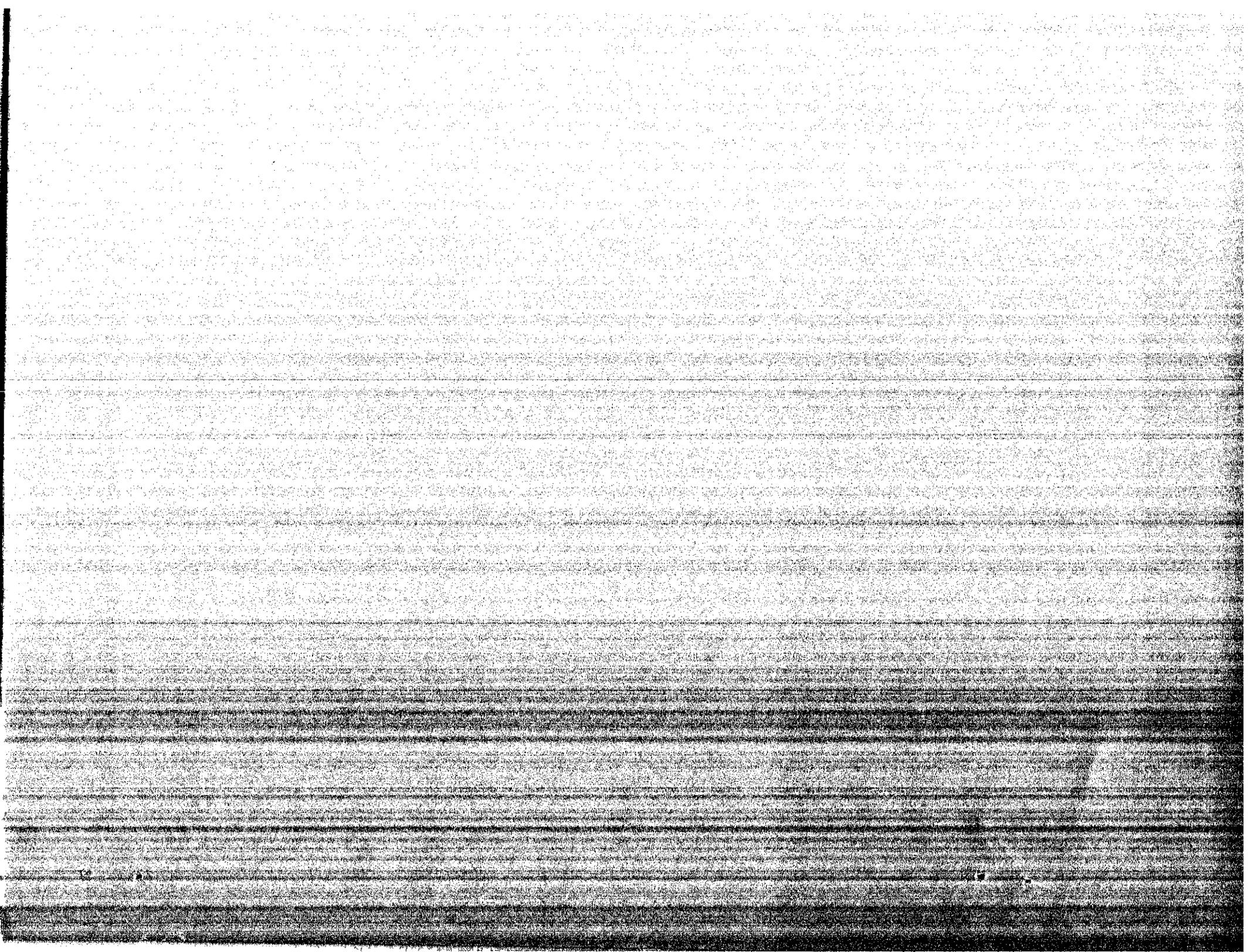
(Whereupon, at 11:30 A.M., the meeting of the Board of Directors was concluded.)

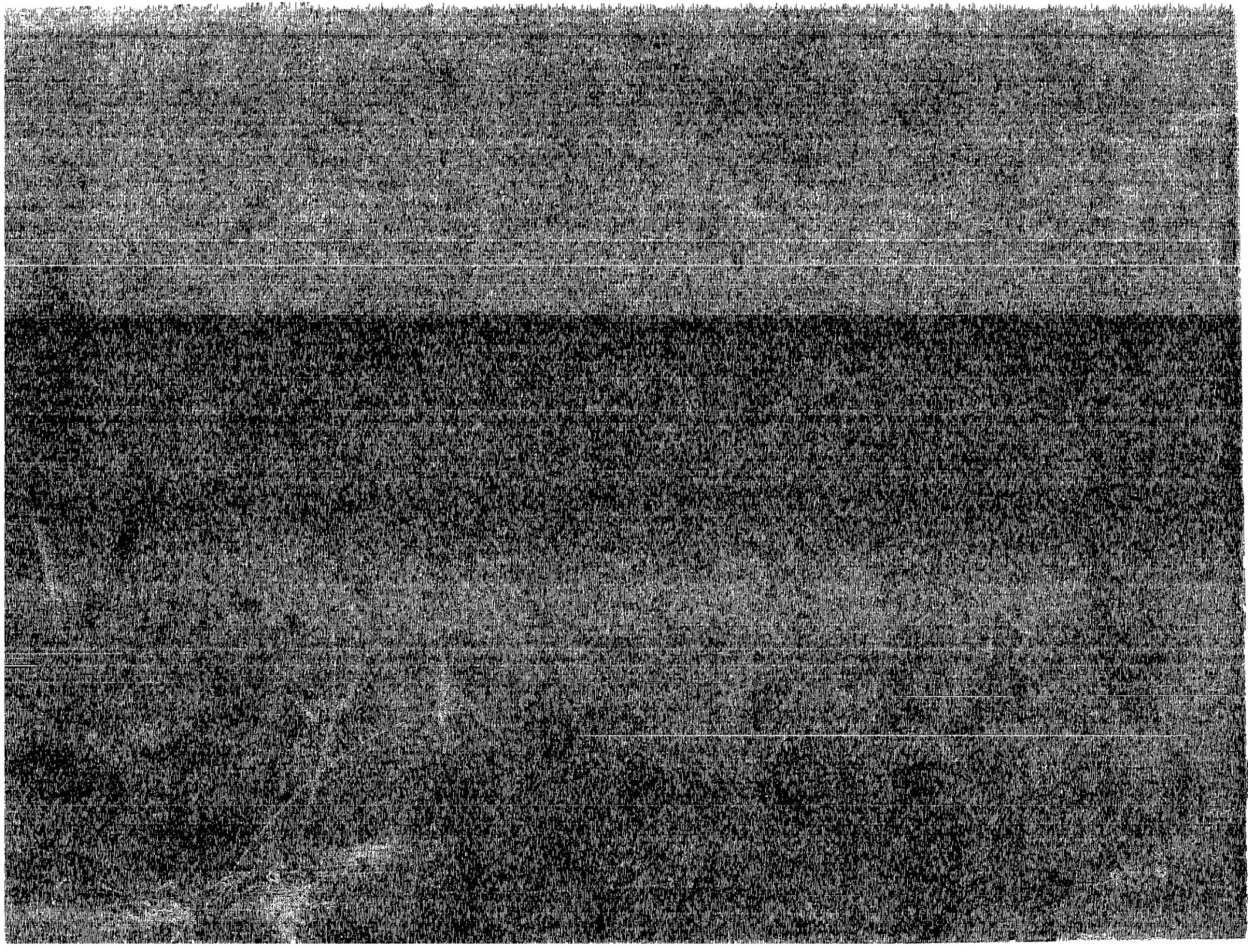
C E R T I F I C A T E

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2
3 This is to certify that the attached proceedings
4 of the Meeting of the Board of Directors, on 3 March 1978 in
5 Room 405, Marvin Center, George Washington University, 800
6 21st Street, N.W., Washington, D.C., were had as herein appears
7 and that this is the original transcript thereof.
8

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BOARD OF DIRECTORS MEETING

Meeting Location

City

State

Meeting Date (MM-DD-YYYY)

WASHINGTON

DC

03/02/1978

Board Members Name

- Albert Angrisani
- Steven L. Engelberg
- Robert E. McCarthy
- Donald E. Shapiro
- Hulett H. Askew
- John N. Erlenborn
- Clarence V. McKee
- Romona Shump
- Laveeda M. Battle
- Cecilia D. Esquer
- Pepe J. Mendez
- Norman D. Shumway
- Hortencia Benavidez
- Edna Fairbanks-William
- Maria Luisa Mercado
- Annie L. Slaughter
- Leanne Bernstein
- Peter J. Ferrara
- Lorain Miller
- Thomas F. Smegal
- Marshall J. Breger
- Ronald B. Frankum
- Guy V. Molinari
- Glee S. Smith Jr.
- John T. Broderick
- Luis Guinot Jr.
- Rodolfo Montejano
- Glenn C. Stophel
- G. Brooks
- J. Blakeley Hall Jr.
- William J. Olson
- Robert S. Stubbs Jr.
- E. J. Broughton Jr.
- William F. Harvey
- Revius O. Ortique Jr.
- Xavier L. Suarez
- J. G. Collins
- John William Janklow
- George E. Paras
- Claude G. Swafford
- Cook
- Earl L. Johnson
- Penny L. Pullen
- Samuel D. Thurman
- on
- Francis Robert Kane
- Thomas D. Rath
- Richard A. Trudell
- H.
- Michael Kantor
- Daniel M. Rathbun
- Basile J. Uddo
- Fra
- William L. Kirk
- Hillary D. Rodham
- Robert A. Valois
- Will.
- William L. Knecht
- Nancy Hardin Rogers
- Michael B. Wallace
- Paul E.
- Robert J. Kutak
- Howard Sacks
- Ernestine P. Watlington
- Dougl.
- Jo Betts Love
- Marc Sandstrom
- George W. Wittgraf
- William
- Milton M. Masson
- Donald E. Santarelli
- Jeanine E. Wolbeck
- F. William McCalpin
- David E. Satterfield III
- Josephine M. Worthy

Transmitter's Name

RIGGINS

Date Transmitted 1/10/24

Steven O. Riggins

Transmitter's Signature

LEGAL SERVICES CORPORATION

MEETING OF THE BOARD OF DIRECTORS

Room 405
Marvin Center
The George Washington University
800 Twenty-first Street, N.W.
Washington D.C.

March 2, 1978

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

BOARD MEMBERS:

- ROBERT J. KUTAK
- J. MELVILLE BROUGHTON, JR
- REVITUS O. ORTIQUE, JR
- GLEE S. SMITH, JR
- HILARY RODHAM
- CECILIA ESQUER
- STEVEN ENGELBERG
- RICHARD TRUDELL
- JOSEPHINE WORTHY

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1 PRESENT:

2 THOMAS EHRLICH, President

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

4

5 STAFF MEMBERS:

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

8

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

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

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P R O C E E D I N G S

(9:25 a.m.)

1
2
3 MR CRAMTON: The meeting will come to order. I
4 would like to begin this meeting by welcoming our new members.
5 They are Ms Josephine Worthy, at the far end, Mr Steven
6 Engelberg, Ms Cecilia Esquire, and Ms Hilary Rodman and Dick
7 Trudell, who has just arrived.

8 We are pleased to have fresh recruits to this ex-
9 citing venture and I know that you will get as much out of
10 it and contribute as much as the continuing members of the
11 Board.

12 The only member of the Board who is not here now,
13 is Glenn Stophel, who reportedly is ill with the flu, but
14 there may be some possibility that he will arrive today. But
15 that remains uncertain. The record should show that all of
16 the members of the Board, except Mr Stophel are present.

17 MR EHRLICH: On behalf of the staff of the Corpora-
18 tion, we are delighted with the new Board members and look
19 forward to working with all of you.

20 MR CRAMTON: The first item on the agenda is the
21 adoption of the agenda itself. The tentative agenda has been
22 distributed as part of the briefing book and it is available
23 to members of the public who are in attendance.

24 MR KUTAK: I move the adoption of the agenda, Mr
25 Chairman.

1 MR SMITH: Second.

2 MR CRAMTON: Before we vote on it, I might inform
3 the new Board members that it has been customary when a par-
4 ticular Board member, for one reason or another for the con-
5 venience of the public who are going to be in attendance, to
6 ask for unanimous consent to make adjustments in the agenda
7 from time to time, in order to meet those items of personal
8 convenience and normally that has been done. So this should
9 not be viewed as a necessarily inflexible regime.

10 Is there discussion on the agenda?

11 MR EHRLICH: We did ask those who would be involved
12 in the discussion of Clinical Legal Education, to be here at
13 11 this morning and those from the four support centers, whom
14 the Board asked to discuss their work to be here at two. So,
15 if it is convenient to do so, I would hope that we can keep
16 to that schedule at least roughly, so that they wouldn't have
17 to be here all that time.

18 MR CRAMTON: In other words, the President and I
19 contemplate that we would move to item 5 at 11 o'clock for the
20 convenience of the people who are planning to be present --
21 item 6 -- and then to item 5 for the convenience of people
22 from out of town, who want to make brief presentations to the
23 Board. Further discussion on the motion?

24 (No response.)

25 MR CRAMTON: All those in favor please say aye.

1 (Ayes.)

2 MR CRAMTON: Opposed, no.

3 (No response.)

4 MR CRAMTON: We have a unanimous vote in favor of
5 the adoption of the agenda.

6 The next item is the approval of the minutes of
7 the December 9, 10, 1977 Board Meeting, which have been dis-
8 tributed to members of the Board. What is your pleasure?

9 MR SMITH: I move that we approve.

10 MR KUTAK: I would second, except that I wasn't
11 there. I don't know how accurate they are.

12 MR CRAMTON: I have one question about the minutes.
13 Is Charles Jones here?

14 MR JONES: Yes.

15 MR CRAMTON: On page three of the minutes, Charles,
16 it describes Harold Brooks as affiliated with the Community
17 Action for Legal Services. If I am correct, he is an employee
18 of the Corporation.

19 MR JONES: You are correct, yes.

20 MR CRAMTON: Could that error be corrected, please?

21 MR JONES: Yes.

22 MR KUTAK: I am reluctant to add further to the
23 comments, except to say that I note that a matter has been re-
24 ferred to the Regulations Committee, that has been duly noted.
25 I hope that we can come back to the Board with some report, but

1 I take it that this reference to an item on page 13, but I
2 trust that Mel, that was not intended for this meeting, be-
3 cause I wouldn't be ready.

4 This is on the Poverty Groups in the Same Community
5 issue. But it has been duly noted by the Regulations Committee

6 MR BROUGHTON: That of course continues to be an on-
7 going situation.

8 MR KUTAK: And I hope that our General Counsel will
9 help me when it comes that time on that item, to make sure
10 that we report back to the Board.

11 MR CRAMTON: Any further comments, suggestions, or
12 corrections on the minutes?

13 (No response.)

14 MR CRAMTON: I gather that we have heard a motion
15 for their approval and was there a second?

16 MR ORTIQUE: I second.

17 MR CRAMTON: Mr. Smith has moved and Mr. Ortique has
18 seconded the adoption of the minutes. Is there further dis-
19 cussion?

20 (No response.)

21 MR CRAMTON: All those in favor of the adoption of
22 the minutes as corrected, please say aye.

23 (Ayes.)

24 MR CRAMTON: Those opposed, no.

25 (No response.)

1 MR CRAMTON: The record should show that the Board
2 unanimously supported the motion.

3 That brings us to item 3, which is the Chairman's
4 Report on Committee Assignments. Is this document available
5 for members of the public?

6 MS FELTER: No, but it can be.

7 MR CRAMTON: Why don't we have them, I think that
8 members of the public would like to have them -- at least the
9 part of it that has the committee assignments that are planned

10 After conferring with the new members of the Board
11 and with some of the older members, I proposed the committee
12 assignments that I have distributed to members of the Board
13 on February 14.

14 And I said in the memorandum that was circulated
15 then that they should be viewed as interim assignments, be-
16 cause the Board will go through a change of membership at some
17 point. Either in the summer or next fall and at that point
18 the Board ought to consider as a body, when it's membership is
19 set for a longer time, both the committee structures that it
20 wants and the membership of the committee's, if it decides to
21 have committees, but in the meantime, we would go ahead and
22 add two of the new Board members to each of the four standing
23 committees that we have, asking a continuing Board member, in
24 each case to serve as Chairman of the committee, to get the
25 benefit of their experience and knowledge.

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1 And the result is that four continuing Board mem-
2 bers serve as a Committee Chairman. And the one continuing
3 Board member who is not a Chairman, is assigned to two commit-
4 tees, and all new Board members are assigned to two committees
5 which make four members for each of the four committees.

6 I propose the following:

7 Committee on Appropriations and Audit -- Glenn
8 Stophel, Chairperson, J Melville Broughton, Steven Engelberg,
9 Hilary Rodham.

10 Committee on Personnel and Facilities -- and I no-
11 tice that I have taken the liberty of what I think was under-
12 stood, that we said that we have continuing space problems,
13 the Committee on Personnel would take cognizance of matters
14 that have to do with leases and space and the facilities of
15 the Corporation, as well as personnel matters -- Glee Smith,
16 Chairperson, J Melville Broughton, Richard Trudell, Josephine
17 Worthy.

18 Committee on Provision of Legal Services -- Revius
19 Ortique, Chairperson, Cecilia Esquer, Hilary Rodham, Josephine
20 Worthy.

21 Committee on Regulations -- Robert J Kutak, Steven
22 Engelberg, Cecilia Esquer, Richard Trudell.

23 I would be happy to have the Board discuss and if
24 it sees fit, alter these assignments. Otherwise no action is
25 required, because under the By-Laws the Chairman has the

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1 authority to make the appointments, subject to alteration by
2 the Board. Is there any discussion on this report?

3 (No response.)

4 MR CRAMTON: Hearing none, we move to the next item
5 on the agenda, item 4 (a) Report of the Committee on Appropria-
6 tions and Audit and in the absence of Mr Stophel, I will ask
7 Mr Broughton to report for the Committee on Appropriations and
8 Audit and perhaps Mr Hennigan and Mr Bamberger will approach
9 the bench, and be of assistance.

10 MR BROUGHTON: Yes, Mr Chairman, the Committee did
11 meet last night, we were under some handicap because of the
12 sudden termination of our Chairman because of illness, he
13 could just not be there. --

14 MR CRAMTON: Mel, would you speak up.

15 MR BROUGHTON: The Committee has planned a review
16 session in February, but again we had problems with the flu
17 on my part and Mr Stophel and this was before the additional
18 two members from the new members of the Board were appointed.

19 But at the meeting last night, we did discuss a num-
20 ber of matters. We did not have a great deal to bring to you
21 at this point. I would like however, if we could bring the
22 one item that does require Board action and that is the ques-
23 tion of the continuation of the current contract for invest-
24 ment services of Smith, Barney, Harris, Upham and Company,
25 which expires at the end of this month, March of '78.

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1 And we did go into that last evening. And I don't
2 know whether this has been distributed to the members of the
3 Board or not, Clint, the document that we had last night.

4 But the Committee did take action on this last
5 night and I might say that last night Ms Rodham was there and
6 Mr Cramton was there.

7 MR CRAMTON: And I think Mr Trudell and Ms Esquer
8 were in the room also.

9 For those Board members who were not there, the
10 background is that the declining balance of investment income
11 needs to be invested in securities that are backed by the
12 faith and credit of the United States government, as long as
13 there is such a fund the -- as the fund gets small enough
14 there is some thought -- within the Corporation -- that it
15 may be possible to make cheaper alternative arrangements than
16 Smith, Barney, but on the other hand there is the desire to
17 continue that arrangement for at least another quarter.

18 And so the motion, as I understand it, is to continue
19 that arrangement for another quarter and to have the staff con-
20 sult with the Committee on Appropriations and Audit at a meet-
21 ing between this Board meeting and the Board meeting in May to
22 make a recommendation or proposal on the handling of the in-
23 vestment monies.

24 MR BROUGHTON: That is right.

25 MR CRAMTON: After the expiration of the quarter for

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1 which authority is sought.

2 This is essentially an interim motion.

3 MR BROUGHTON: Precisely and as was discussed last
4 night and as I hope the new members of the Board understand
5 and as the Chairman has just mentioned, the investment in-
6 come matter is a declining situation that was acted on and
7 discussed at early meetings in October and again in December.

8 So what the Committee has proposed here, and I
9 will put this in the form of a motion, that the Smith, Barney
10 Contract be extended for one more quarter, at a fee of 4,000
11 dollars and it says "... this report will give the staff time
12 to explore alternatives for the management of the investment
13 income account."

14 So I make that in the form of a motion.

15 MR CRAMTON: Is there a second?

16 MS RODHAM: Second.

17 MR CRAMTON: You have heard the motion by Mr Brough-
18 ton and the second by Ms Rodham, is there any discussion?

19 MR BROUGHTON: Now in the discussion on it, this is
20 also -- as the Chairman pointed out -- this will be something
21 that this Committee will review, we determined last night that
22 we will have a meeting sometime prior to the May meeting of
23 the Board and we have been attempting to set up at least quart-
24 erly meetings to review quarterly expenditures and other per-
25 tinent matters anyway for the purpose of review, so we will

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1 have a meeting of this Committee, some considerable time, we
2 hope before the May meeting of the Board and we will again re-
3 view this matter. Are there any questions about this?

4 MR CRAMTON: I would suggest that the three members
5 of the Committee that are here confer with Mr Hennigan and Mr
6 Bamberger about convenient dates for that meeting between
7 March and May for the functions that must be served and then
8 perhaps you can get in touch with Mr Stophel and see which
9 date is convenient for him. It is good to get these things
10 fixed well in advance, so that the people can plan around them.

11 MR BROUGHTON: Yes, I was hoping that we could fix
12 a date, or at least get a couple in mind and then check those
13 with Mr Stophel.

14 MR CRAMTON: Is there discussion on the motion?

15 MR ORTIQUE: I would just hope that we would not be
16 penny foolish in this matter. That is no reflection, obvious-
17 ly on the staffs capability, I just want to make sure that we
18 get maximum benefit from the investment and that the Committee
19 would keep in mind that bringing it in-house, sure will save
20 the 4,000 dollars, but I don't want to lose the other poten-
21 tial in the process.

22 MR CRAMTON: Are you ready for the question? All
23 those in favor of the adoption of Mr Broughton's motion, please
24 say aye.

25 (Ayes.)

1 MR CRAMTON: All those opposed, no.

2 (No response.)

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

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

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

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

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

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

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

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1 Corporation in that quarter.

2 The purpose of the last two documents, of course,
3 is to keep an eye on the rate of expenditure in each quarter
4 they are used for regular staff meeting at the end of the quar-
5 ter to consider whether we are spending as projected, whether
6 there are any re-allocations or whether there are any possible
7 re-allocations.

8 Buck prepared those documents and I think that he
9 can speak more to the details of them.

10 MR HENNIGAN: Let me just mention a few highlights.
11 This is the first quarter of the fiscal year of course and
12 most of the significant developments occur as we move into
13 the second and third quarters. I'm sorry, the report is of
14 the first quarter.

15 The total budget for the year is 215 million dollars.
16 The appropriation of 205 million and the rest of the 215 mil-
17 lion is made up of balances carried forward, investment in-
18 come and some other small sources.

19 We have expensed as of December 31st, 135 million
20 of the 215 million, leaving a balance of 80 million or 37 per
21 cent of the total. Or in other words, we have expensed 63 per
22 cent of the total.

23 The reason for the very high rate of expenses at the
24 end of the first quarter is because we have a single re-funding
25 date. Around January 1st. Many of the grants go a few days

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

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

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

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

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

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

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1 shown a estimate of almost 8 million dollars unexpended, es-
2 timated, as of 9/30/78 -- you might explain that. I think
3 that is something that is --

4 MR BAMBERGER: That is on the shorter of the three
5 documents. Direct Expenses.

6 MR BROUGHTON: It is the first page of the short
7 document. Entitled Budget Review for the Period Ended Decem-
8 ber 31, 1977 and we are over into the next to the last column.

9 MR HENNIGAN: As we discussed with the Committee
10 last night, the document is basically a work sheet that we
11 use at the staff review, but we believe that it contains in-
12 formation of interest to those committee members -- other mem-
13 bers of the Board who follow the details of the budget closely

14 At the end of the first quarter we had a total ex-
15 pense rate, which typically, was rather low. In the first
16 quarter you are just beginning to acquire new staff, most capi-
17 tal acquisitions usually occur later in the year as do most
18 significant training activities and the sort of things that
19 consume a large portion of the expenses.

20 At the time of the budget review many of the division
21 directors were still trying to work out the details of their
22 spending plans, which would show, as they went from quarter
23 to quarter that some quarters would be quite high and others
24 low, because those were not completely where we wanted them,
25 we decided that the simplest thing to do was to extend the

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

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

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

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

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

17 MR ORTIQUE: Yes.

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

21 MR JONES: Two.

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

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

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

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

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

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

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

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

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1 hold a hearing and review our budget.

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

11 MR CRAMTON: Anything further, Mr Broughton?

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

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

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

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

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

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

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

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

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

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

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

4 MR KUTAK: -- the orientation of --

5 MR CRAMTON: Did you get it?

6 MS RODHAM: Yes.

7 MR KUTAK: This is the orientation book.

8 MR CRAMTON: Yes, I have it.

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

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

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

23 MR BROUGHTON: You might have to explain that.

24 (Laughter.)

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

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

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

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

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

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

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

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

25 Then, as you know the tentative draft was published

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

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

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

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

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

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

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1 stances in which meeting may be closed.

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

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

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

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

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

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

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

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

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

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

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

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

24 MR SMITH: Second.

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

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

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

5 MR KUTAK: Yes.

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

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

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

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

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

18 MR BROUGHTON: This is on page 9.

19 MR CRAMTON: 9 and 10.

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

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

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

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

9 MR WALTERS: That is correct.

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

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

25 MR CRAMTON: Is there further discussion?

1 (No response.)

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

5 (Ayes.)

6 MR CRAMTON: Those opposed, no.

7 (No response.)

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

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

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

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

25 MR WALTERS: The Government in the Sunshine Act does

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

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

4 MR WALTERS: The By-Laws do.

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

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

14 (Laughter.)

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

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

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

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1 have.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 MR BROUGHTON: That will still make it easier.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 MR ORTIQUE: The agenda must --

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

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

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

8 MR CRAMTON: That's right.

9 (Laughter.)

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

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

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

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

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

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

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

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

14 MR KUTAK: But isn't that --

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

18 MR WALTERS: No. Not the public.

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

21 MR KUTAK: Sure.

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

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

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

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

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

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

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

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

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1 at some future meeting.

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

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

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

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

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

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

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

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

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

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

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

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

19 MR ENGELBERG: Okay.

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

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

1 of the Board votes that that is the case.

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

5 MR WALTERS: That --

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

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

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

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

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

25 MR EHRLICH: Was possible.

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

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

4 MR CRAMTON: Go ahead, please.

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

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

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

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

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

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

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

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

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

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

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

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

19 MR CRAMTON: Curried.

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

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

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

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

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

8 And the third is Part 1620, concerning priorities.

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

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

18 MR CRAMTON: 1608 and 1612?

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

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

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

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

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

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

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

21 MR WALTERS: Yes.

22 MR CRAMTON: Ms Esquer.

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

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

5 MS ESQUER: Are Reggies considered staff attorneys?

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

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

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

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

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

18 MS ESQUER: Oh, Howard University.

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

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

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

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

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

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

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

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

21 MR WALTERS: Yes.

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

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

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1 titive proposals.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 As the Regulation now reads, ---

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

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

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

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

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

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

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

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1 MR KUTAK: Right.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 quirements?

2 MR SMITH: Right.

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

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

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

16 MR CRAMTON: Is there further --

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

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

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

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

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

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1 posed regulation?

2 MR SMITH: I will second the motion.

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

8 (No response.)

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

11 (Ayes.)

12 MR CRAMTON: Those opposed no.

13 (No.)

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

18 Opposed Mr Cramton.

19 We will --

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

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

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

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

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

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

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

22 (Laughter.)

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

25 (Whereupon, a short recess

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

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

6 (Laughter.)

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

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

14 MR CRAMTON: 1:45? That's plenty of time. Why don'
15 we reconvene at 1:30. At this time, I would like to move to
16 item 6 on the agenda, as announced earlier.

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

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

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

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

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

4 Peter Liacouras, who is Dean at Temple University.

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

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

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

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

24 MR JONES: Thank you, Tom.

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

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

4 MR KUTAK: Even me?

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

7 (Laughter.)

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

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

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

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

25 The types of arrangements that local programs have

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 MR EHRLICH: Dick.

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

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

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

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

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

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

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

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

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

23 MR EHRLICH: Bob McKay.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 Our Committee wants to explore those questions. We

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

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

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

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

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

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

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

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

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

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1 potential career choice for them.

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

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

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

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

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

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

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

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

9 MR CRAMTON: Dean Liacouras and Professor Harbaugh.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 think that they can hear you in the back.

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

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

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

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

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

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

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

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

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

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

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

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

24 MR CRAMTON: Millard.

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

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

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

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

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

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

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

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

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

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

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

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

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

23 MR LIACOURAS: In Philadelphia.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 And let the law school pay for the legal education

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

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

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

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

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

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1 MR CRAMTON: Mr Ortique has been very patient.

2 MR ORTIQUE: He certainly has.

3 (Laughter.)

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

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

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

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

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

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

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

10 MR KUTAK: Or even into a law office.

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

14 MR KUTAK: Why do you look at me?

15 (Laughter.)

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

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

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

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

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

11 MR CRAMTON: Dean Liacouras.

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

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

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

25 And we did file an application which was rejected

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

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

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

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

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

22 MR CRAMTON: Mr Engelberg:

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

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

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

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

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

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

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

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

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

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

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

25 Much the same situation will have to occur in commu

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1 ties where law schools want clinical programs.

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

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

9 MR LIACOURAS: Three years.

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

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

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

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

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1 Ernie Jones, who went over to CLS recently.

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

4 MR CRAMTON: Ms Rodham and then Mr Trudell.

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

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

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

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

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

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

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

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

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

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

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

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

13 MR CRAMTON: Mr Trudell.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 Because you see when the law schools use the poor

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

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

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

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

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

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1 grantees.

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

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

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

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

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

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

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

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

18 Is there further comment or discussion on this?

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

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

1 (Laughter.)

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

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

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

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

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

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1 program, we hold the Philadelphia program accountable.

2 MR ENGELBERG: Sure, I understand. accountable

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

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

7 MR ENGELBERG: Oh, sure, I understand.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 MR ORTIQUE: What's the penalty?

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

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

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1 express the views of the clients.

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

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

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

13 Do I have a motion? -

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

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

18 (Laughter.)

19 MR CRAMTON: Is there discussion?

20 (No response.)

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

22 (Ayes.)

23 MR CRAMTON: The motion is unanimously carried.

24 (Applause.)

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

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

2 MR VENEY: Thank you very much.

3 (Applause.)

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

13 (Applause.)

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

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

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

(2:00 p.m.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 MR CRAMTON: Could you speak up, please?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 And we were successful in that attempt.

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

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

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

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

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

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1 clientele with which we deal.

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

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

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

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

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

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

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

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

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1 ficiaries, once I found myself in Legal Services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (Laughter)

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

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

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1 racy standard?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (Laughter.)

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

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

1 (Laughter.)

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

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

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

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

12 MR CRAMTON: 300 per cent increase.

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

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

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

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

3 MR JONES: That is generally true.

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

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

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

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

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

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

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

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

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

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

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

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

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

3 MR CRAMTON: More emphasis on rural legal rights.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 MR CRAMTON: Mr Trudell?

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

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

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

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

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

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

16 MR JONES: There is a law Center in St. Louis.

17 MR TRUDELL: I think that hopefully the Board will
18 begin to be apprised of what the various Centers are doing.
19 And a point that was brought out last night, in terms of --
20 you make the grant and you monitor the grant and you evaluate
21 the grant all in-house.

22 And it is pretty hard for a Board if they are going
23 to stay uninformed to articulate any kind of policy.

24 MR CRAMTON: Do all of the Support Centers have gov-
25 erning boards, composed of one-third eligible clients?

1 MR MADWAY: The Housing Law Project, having just
2 seperated from the University is in the process of structuring
3 a board.

4 MR JONES: The Support Centers were and have been
5 much to the chagrin of some of the people of the table the
6 subject of a substantial number of studies.

7 (Laughter.)

8 MR JONES: Beginning with the --

9 MR BROUGHTON: If you had all of the money that has
10 gone into the studies you would be in good shape.

11 (Laughter.)

12 MR JONES: I was not in on that decision.

13 MR BROUGHTON: I realize that. Some of them were
14 made long before you appeared on the scene -- I mean some of
15 the studies.

16 MR JONES: But we can make a whole series of materials
17 and indeed, for the early years of the Corporation a regular
18 report on the Support Centers activities was made by the Presi-
19 dent of the Corporation to the Board.

20 I did not mean to suggest that I was proposing an-
21 other study of the Support Centers. It seems to me, however,
22 that it is important that we being to articulate a policy that
23 goes to Support as a whole and I quite agree with the state-
24 ment that you have to know the various components so that you
25 can be involved in the policy making.

1 MR TRUDELL: Personally, I think that it is needed
2 in terms of a Support Center for various areas. My personal
3 experience in terms of being exposed to the Indian programs,
4 you talk to the programs that are funded and ask them is the
5 Support Center really helping you? and it may be changing now,
6 but for quite some time, there was more of them saying we
7 don't know what they are doing.

8 So then you begin to wonder, should they have the
9 grant? And if there is an alternative, then let's look at the
10 alternative. Another consideration is you have a number of
11 Support Centers. Is there any relationship between them, other
12 than receiving each other's newsletters and what have you.

13 You take the migrant area, for instance, I am sure
14 that there are a lot of elderly migrant people. Do they really
15 benefit from your particular project. I don't know, this is
16 the -- it would be helpful in the future, I think, I personally
17 would appreciate receiving even a one page profile, so that
18 you don't have to tell us all of the programatic things about
19 the program, you can get right to the issues.

20 Because, the Chairman has asked, you have told us
21 what you are doing but let's hear some of the problems.

22 MR JONES: They all have -- I guess, do you all have
23 handouts for the Board?

24 MR GOMEZ: Not today.

25 MR JONES: There are some handouts and I am sure that

1 you will receive others from them.

2 MR TRUDELL: I am not asking to be swamped with
3 paper work. I think that being a little more informed, I think
4 that we can give more assistance to you.

5 MR CRAMTON: Mr Ortique.

6 MR ORTIQUE: Dick took one of the questions away,
7 but I will take his question one step further. What about
8 conflicts between you -- elderly, elderly migrants for example
9 or certainly in the Housing and Urban Development Field there
10 must be an elderly - housing conflict there, somewhere along
11 the way. How do you handle that?

12 MR MADWAY: I don't really recall any instances of
13 conflict. There have been instances where we have worked to-
14 gether on issues, where we have attempted to coordinate with
15 one another in order to achieve a generally felt objective.

16 MR ORTIQUE: But Mr Freedman said that he has this
17 marvelous library that carries all of these things that he
18 has indexed and can put his fingers on things, what kind of
19 feed-back do you get from the field, where you can capitalize
20 on what they have done at the local level in terms of winning
21 cases, developing what might be a strategy at the National
22 level, -- which you would be the guys to do that as opposed to
23 some guy in Oklahoma writing to a guy in Louisiana.

24 MR NATHANSON: I have another hat. I am the Chair-
25 man of a group called OLSBAC, which is the Organization of

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1 Legal Services Back up Centers which does meet periodically
2 just on one level of information exchange. To get all of the
3 Back-up Center's Directors and their staff together and share
4 information.

5 You have got to do it on various levels, you mentioned
6 the newsletter as not the only means. It certainly isn't the
7 only means, but it is a beginning. You can at least apprise
8 other people of what you are doing.

9 We all exchange our quarterly activity reports with
10 each other so that the litigation docket that each of us has
11 is available to all of the others.

12 If you start from the premise that there are in-
13 sufficient resources out there, that even though you have a
14 Health Law Center and an Elderly Law Center, it might well be
15 that if everyone were fully funded to do everything that was
16 needed there would be overlap. But if you start from the
17 actual premise, I think you come quickly to realize that the
18 main thing that we ought to be doing is sharing information,
19 working together, if we are doing something jointly, but more
20 or less making sure that we are not overlapping and it really
21 hasn't been all that hard.

22 MR ORTIQUE: Does your organization then take recog-
23 nition of major emphasis shifts? For example, if President
24 Carter develops the program on migrants that we have been read-
25 ing about -- where if you have been here five years you can do

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1 this, if you have been here ten years you can do this that and
2 the other.

3 MR NATHANSON: You mean as an organization? OLSBAC
4 doesn't get into these substantive issues, but individually
5 certainly we try, as -- let's say a Senior Citizen's Law Center
6 using the Board which has representation from the Legal Services
7 community, from the aging community, they try to keep -- and most
8 importantly really, because we don't do intake, we don't have
9 clients walking in the door with real live problems, it is a
10 very hard question.

11 And you try to come together with a blend of the
12 Board, that hopefully speaks for various client segments and
13 you get that input and what you get on the phone and in the
14 mail.

15 If a Legal Services lawyer calls you with a particular
16 problem that means, by definition that it is a problem of some
17 person out in the community and you try to blend that together
18 and come up with your priorities.

19 We have just determined, for example, in answer to
20 the Chairman's earlier question, that the whole area of Social
21 Security, unfortunately is really undealt with -- or in a very
22 small way being dealt with by Legal Services community. We
23 don't have the resources to do it, but we have articulated it.
24 And we hope at some point to see a way of addressing that by
25 the Legal Services community.

1 We are talking about refinancing Social Security,
2 you can pick up a paper every day and there is a Social Secur-
3 ity issue in it and it has been articulated by the field as a
4 felt need, but we just don't have the resources to address it.

5 MR CRAMTON: What portion of your activities do you
6 direct toward legislative and administrative representation as
7 distinct from court litigation and opinions and advice to the
8 people in the field?

9 MR GOMEZ: I think that varies from program to pro-
10 gram. Like in Migrant Legal Action program, we have one attor-
11 ney that is spending his principal time or at least 60 per
12 cent of his time on legislative matters, at the requests that
13 come to the program to work on legislative matters.

14 Each of the attorneys have substantive matter re-
15 sponsibilities, so that for instance, Congressional committee
16 may ask for assistance from Migrant Legal Action Program,
17 which it did in 1974, to rewrite the Farm Labor Contractor
18 Registration Act.

19 The attorney that is litigating in that area as well
20 as the attorney doing general legislative work, would work on
21 that particular piece of legislation.

22 Now, I would say that in terms of actual activities,
23 to be quite honest, I think that it would be around 5 per cent
24 of our actual budget, if it is that much, but it varies from
25 time to time during the year.

1 We are registered as a lobbyist here in D.C. which
2 when you are at that level, is a question whether you really
3 need to register or not.

4 Now, I think the other Centers would vary they may
5 or may not be at the same level.

6 MR NATHANSON: I think that our Center probably does
7 given the time devoted to the newsletter, it depends on how
8 you slice legislative work -- it's hard to do it, but I would
9 say that we are in the 10 to 15 per cent category -- we have
10 an office in Washington D.C. -- but if you talk about cutting
11 it down to how often do we show up on the Hill, it is probably
12 a very small percentage.

13 MR CRAMTON: My question is motivated by a suspicion
14 that relative to high quality private lawyering -- for private
15 clients, but legislative and administrative activities -- we
16 are the most starved of all, in the Legal Services field.

17 And that it is much less of it is done than one might
18 expect in terms of dollars returned.

19 MR FREEDMAN: I think that is true, but it also has
20 to be recognized that it is somewhat seasonal, depending on
21 the Administration. For example, we found that under the prior
22 Administration our representations before the Federal agencies
23 went unheeded and it really was a waste of resources to use a
24 13 cent stamp many times to write.

25 Under the current Administration, we were asked by

1 the new Secretary of HEW for an itemization of things that he
2 could do to address the problems that our clients had had in
3 recent years that could be dealt with within the Agency and a
4 substantial flurry of activity followed that on many fronts.

5 So there is that kind of difference depending upon
6 the responsiveness of the Agency.

7 MR CRAMTON: I gather that contracts under which you
8 are operating are all contracts that are consistent with the
9 Green Amendment as interpreted by the Board -- that is, they
10 continue to prohibit activities other than in connection with
11 representation of eligible clients. Is that correct?

12 MR NATHANSON: That's correct.

13 MR MADWAY: That's correct.

14 MR CRAMTON: The statute, I gather, no longer re-
15 quires that restriction. Should it be changed?

16 MR FREEDMAN: I don't think that there is any ques-
17 tion that it should be changed. For example, --

18 MR CRAMTON: Is OLSBAC going to get a proposal to-
19 gether and submit it to the staff so that the Board can con-
20 sider the question?

21 MR BROUGHTON: When you said changed -- what do you
22 mean changed?

23 MR CRAMTON: I don't know what their proposal would
24 be -- I am just raising the question that the present statute
25 permits those activities which were prohibited before and which

1 continue to be prohibited by the contracts under which they
2 are operating. And it seemed to me that the Board ought to be
3 in a position to -- if they think that this interferes with
4 their activities to have them tell the Board in what way it
5 does interfere with their activities and what they would do --
6 or how the contract could be changed and in what way.

7 MR BROUGHTON: Are you asking them for suggestions?
8 In view of the fact that the Green Amendment restrictions have
9 now been lifted?

10 MR CRAMTON: That is precisely the question. That
11 doesn't mean that we ought to respond, but I think we ought
12 to listen to what they have to say.

13 MR JONES: We have received from OLSBAC, which is
14 the association of the Support Centers request to be permitted
15 to do some of the things that they are no longer prohibited
16 from doing.

17 We have responded, by suggesting that that was an
18 issue that we would have to bring before the Board. That it
19 also seemed to us that since we were in the midst of looking
20 at the overall Support effort -- in the broadest sense of the
21 word, -- that we ought to look at those functions in terms of
22 overall support.

23 And that that would be helpful in them making a re-
24 commendation to the Board. It is clear from the four who are
25 here and I am sure that there are other numbers, who if they

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1 were here, it would be a unanimous recommendation from them to
2 the Board that those restrictions be lifted.

3 It seems to me that that may be simplistic and it
4 may be helpful if each one of them explains briefly to you
5 what they feel the advantages to be gained for the clients
6 and the programs that they deal with.

7 MR BROUGHTON: Before they do that, Mr Jones and
8 I am interested in what they say, is this what you had in mind,
9 on the agenda book on page 3 in the Support Center Section --
10 the memorandum from Mr Ehrlich -- the Corporation staff is
11 currently considering whether the arrangements of the various
12 Support Centers should be expanded and so forth and so on --
13 is that a part of that --

14 MR JONES: Right.

15 MR BROUGHTON: Fine, thank you.

16 MR MADWAY: With the enormous growth in the staff
17 of the field programs, it is critical that the Centers or some-
18 one else begin the process of preparing up to date manuals for
19 field lawyers.

20 Under the Green Amendment restrictions we were bar-
21 red from doing that. It is a project that the Housing project
22 has got to undertake rapidly. We have a manual that was pro-
23 duced prior to the Green Amendment updated annually until 1973,
24 at that point the Housing Act changed so significantly that
25 we can no longer update it. The process has to be started again

1 MR ORTIQUE: Paul don't you have in there something
2 on Social Security that is updated, could be put out and the
3 field is asking for it, but there is just no money to print
4 it?

5 MR NATHANSON: Well, there are some problems with
6 the manuals that do exist. Yes we have done an SSI manual,
7 which is in it's second printing.

8 MR CRAMTON: Why can't the Research Institute do
9 that?

10 MR NATHANSON: Well, they wouldn't do the printing.

11 MR CRAMTON: Well, I think that they would -- the
12 Corporation itself.

13 MR NATHANSON: The Clearinghouse would be doing the
14 printing -- as I understand it there would be possible prob-
15 lems or has been a problem with the Clearinghouse not having
16 available enough dollars to print it.

17 MR CARTER: We are doing that, it is just a problem
18 of priorities. There is not enough money to do -- there is
19 a whole list of things that the Centers and some of the state
20 Support Centers would like to do, and we are setting some
21 priorities on this.

22 Some have been printed, it is not something that --

23 MR ORTIQUE: Let's stop right there. When you talk
24 about we are preparing priorities, Dick, that bothers me, be-
25 cause sometimes we prepare priorities over a long period of

1 time and you don't get it done.

2 I want to know do we have up to date manuals that
3 the field needs and that are worthy of getting out to the
4 field, immediately and if so, what is the hold up?

5 MR CARTER: In terms of those that are done, yes,
6 those are going out-- a number of them have gone. We are
7 putting together new ones though. We

8 We are currently working on a joint project with
9 the Research Institute, the Center's are participating --
10 Paul's Center, Henry's Center in new SSI -- that hasn't been
11 prepared yet, that is being prepared.

12 MR ORTIQUE: And when it is prepared we will go
13 ahead, we will have the money.

14 MR CARTER: That is one of the commitments that we
15 have made this year.

16 MR ORTIQUE: We practicing attorneys know that if
17 you can put you hands on something in one single volume, it
18 is much better than ripping all over a whole library and running
19 down the --

20 MR TRUDELL: Are these materials used in the train-
21 ing of Reggie's and some of the field attorneys?

22 MR MADWAY: We tend to use the packets that we have
23 are
24 developed when we/hired by the Corporation to put on training.

24 MR CARTER: We are always preparing new things. For
25 example, we are doing a series of seminars with the Housing Law

1 Center and lawyers in the field on Community Development Block
2 grants.

3 And the material including a workbook, are being
4 prepared in conjunction with that training. It doesn't wait
5 on any priority systems with the manuals. It will go out, it
6 will be available to the people who don't go to the seminars
7 as well as those who do.

8 The same sort of thing with materials for the Migrant
9 Legal Action project. We are running a series of three dif-
10 ferent kinds of traing that they are involved in and Raphael
11 is Chairman of our Advisory Committee on Migrant training and
12 we have done one thing on planning for the new Migrant pro-
13 grams, the new components are waiting for money. Last week
14 ~~some~~ Another thing that he mentioned -- just last week,
15 for expereince migrant lawyers and then another series in
16 April for new attorneys and paralegals in the migrant program.
17 And in each of these there are materials that go with those.

18 Some are more extensive than others. There were some
19 substanative materials that were done in conjunction with
20 Raphael's Center, that were distributed during that training
21 and are available to others who may not have been able to go
22 to the training.

23 MR CRAMTON: Mary Ellen Hamilton .

24 MS HAMILTON: I would just like to say to Dick and
25 to the Centers there is a lot of programs expanding in areas

1 that they have never been in before. We have not as a rule
2 ever had new material. I have been searching for materials
3 for new areas. Call your office -- can't get any.

4 In Legal Service newsletter about some of this
5 material where it is and you can put your finger on something
6 and know where you can get it, it is much easier than running
7 around looking for it and people who have never been involved
8 in these things before, like mobile homes -- different things
9 I've never been involved in that before. It is something new,
10 completely different that we are running into.

11 It expands the program and I think that when you
12 just start touching base on the new programs what you are ex-
13 panding to what you are doing and now that I am in all the
14 way in Community Education, I need this material.

15 MR CRAMTON: Mr Nathanson.

16 MR NATHANSON: I think that it is really important
17 to focus, in terms of the Green Amendment provisions being
18 lifted, that initially we are not talking about reallocation of
19 resources, we are talking about being able, within our projects
20 to be able to make the decision, if on an ad hoc basis it is
21 important to go into Louisiana and call in attorneys from --
22 and paralegals from Mississippi and Alabama to a training --
23 do it on an ad hoc basis as an issue comes up.

24 We would like to be able to do that. Have the flexi-
25 bility in our existing grants for that. But I think that it

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1 important for the Board to differentiate between -- as I said
2 resource allocation problems, which the Corporation is address-
3 ing in the long run and the more short range flexibility ques-
4 tions where we are not asking for more dollars, we are asking
5 to provide better kinds of Support services to programs in the
6 field.

7 MR CRAMTON: Mr Engelberg.

8 MR ENGELBERG: Charles or one of the panelists --
9 where are you in terms of your negotiations on the change in
10 the contracts. I assume that what, new contracts have already
11 gone out consistent with the Green Amendment contracts -- I
12 am just confused.

13 MR JONES: Yes, all of the contracts that presently
14 exist have the limitations that were imposed by the Green
15 Amendments.

16 MR ENGELBERG: When was the last grant cycle that
17 those contracts would have applied to?

18 MR CRAMTON: January.

19 MR ENGELBERG: And so you are still under --

20 MR JONES: The new grant cycle will be next January.

21 MR ENGELBERG: All right, but are the back-up Cen-
22 ters asking that the contracts be changed prior to next January
23 and if so, what is your attitude in terms of time and so on.

24 MR JONES: Well, even if you go to the issue that
25 Paul raised, and let me say this, I think that there are valid

1 reasons why some of the restrictions ought to be lifted. But
2 it seems to me that there is the other issue that is that it
3 is essential that the Corporation develop an overall policy
4 for Support and insure the coordination.

5 For example, I have no question in my mind that any
6 one of the judgments of the Support Center might be valid in
7 terms of ad hoc training sessions. But it is important given
8 the scarcity of resources -- even for them, in terms of alloca-
9 tion of resources -- to be sure that they are aware of what
10 else may occur.

11 For instance within one of these state groups. As
12 far as I am concerned the reality is that we have tended to
13 use the people with expertize to provide the training. As
14 David suggests Dick will put on a training event in Housing
15 and he will use the expertize in the Housing Law Center.

16 If a training event occurs dealing with elderly
17 or with migrants as they have occurred, expertize will be
18 used.

19 There is also a need for some overall policys, not
20 only in terms of allocation of new resources, but just the
21 use of the exisiting resources.

22 I don't think that there is any great disagreement
23 between us, but clearly it is one more thing that the Corpora-
24 tion must do. Not to delay making the decision but because
25 when a decision is made all of the pieces ought to be there.

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1 It seems to me that a lot of decisions that we made
2 we made because we had to, usually. Now we ought to look and
3 see how all of those things are going to impact on each other.
4 A sound policy ought to be made -- not to lock us in forever,
5 but at least so that we know where we are at this point so
6 that we can make intelligent choices.

7 MR CRAMTON: Do I understand that what you are saying
8 is that there are negotiations or discussions underway between
9 OLSBAC and the staff and that at some point various options
10 will be presented to the Board for discussion?

11 I hope that they will be presented as options in
12 which there are alternatives where there are advantages and
13 disadvantages. Rather than saying we have negotiated this
14 arrangement with the Support Centers and here it is take it
15 or leave it.

16 MR EHRLICH: I understand the point. We don't know
17 enough now about the kinds of things that I'd want to know
18 about the scope of the range of policy other than general
19 areas. I would like to do that. But it may be one area, like
20 training, that it is very clear to Support Centers and quite
21 clear to Dick Carter and to Charles what a sensible approach
22 is.

23 MR ENGELBERG: Does OLSBAC have a schedule in mind
24 by which they would like the staff to come to grips with this?
25 Again, from what Roger says --

1 MR CRAMTON: Yesterday.

2 (Laughter.)

3 MR ENGELBERG: You are all working together, there
4 is no real dispute at this point --

5 MR NATHANSON: Well, we are not sure that there is
6 a dispute -- we don't know --

7 MR CRAMTON: Just on principle and execution.

8 MR ENGELBERG: It sounds to me that you are not
9 quite ready yourselves with a package as to what you would
10 like to see done. I am talking about the group of Support
11 Centers.

12 MR FREEDMAN: I can speak individually, in that I
13 made a request on behalf of our Center that the language of
14 our contract be changed to reflect the language that Congress
15 adopted in the Act in 1977. And at the moment, as I under-
16 stand the position of the Corporation staff, is that that is
17 a matter that will be considered with the long range broad con-
18 sideratons overall Support activities.

19 Now that long range consideration is something that
20 the Support Centers are pressing for for the past year and
21 we're very supportive of it. And indeed one reason we are
22 pressing for it is that we are told that one of the considera-
23 tions for funding levels depends upon having a rationale for
24 the whole Support effort and we accpet that and think that it
25 is possible for the Board to move forward.

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1 I am concerned though that the relatively simple
2 question of whether the resources that we already have could
3 be allocated to specific training activities or preparation
4 of specific manuals or matters that might fall within the
5 research that Congress authorized, cannot even be considered
6 by our own Board and with our own resources, until this long
7 term process goes on.

8 And it really seems to me to be very separate. The
9 Corporation is not committed forever to allowing us to do
10 training, if their long range for training would say that we
11 shouldn't do it, but the facts that our contract would be modi-
12 fied now to permit us to do it with our existng resources.

13 MR ENGELBERG: Have any of the Board members visited
14 any of the Support Centers?

15 MR NATHANSON: I am pleased to say that I have one
16 on my Board.

17 MR EHRLICH: What I meant in response was not that
18 we need to hold up on any issue until we decide every issue,
19 but rather I thought that the Board would want some indication
20 of the kinds of activities that were being proposed from the
21 various Support Centers that weren't heretofore undertaken,
22 such as the kind of training you suggested. And that we would
23 come back to the Board with the kinds of activities that were
24 being proposed be each of the Centers. And I realize that you
25 can't always be exact, because you don't know what is coming.

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1 And some indication by the staff the degree to which
2 we saw concern for complications if any, in terms of coordina-
3 tion. I would seem to me that the Board would want that kind
4 of indications before it --

5 MR CRAMTON: I think that the Board would like to
6 talk about the question before the staff changes the contracts.

7 MR JONES: We can't change the contracts. We are
8 fixed by policy already established by the Board.

9 MR EHRLICH: We don't have any question about chang-
10 ing -- doing that, but I think we can get some fairly specific
11 indications of the activities within the existing budgets that
12 each of the Support Centers would like to do and we can take
13 that and this analysis, coordination, issue and come back to
14 the Board and you can say what you will.

15 MR CRAMTON: Well, if you and others think that that
16 is relatively easy and --

17 MR EHRLICH: Well --

18 MR CRAMTON: We can consider it at an early Board
19 meeting, --

20 MR ORTIQUE: But there are certain aspects of what
21 they would like to do that should be relatively easy. For ex-
22 ample the matter of training -- if we change the contract, what
23 we'll do is just make honest folks out of the various back-up
24 Centers because they have been getting the requests to appear
25 at training sessions and they really are the ones who are doing

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1 the training, who render that service.

2 MR JONES: There is a distinction, obviously -- the
3 one is an event that is scheduled, paid for, arranged for lo-
4 gistically and otherwise by the Corporation --

5 MR ORTIQUE: That's right.

6 MR JONES: -- and you clearly use the resources of
7 the Support Centers -- I would think that you would want us to
8 comment --

9 MR ORTIQUE: Absolutely because from their over-
10 view the materials that that are flowing into them, may not
11 necessarily be flowing into the Corporation and they might be --
12 I say might be in a better position to suggest to the Corpora-
13 tion that you need more of this.

14 For example, I would be certain that we need more
15 of elderly training in the -- on the East Coast, New York City
16 and out there in California than we might need in -- I should
17 have said Florida first -- than we would need in some of the
18 other places.

19 I for example, know that Dick Trudell raised the
20 question a while ago about Native Americans -- I know, because
21 I attended a conference where there were numbers of persons
22 who were concerned about Native American elderly in Northern
23 California, to my great surprise. But there were numbers of
24 those people up there from that point of view.

25 Then of course you get into the Housing situation

1 down there in Texas and I am sure that the Housing group
2 could do a much better job than we tried to do -- Mary Ellen
3 you recall about two years ago down there, in housing.

4 So that when I said let's make ourselves honest, I
5 really mean let's do the best job possible, whether it is
6 coming up from the Support Centers or going down to the Support
7 Centers.

8 MR CRAMTON: Are there more questions?

9 MR BROUGHTON: I have one question Mr Chairman and
10 that is do you consider that you are really national in your
11 service? I have heard, I am not able to document this, I
12 have heard from some of the project people that perhaps the
13 Support Centers gravitate too much in the immediate area where
14 they are located. Is that a problem? And I can see that that
15 would be a two way situation, really, I am just curious to
16 know that.

17 MR NATHANSON: It is possible that that can be a
18 problem depending on the kinds of services that you are talking
19 about. We have an Office in Los Angeles and a Washington of -
20 fice, so we are able really to cover both sides of the coun-
21 try.

22 But we are not able on a daily basis to appear in
23 court in Chicago and so that the extent that day to day over-
24 seeing, at least with our present travel budget, day to day
25 overseeing of litigation is required the odds are that a case

1 which has some significance for across the country may well be
2 brought in California, as opposed to Washington.

3 But the telephone and the mails are available and
4 we really have no problem with that. I would like to point
5 out to you, though, that the Corporation has looked at this
6 and has talked to us about that and we are discussing trying
7 to expand those kinds of service.

8 MR BROUGHTON: Aside from litigation do you consider
9 that your requests for research on a particular point or in-
10 formation whatever -- pleadings -- do you consider that that
11 is really national in scope or do you get inquiries from pro-
12 ject directors --

13 MR FREEDMAN: Absolutely. In fact, I think that is
14 why most of the Centers try to resort more and more to mailing
15 on all of the programs, so that we are able to get information
16 out to everyone responding to the types of requests that we
17 get.

18 And I know that the question comes up often and we
19 have gone through our correspondences and our logs of phone
20 calls and it is absolutely no question that we are giving as
21 much service in places like Idaho and California as we are
22 along the East Coast.

23 MR BROUGHTON: Do you consider that you have a
24 close relationship with and you are being monitored or super-
25 vised -- however you might express this as far as the LSC of-

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1 fice in Washington is concerned?

2 MR NATHANSON: Well, the way the set up is right now,
3 I think that it is mentioned in the materials that we are real-
4 ly monitored on an on-going basis by the Regional offices as
5 opposed to the Washington office.

6 MR BROUGHTON: And you consider that you do have a
7 close relationship with the Regional?

8 MR NATHANSON: We may disagree at times.

9 (Laughter.)

10 MR CRAMTON: One of Mr Broughton's questions suggested
11 one other and it is also suggested by some remarks this morn-
12 ing by the problems of monopoly in particular areas in the
13 delivery of legal services.

14 In a sense each one of your organizations in subject
15 matter and in constituency has a national monopoly. Would it
16 be desirable to set up more competing organizations or to have
17 direct funding to programs in order to take appeals.

18 The problem is that if you have -- if a Legal Ser-
19 vices program has a particular case that they think is impor-
20 tant and that it deserved appellate litigation in a test case
21 and they happen to go to one or the other of you and you've
22 got other priorities you don't think that it is all that im-
23 portant or you are not as interested in it and the like and
24 that is the end of the road for them, right? They don't have
25 any other alternatives.

1 MR FREEDMAN: It might be the end of the road in
2 terms of the National Support Centers, it certainly is not
3 the end of the road in terms of them pursuing it to the high-
4 est level.

5 It sometimes disappoints us to realize that in the
6 early days of Legal Services we were involved in much of the
7 litigations that went up to the United States Supreme Court,
8 but now most of the cases that go up to the Supreme Court are
9 cases that are handled by the local programs and taken up
10 there.

11 MR JONES: This isn't an alternative to that. They
12 don't take over the appeal. I think that is

13 MR NATHANSON: I think what is really exciting is
14 that -- at least the way that we view our role -- I think
15 that the other Centers also -- hopefully we can facilitate
16 some of that exciting worthwhile rewarding litigation at the
17 local level so that you will see field attorneys staying there
18 longer and staying there in the Legal Services community long-
19 er.

20 If we as Support Centers are able to provide them
21 with materials, with the pleadings, with the manuals, with the
22 ideas on some cases that we are aware of around the country
23 and thereby allow them, every once in a while to take one of
24 these cases -- you know we are all human beings -- they might
25 well like to take to expand their own knowledge and expertise,

1 I think that we are really providing a service.

2 MR CRAMTON: Then you view yourselves as facilitators
3 and not gate-keepers.

4 MR FREEDMAN: Absolutely, and of course, most of
5 the state centers will provide another resource, to the local
6 programs if they need additional counseling.

7 MR MADWAY: Also, especially useful is the develop-
8 ment of specialist units within field programs. It is a lot
9 easier for a back-up center to relate to a specialist's unit
10 than it often is to relate to individual field attorneys. They
11 are tremendous facilitators for our service.

12 MR TRUDELL: Another part of Roger's question,
13 though is that you make reference to making it fairly attrac-
14 tive for field attorneys in the field, what is the retention
15 like in the Support Centers, in the terms of attorneys.

16 MR NATHANSON: We can each speak for ourselves. I
17 think that the statistics are very good. We have very high
18 retention and are able to -- I know that in each of our Centers
19 we've got -- I know I've got almost the same attorneys which
20 started with the program in '72.

21 MR CRAMTON: What are the salary ranges in the Cen-
22 ters?

23 MR ORTIQUE: I know he's glad you asked him that.

24 (Laughter.)

25 MR ORTIQUE: They're lower than they are over across

1 the street with the Legal Services Program.

2 MR CRAMTON: That is one reason I asked. I wondered
3 if there was some concern about this comparability program?

4 MR NATHANSON: Well, I think that it's very diffi-
5 cult. I am very glad that you asked, because I think that
6 there is a general view in the Legal Services community-- ob-
7 viously you all are more familiar with those issues -- but in
8 the Legal Services community there is some view that really
9 are the fat cats of Legal Services.

10 We have high budgets, we have high salaries --

11 MR CRAMTON: You mean at the Centers?

12 MR NATHANSON: Right at the Centers.

13 MR CRAMTON: And the Corporation is the fattest
14 fat cat of all.

15 (Laughter.)

16 MR NATHANSON: I can only speak for my Center -- we
17 have attorneys who have been out of law school for ten years
18 earning 22 or 23,000 dollars who could, in point of fact,
19 walk across the street to perhaps to a local program and earn
20 more.

21 And I am not saying that that is fair or unfair, I
22 am saying that that is a fact. They stay because they like
23 the work and because there are other rewards.

24 MR ORTIQUE: Mr Chairman, I know that Mr Veene
25 got a resolution and an award, but he has been trying to get

1 our attention -- I don't know Berney if they are trying to
2 tell you something or not.

3 MR VEENEY: I am somewhat concerned that this after-
4 noon's conversation makes it sound that the Support Centers
5 are the lawyers for lawyers with clients and I just want to
6 comment for the Board that we have seen the client community.

7 Over the last couple of years a growing effort on
8 the part of the Support Centers 1) to aggressively reach out
9 for clients to on the board 2) to try and educate the client
10 community and 3) very open to the feedback of the client com-
11 munity about their level of their performance in the issues
12 that they should be involved in.

13 I know that in the next couple of months one of the
14 Support Centers and I think possibly two will hold priority
15 setting sessions so that the kinds of things that they really
16 address themselves to are not simply determined by the Legal
17 Services programs, but will be determined by the clients per-
18 ception of the Legal Services attorneys and the combined per-
19 ception of what that particular Center should be devoting them-
20 selves to.

21 It is not about their being lawyers for lawyers and
22 their being isolated. Clearly there is a much, much closer
23 affinity between the Support Centers and the client community.

24 MR CRAMTON: Thank you very much for this most in-
25 teresting and relevant presentation.

1 MR NATHANSON: May I distribute these to the Board?

2 MR CRAMTON: Sure. Can we take a five minute stretch
3 before we go into the Regulations?

4 MR KUTAK: Why not.

5 MR CRAMTON: We will take a five minute break.

6 (Whereupon, a short recess
7 was taken.)

8 MR CRAMTON: The meeting will resume. Could we have
9 some order? Unless some member of the Board thinks that some
10 other item has precedents, we will now return to Mr Kutak and
11 the Committee on Regulations.

12 MR KUTAK: We are returning to what everyone has
13 been eagerly awaiting. Continuation of our discussion of the
14 proposed regulations.

15 MR CRAMTON: Could we have some quiet in the back
16 of the room please?

17 MR KUTAK: As you will recall, just as we recessed
18 we were in a discussion of the actions recommended by your
19 Committee with respect to part 1614 and in order to re-focus
20 your attention on that matter, I will remind you that the
21 Committee recommended that in light of the action taken in the
22 Legal Services Corporation Act Amendments of 1977, we proposed
23 the repeal of Part 1614 as it now stands and the publication
24 of an amendment to Part 1613 as it has already -- as the ori-
25 ginal Part has been adopted.

Recalling that those two actions are before you, we

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1 realize that you haven't had the benefit of the analysis from
2 Steve, with respect to our deliberations, I now turn to Steve
3 for his comments and invite him to respond to any questions
4 that you might have.

5 MR WALTERS: Just briefly, where we left off with
6 Section 10 of the Legal Services Corporation Act Amendments of
7 1977, repeals the restriction of juvenile representation pre-
8 viously contained in Section 1007 (B)(4) of the Act.

9 It was the opinion of the Committee that in light
10 of that action by the Congress that there was no longer a
11 basis for Part 1614 of the Regulations which implemented that
12 Section of the Act and therefore it should be repealed.

13 That action would also require an amendment to Sec-
14 tion 1613.4 of the Regulations which governs the instances in
15 which criminal representation may be provided by the program.

16 That Section presently refers to Part 1614 of the
17 Regulations. The proposal of the Committee would eliminate
18 that reference to Part 1614 of the Regulations and make the
19 General Provision relating to instances in which criminal
20 representation is permitted applicable to juveniles as well.
21 And I would be glad to answer any questions that you might
22 have.

23 MR KUTAK: If none then let's Mr Chairman look at it
24 separately. I think that there is scarcely any concern that
25 anyone has about a repeal of any regulation, whatever it is.

1 But in this event the repeal of a regulation because of the
2 action of the Congress to the Amendments to the Act makes it
3 self-evident.

4 So perhaps we might take these in that order and I
5 suggest to make it easier for the Committee that we move the
6 repeal of Section 1614.

7 MR SMITH: Second.

8 MR CRAMTON: It is moved by Mr Kutak and seconded
9 by Mr Smith that we publish for Notice and Comment? -- a state-
10 ment that Part 1614 is repealed? Right?

11 MR WALTERS: I don't think that you need to publish
12 for Notice and Comment to repeal the regulation, I think that
13 that would be effective on action by the Board.

14 MR CRAMTON: You are asking the Board to take effec-
15 tive action in this case and not on the other in terms of re-
16 peal of this particular rule.

17 MR ORTIQUE: I don't think that in view of the fact
18 that Congress did what it did that we would have to give No-
19 tice, but I sure wouldn't want it to be felt that it was policy
20 that in any matters that we repealed that it would not be nec-
21 essary -- unless somebody can find me some jurisprudence on it
22 because I think that if this Board decided to repeal some of
23 it's Regulations that the public certainly would have the right
24 to comment on them.

25 MR CRAMTON: I think it's a case --

1 MR ORTIQUE: However, in this case, I think that you
2 are absolutely correct.

3 MR WALTERS: In the event of specific Sections of
4 a particular Regulation amounted to an amendment, in essence to
5 the Regulation, certainly that would be published for Notice
6 and Comment.

7 Since this is a repeal of the entire Regulation, I
8 think that final publication --

9 MR CRAMTON: I think that I disagree with that pro-
10 cedure. It does seem to me that Revius is right and that we
11 ought to follow Notice and Comments procedures even for the
12 repeal of a Regulation.

13 I say this in part because one point that I made
14 about one provision of the repealer, at the Committee, which
15 hadn't occurred to the draftsman, is now embodied in the sep-
16 arate proposal that you are making about authorized representa-
17 tion in 1613 and it also seems to me -- I have a quarrel with
18 .7 -- the repealer of the limitation policy, which seems to
19 me is a very wise policy in terms of the use of Corporation
20 money and it ought to be preserved as a Corporate policy.

21 We may find that there are some people that 1) think
22 we shouldn't repeal the Regulation, for one reason or another
23 or 2) think that the one part or another of it ought to be
24 preserved in some form and why not give the general public an
25 opportunity to comment and have notice, before this action is

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1 effectively taken.

2 MR KUTAK: Mr Chairman, I would quickly recede on
3 the matter, I thought that it was so self evident and it would
4 be so commendable that it was just a matter of administrative
5 convenience. But if anybody, particularly the Chairman would
6 want to have the matter published for Notice and Comment, I
7 will quickly withdraw our recommendation and I will link the
8 two then -- that we will publish for Notice and Comment to
9 repeal Part 1614 and the Amendment to Part 1613 with re -- as
10 it affects the -- quick help me Steve -- as it --

11 MR CRAMTON: What you are essentially doing is pre-
12 serving .6 "Continuity of Representaion" --

13 MR KUTAK: 1613.4, yes.

14 MR SMITH: I thought that was what I had seconded in
15 the first place.

16 MR KUTAK: I was going to separate them, but --
17 Everybody understands it -- at the request of our Chairman and
18 joined by the Committee let's move that we publish for Notice
19 and Comment the repeal of 1614 and the change to 1613.4.

20 MR SMITH: Second.

21 MR CRAMTON: All right, the matter is understood and
22 it is before us for discussion, on the merits. Is there dis-
23 cussion.

24 MS HAMILTON: Mr Chairman, if you get comments back
25 are you bring it back to your Board?

1 MR KUTAK: It will first come back to the Committee.

2 MR CRAMTON: When Regulation proposals are put out
3 in the Federal Register for Notice and Comments come in, they
4 are analyzed by the staff, the staff distributes them to the
5 Committee which discusses them and then it comes back to the
6 Board, probably at the next meeting, if there is time in the
7 interval -- maybe there isn't -- but if there is time to do
8 all of that in the interval it comes back to the next Board
9 meeting for formal action on the proposal.

10 MR BROUGHTON: Mr Chairman, I wonder however, if
11 the lady had any comments to make now -- it's coming back, but
12 it would save her time and it would save us time --

13 MS HAMILTON: I like to write it. I like to write
14 the documentation.

15 MR CRAMTON: Well, I had a question about .7 that I --
16 why doesn't 1614.7 state a desirable policy about Corporation
17 money? That is where there is a right to counsel and where
18 funding is available, why should our scarce resources be made
19 available and be applied to other areas?

20 MR WALTERS: This was discussed at the Committee
21 meeting. And the feelings, at least on the part of the staff,
22 was that the policy expressed in 1614.7 was at least partially
23 expressed in the Priorities Regulation and which was required
24 particular consideration of other sources of free or low cost
25 legal assistance in the community.

1 ~~legal assis~~The difficulty with an absolute policy of not using
2 Corporation resources where there is a Right to Counsel and
3 that applies to lots of areas beside juvenile representation
4 applies to, is that in many instances the Right is a hollow one.

5 It may be a high priority in a community for the Le-
6 gal Services to be involved in that area regardless. Whether
7 it is necessary to change the law or even simply to effectuate
8 the Rights to Counsel.

9 And out thought was that that was an issue that
10 could be addressed far better on the local level in setting
11 the priorities rather than at the national level.

12 MR ORTIQUE: May I respond to that? I think that in
13 a number of situations we see that Judges have the responsi-
14 bility to appoint Counsel that if you don't have this pro-
15 vision that they might not be reminded of the responsibility
16 to look other than to the Legal Services program.

17 I know that this is very true in juvenile courts,
18 where you insist that there be counsel and I just suspect that
19 the Judges across the country -- my friends in California, for
20 example tell me that where the Legal Services program can be used
21 that Judges will tend to use Legal Services programs and find
22 reason to use Legal Services programs.

23 MR WALTERS: The point is well taken, but that issue
24 is addressed in another section of the Amendments to the Legal
25 Services Corporation Act that states expressly that "attorneys

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1 employed by recipients shall be employed to provide legal assis-
2 tance without compensation only when such appointment is pur-
3 suant to a statute, rule or practice applied generally to at-
4 torneys practicing in the Court where the appointment is made."

5 So with that amendment to the statute it is quite
6 clear, in our view that Courts cannot discriminate against Leg-
7 al Services programs and can't rely on Legal Services programs
8 involuntarily to shift what is truly a local responsibility.

9 On the other hand --

10 MR CRAMTON: But they can refuse to appoint and then
11 the program steps forward to meet the need which is not other-
12 wise met, then that other regulation doesn't address itself
13 to that aspect.

14 MR WALTERS: If it is consistent with local priori-
15 ties to do that. Our note is that the programs on the local
16 level can make a decision far better than we, whether as a
17 local matter it is a need that they should address.

18 MR ORTIQUE: The only reason that you want it out of
19 here is that it is redundant?

20 MR KUTAK: That's my point.

21 MR ORTIQUE: The situation -- the way that I am
22 thinking, it is not redundant at all, it is there for double
23 emphasis, or to underline it, to underscore it, to make it
24 very clear and that sort of thing and I think that that sort
25 of thing serves a very useful purpose.

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1 MR KUTAK: And if so, Revius, then we have got to
2 rethink and if there are comments to that effect, we have got
3 to rethink to put it in the positive. Remember what we are
4 trying to do here -- we are trying to liberalize the Right to
5 Representation for juveniles. We are not trying to restrict
6 the Right to Representation.

7 MR ORTIQUE: I agree.

8 MR KUTAK: See the whole idea of taking this thing
9 out of here is to broaden the Right to Representation -- not
10 restrict the right. And we want -- and if anyone thinks that
11 by taking it out that would not broaden it enough, then we
12 will do more, we want to get a priority above and beyond mak-
13 ing it on a parity with all other Rights to Representation.

14 Let's consider that and we will do that in --

15 MR OTRIQUE: State it in the positive.

16 MR CRAMTON: But it is done primarily in making the
17 Legal Services Representation more generally available in juv-
18 enile crime situations. And that it seems to me is the policy
19 question that the Corporation ought to face that has to do with
20 allocation of money, it ultimately has to do, I think, with
21 public acceptance of the program and its political viability.

22 And it is on that policy issue and that is why I
23 don't accept the statement that is made in this proposal that
24 just because the statutes change, this should be repealed and
25 so on. I think that it is a little bit like the fact that the

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1 Green Amendment language was changed, and it then raises a
2 policy question for the Board as to whether the prior restric-
3 tions should be continued or they should be changed.

4 Now maybe they should be changed, but I think that
5 it's an important policy issue.

6 MR KUTAK: You have time to make that argument when
7 we have our hearing, for the second time.

8 MR CRAMTON: No, I've made it.

9 MR ENGELBERG: Point of information -- it's a dumb
10 legal question but in juvenile criminal type cases, does the
11 Right to Counsel apply under -- in other words the Court must
12 appoint Counsel.

13 MR WALTERS: Yes, when it is an adult type situation
14 where they are accused of the crime. And what

15 MR ENGELBERG: And what Revius was saying -- at
16 least I think that it was Revius -- was that it was very anala-
17 gous to the whole criminal area where the local Courts will
18 use Legal Services programs or the fear that they would use
19 them as a dumping ground and thereby avoid there responsibility.

20 MR ORTIQUE: That's right and cost us more money.

21 MR WALTERS: There is an amendment to the statute
22 that would prohibit -- which protects against that danger.

23 MR KUTAK: We must be compensated.

24 MR ENGELBERG: That Legal Services attorneys cannot
25 be singled out.

1 MS DANIELS: It is important to distinguish between
2 the protection we want Legal Services lawyers to have against
3 being appointed. We requested that change in the statute speci-
4 fically to deal with the situation that Revius described, be -
5 cause we realize that Courts were looking at the Corporation as
6 a source of resources and saving municipal funds.

7 That situation has been dealt with in the statute
8 and we are working with programs every day insuring that this
9 comes to the Court's attention.

10 The other question though is the question of the
11 power of Legal Services programs, voluntarily, to accept the
12 client who walks in the door and says, "I want representation --
13 I am faced with the threat of mental commitment. My state has
14 a nominal Right to Counsel in such a proceeding, but my judg-
15 ment -- this is a very rational person -- is that the Counsel
16 available is entirely inadequate that the Court's don't appoint
17 or that the \$20.00 per case that they allow is not enough for
18 good representation."

19 Legal Services programs are -- should be permitted
20 to take such a case if that is consistent with the local pro-
21 grams judgment on allocation of resources, because it is not
22 just juvenile cases that come up, there is a whole range of
23 cases in which there is statutory Right to Counsel.

24 MR CRAMTON: Is there further discussion on the mo-
25 tion? Which is to publish for Notice and Comment the repealer

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1 of Part 1614 and the amendment in 1613.4. Al

2 (No response.)

3 MR CRAMTON: All those in favor please say aye.

4 (Ayes.)

5 MR CRAMTON: All those opposed, no.

6 (No.)

7 MR CRAMTON: We will have a show of hands. All those
8 in favor -- Kutak, Ortique, Smith, Rodham, Esquer, Trudell,
9 Engelberg and Worthy.

10 Those opposed -- Broughton and Cramton.

11 The motion carries.

12 MR KUTAK: Mr Chairman, if we may go back -- you will
13 recall that we had a discussion on the Board this morning about
14 the By-Law Amendment with respect to how much time should be
15 built into our By-Laws with respect to Notice. We had -- with
16 respect to the submission of the agenda.

17 We had a little meeting here after we recessed for
18 lunch.

19 MR CRAMTON: A discussion, not a Committee meeting.
20 You had a discussion.

21 (Laughter.)

22 MR KUTAK: We had a discussion and it was one. --

23 MR CRAMTON: But was it open?

24 MR KUTAK: Under the light over there and you had
25 Counsel there and we had our President there and anyone that

1 and anybody else we could get to stop and listen.

2 (Laughter.)

3 MR KUTAK: But they all wanted to do something bet-
4 ter. And we were trying to figure out what the sensible thing
5 to do here and the upshot of it was that we would make the no-
6 tice -- we would send out the notice within the same period of
7 time that we would publish it for official public attention.

8 But assume and understand that the President and
9 the administration will strive to send out an informal notice
10 a tentative agenda to the Board in advance so that they can
11 react and make any comment to the President.

12 So we are going to change -- what Section is it,
13 Steve?

14 MR WALTERS: 1601.15.

15 MR KUTAK: We can change it by simply striking 15
16 and putting in 7.

17 MR WALTERS: It would be at the beginning of the
18 third sentence and --

19 MR BROUGHTON: Slow down just a little bit -- 1601 --

20 MR WALTERS: 1601.15.

21 MR KUTAK: 1601.15 under Change -- here. And where
22 it says 15 days we would say 7.

23 MR CRAMTON: In both places?

24 MR WALTERS: In both places, yes.

25 MR CRAMTON: And that is a Committee amendment, so --

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1 MR KUTAK: That is a Committee recommendation.

2 MR WALTERS: And a similar change to the Change of
3 1601.16, which is on the next page, in lines 2 and 7.

4 MR CRAMTON: Now, is there a thought that there
5 might be a circulation of a tentative agenda in advance of
6 that to the --

7 MR KUTAK: To the members of the Board so that they
8 might have an opportunity to react if they have any reaction
9 or make any additions if they have any additions.

10 MR EHRLICH: What I did say was that I would con-
11 sult with you about 10 days before the 7 day period started
12 to run and send shortly thereafter a tentative listing of items
13 and obviously any who have items that they would like to have
14 on the agenda before that time, I hope that you will let the
15 Chairman or me know. And after responses to those we will
16 send out the final.

17 MR KUTAK: But technically speaking, the By-Laws
18 would now read they would be in strict conformance with the
19 Government in the Sunshine Laws, which has noted not less than
20 seven days before the meeting. And as it was officially pro-
21 mulgated for the Board, it would also be officially published
22 for the public. With that amendment, Mr Chairman, we would
23 move the adoption of the amendments to our By-Laws.

24 MR CRAMTON: These have gone through Notice and
25 Comment?

1 MR WALTERS: They have been published thirty days
2 in advance as required by the By-Laws. They would be effective
3 immediately.

4 MR CRAMTON: And were there comments? There were no
5 comments?

6 MR WALTERS: No.

7 MR CRAMTON: No one is interested in our By-Laws.

8 MR KUTAK: Steve?

9 MR ENGELBERG: I was going to second the motion.

10 MR CRAMTON: It has been moved by Mr Kutak and second-
11 ed by Me Engelberg that we adopt the By-Law changes, which
12 have been previously published in accordance with the required
13 procedures. Is there further discussion.

14 MR BROUGHTON: I have a question, again on this
15 question of two thirds versus majority, we discussed that this
16 morning and as I understand the Government in the Sunshine Act
17 it says majority, whereas our By-Laws have said two thirds.

18 MR KUTAK: But we're open ended.

19 MR BROUGHTON: What?

20 MR KUTAK: But we are open ended, we could have
21 closed it, theoretically for any reason, rather than for the
22 limited reasons which the --

23 MR BROUGHTON: I know that but we are limiting --
24 to comply with the Act we are limiting our basis for calling
25 an executive session and yet we are making it easier to call

1 for an executive session.

2 I'm wondering what the -- and maybe I didn't make
3 this clear this morning -- I am wondering what the Committee's
4 thinking was, other than the fact that the Act itself uses
5 the majority rather than two thirds.

6 MR KUTAK: Believe me Mel, that is the only reason.
7 We were tracking the spirit of the -- and the substance of the
8 Act, as a matter of fact to conform because reading the Act in
9 its entirety and hopefully reading the By-Laws in their en-
10 tegrity one sees now, that there is now to be just a very re-
11 stricted and specific reason for a closed session and other-
12 wise everything is open.

13 MR CRAMTON: Another reason for the majority, I
14 might say, rather than the two thirds is that we have always
15 voted on executive sessions as matters have come up at the
16 meetings, in which people have been here. And you -- the
17 issue came up and there was an immediate vote.

18 This vote is going to be a vote by notation and --
19 or by conference call or something well in advance of the
20 meeting and without the opportunity to discuss and so on.

21 It may be difficult to reach people, some people
22 may not be available and answer the mail and I think that it
23 would be a great mistake under these circumstances to retain
24 the two thirds as against the majority. It is going to be
25 difficult enough under the procedures in advance of a meeting

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1 and without the opportunity of discussion to get a bare maj-
2 ority of an 11 member Board.

3 MR ORTIQUE: Why would you want --

4 MR CRAMTON: Why would you want an executive session?

5 MR ORTIQUE: No, not why would you want an executive
6 session but why would you ever want to try to hold an execu-
7 tive session either by telephone or by notation.

8 MR CRAMTON: No, you don't hold it be that, you have
9 to vote to call it because it has to be indicated on the agenda
10 in advance of the meeting.

11 So for example, if we were to be involved in a search
12 for a new President and we wanted to have a discussion at a
13 particular Board meeting in which there was going to be a con-
14 fidential executive session by the Board in which we were talk-
15 ing about various candidates that were under consideration,
16 clearly an appropriate subject for an executive session I
17 think in everybody's mind, the procedure would have to be --
18 that when -- prior to the public agenda being mailed out on
19 the meeting one item on the agenda would be Presidential Search
20 discussion of Presidential Search -- or whatever it was and
21 then this would be closed pursuant to vote already taken by
22 the members of the Board to hold an executive session. Am I
23 not correct?

24 MR WALTERS: Exactly.

25 MR CRAMTON: And to require two thirds in that set-

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1 ting would be difficult.

2 You can't just come to the meeting and say let's
3 hold an executive session.

4 MR EHRLICH: You could have used another example.

5 MR CRAMTON: The President said that I should have
6 picked a better example but that seems to me to be the most
7 compelling one that will arise at some time, presumably under
8 the hundred years of history of the Legal Services Corpora-
9 tion.

10 (Laughter.)

11 MR KUTAK: It was suggested and I would willingly
12 take in the example of replacing the Chairman of the Regulation
13 Committee.

14 (Laughter.)

15 MR CRAMTON: That we can do in an open meeting.

16 MR KUTAK: Is there discussion? May we call the
17 question?

18 MR CRAMTON: Are you ready for the question?

19 (No response.)

20 MR CRAMTON: All those in favor please say aye.

21 (Ayes.)

22 MR CRAMTON: All those opposed, no.

23 (No response.)

24 MR CRAMTON: It is unanimous. The transcript of
25 the record will indicate that all of the Board members unani-

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1 mously supported the recommendation.

2 MR KUTAK: Mr Chairman, the next meeting of our
3 Regulations Committee is scheduled for April 6th, 1978. Until
4 a few minutes ago, it was scheduled for Atlanta, Georgia, there
5 has been some indication and realization that this would be a
6 tremendous imposition on one or more of our newest members
7 because of the great distance that they have to travel and
8 I take congizence of that.

9 So, what we will do is communicate this afternoon or
10 sometime while we are together to find an appropriate loca-
11 tion.

12 MR SMITH: Ohmaha.

13 MR KUTAK: Ohmaha has been suggested but in any
14 event we will at that time consider further changes in our
15 Regulations, which have been made necessary, again, by the
16 amendments Act of -- the Act Amendments of 1977.

17 Such as the requirement that one third of the pro-
18 grams governing Board consist of eligible clients, new language
19 concerning the treatment of public benefits cases, as fee
20 generating and possible change to the eligibility regulations.

21 I also want the public to know and the colleagues to
22 know that we still have ahead of us comments to consider with
23 respect to Part 1606, which is the Part relating to termina-
24 tion and denial of refunding and to Part 1623 which is suspen-
25 sion. They are kind of back to back issues.

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1 And again, of course, address the issue as to wheth-
2 er there should be a Regulation implementing the new statutory
3 language regarding organizing activities, at matter which is
4 out now for general discussion to the group at large. Steve?

5 MR ENGELBERG: Yes, Bob, will the Committee members
6 get before the meeting some sort of material or the proposed
7 Regulations that will be considered?

8 MR KUTAK: You bet.

9 MR CRAMTON: You will get a big packet of stuff from
10 Steve.

11 MR KUTAK: You will be fully briefed, in advance
12 by document and by summerizations, unless they are themselves
13 so important as to be left intact, the complete statements are
14 sent in and comments.

15 We still have something to go. I remember telling
16 the group once before of a colleague that said when I asked
17 for a motion to continue, said that he wanted to try the case
18 some time before he died or shortly thereafter.

19 (Laughter.)

20 MR KUTAK: I would like to get through these regula-
21 tions some time before I dies or shortly thereafter. But we
22 do have a few other assignments to face. Frankly, we have to
23 reexamine the whole issue of eligibility, in light of various
24 issues that have arise during the last year. Certain matters
25 with respect to the implementation of the Rehabilitation Act.

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1 And of course, my long dreamed for ambition that
2 once we get through all of the separate Regulations, we have
3 a breather and try to reexamine the entire set of documents to
4 be stylistically as well as substantively a model act of Re-
5 gulations for a public Corporation.

6 We only have, by my reconning, two meetings but the
7 past being any prologue, maybe we have one or two more than
8 that.

9 But in any event, I am anxious to work at a forced
10 march because I would like to feel that my colleagues have
11 been left some kind of completed document, not to mention the
12 field as quickly as possible.

13 So we will meet on April the 6th in contemplation of
14 our meeting in May and we will meet probably again in contem-
15 plation of our July meeting and they are work-outs, but we
16 welcome you on board.

17 MR CRAMTON: The President and I have conferred about
18 another subject in which I think we would like to have the
19 Committee take a look, Mr Ehrlich.

20 MR EHRLICH: As new Board members know, in connec-
21 tion with the confirmation process, questions have been raised
22 about whether or not there should be a Board policy concerning
23 Board member involvement in lawsuits in which Legal Services
24 lawyers are involved in as Counsel on the other side and re-
25 lated matters to that.

1 I think that it would be appropriate if the --

2 MR KUTAK: We'll take a look at that. All I need
3 is another regulation, but we'll take care of it.

4 (Laughter.)

5 MR CRAMTON: It would be a By-Law. The question is
6 whether 1) it is needed and maybe if the staff prepared a mem-
7 orandum for the Committee and the Committee discussed it then
8 the Board could usefully discuss the question. And decide
9 whether it would be appropriate.

10 MR ENGELBERG: The second aspect, as I understand it
11 Tom is having to do with local Board members, whether there
12 should be Regulations concerning special conflicts on the part
13 of local Boards.

14 MR KUTAK: And I observed earlier, Steve, I know
15 that in the minutes, having not been at the last meeting, I
16 didn't partake in that discussion, but I note that there was
17 a request that the Committee also consider this matter of
18 whether the By-Laws or Regulations need to be changed with re-
19 spect to the problems of conflicts between poverty groups in
20 the same community. We'll have to wrestle with that, too.

21 But I hope that the agenda doesn't keep elongating
22 but we can finally get to the end. Thank you, Mr Chairman,
23 that is the end of the report.

24 MR CRAMTON: Thank you very much. We now come to
25 item 4c. Report of the Committee on the Provision of Legal

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1 Services. Mr Ortique.

2 MR ORTIQUE: Where are my support people?

3 MR CRAMTON: There is one of them. Mr Bamberger --
4 who else are you looking for? Ms Sard.

5 MR ORTIQUE: I knew that you needed some help, Clint,
6 that's why I --

7 MR CRAMTON: Have all of the Board members met Bar-
8 bara Sard?

9 MR ORTIQUE: Well, the Committee on the Provision of
10 Legal Services met last night and you have got two items on
11 your agenda, but we thought that in view of the fact that the
12 Committee is now composed of three new persons, that we ought
13 to have a report with reference to our Alternative Delivery
14 System, as a part of the Provision of Legal Services meeting
15 and we went through an historical summary with reference to
16 the work of the Institute and where we were at that time and
17 I suppose Clint could comment on that, very briefly, just for
18 the general information of the entire Board.

19 And then of course, we dealt at considerable length
20 on the Report on the Quality Improvement Incentive program,
21 which as you know is the expenditure of the remaining 4 mil-
22 lion dollars and the study of the needs of poverty groups as
23 required by the Amendments to our Act.

24 Both of which are on going programs in view of the
25 fact that you have in the latter situation, a deadline that

1 has been set by the Congress.

2 I would now yield to Clint to make a sort of brief
3 summary statement with reference to all three of these and then
4 I am sure that Barbara would want to report on the Quality
5 Improvement program. And Mr Housman has come in and he will
6 report on the Study of the needs of poverty groups.

7 MR BAMBERGER: With respect to the Delivery System
8 Study, there was really nothing added to what is know by the
9 Board members and with your permission, Revius, I would like
10 to move to the two things that we do want to call the Board's
11 attention to, that is the Quality Improvement Project, which
12 is the expenditure of the investment income.

13 You have in your book two things. One is a two and
14 one half page report of what has been done by the staff since
15 the last Board meeting and attached to that is the sollicita-
16 tion for grants.

17 You will recall that this is the 3.2 million dollars
18 of investment income that remains after the Board's allocation
19 of the million dollars for the Educational Loan Repayment Plan.

20 The solicitation was prepared by the staff, having
21 in mind the action and comment by the Board at the October and
22 December meetings. The solicitation was reviewed by all the
23 members of the Committee on the Provision of Legal Services
24 and it has been mailed out. It was sent to all Legal Services
25 programs, all offices of those programs, to the Chairpersons

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1 of the programs and in addition, just over 1500 descriptions
2 of the solicitation were sent to Bar organizations, client
3 organizations, law schools and others. A press release was
4 sent to hundreds of law related publications, we have received
5 400 requests for solicitations as a result of that mailing.

6 The time table now is that by March -- proposals
7 for grants are to be submitted by March the 17th. We hope
8 that we will make a preliminary selection of grants in May and
9 thru May and June we will refine those grants, we will negoti-
10 ate with the grantees to make modifications that we might want
11 and we hope to make the grants in July.

12 During all of that process we will work closely with
13 the Committee on the Provision of Legal Services. The Board
14 authorized an expenditure of 200,000 a year for the adminis-
15 tration of this project, I think that we will be well below
16 that. Yesterday was the last day for receiveing applications
17 for people to come on board and help us do that work and we
18 hope to have someone there to do that soon.

19 MR KUTAK: Forgive me all, I went through this mat-
20 erial and again, I realize that I missed the last meeting and
21 therefore I bring this up reluctantly, but I read that solici-
22 tation proposal material and I said to myself that gosh, I
23 haven't been so depressed and so discouraged after reading a
24 solicitation -- that I don't know whether I would have tried
25 to gear up for it.

1 I was so overwhelmed by its lack of pazazz --

2 (Laughter.)

3 MR KUTAK: I just worry and I want to put it on the
4 table -- I promise you you won't hear it again, but I just
5 worry that when our organization -- it reads like a Department
6 of Defense specification for widgets.

7 (Laughter.)

8 MR KUTAK: And I know that I am in deep water with
9 so many of my friends, but I raise the plea that we simplify
10 that we don't go through this -- if there is any way to avoid
11 it -- the tremendous bureaucratic connotations that this has.

12 It just seems to me to be uncharacteristic of what
13 I hope to be a bright, energetic, crisp and imaginative or-
14 ganization.

15 It really reads like we were trying to give some
16 specifications for some widgets, rather than some bright ideas
17 for legal services. And I don't -- maybe because I am not
18 aware of all of the constraints on my colleagues, maybe because
19 of all of the pressures in government for touching all of the
20 bases.

21 But I think that we -- it is something that is very
22 uncharacteristic -- usually you are handed a memorandum sum-
23 marizing things like this. But I really read everything from
24 the beginning to the end and I was turned off. And I just
25 wondered how can we turn people on to these things in a way

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1 that makes them feel that we are appealing to the best and
2 the brightest.

3 That is an unfortunate -- through this kind of a
4 call. A call for not a bunch of documents that constitute an
5 exercise in Xerox -- but a call for an exercise in imagina-
6 tive and resourceful ideas.

7 MR CRAMTON: It sounds to much like a Municipal
8 Bond Document?

9 MR KUTAK: Oh, it does.

10 (Laughter.)

11 MR ORTIQUE: Did you think that maybe we would have
12 4,000 rather than 400.

13 MR CRAMTON: As a former reader and writer of
14 indentures, I take umberage with your statements.

15 (Laughter.)

16 MR KUTAK: As a present writer and reader of them.

17 MR BAMBERGER: I also take responsibility for it
18 looking like a -- if you know the language -- you would say
19 an RFP for widgets. And I guess --

20 MR KUTAK: How do we fight it?

21 MR BAMBERGER: I'll tell you in my own view but I
22 don't know how we fight it. I think my concern Bob, was that
23 this has been the subject for two rather extensive discussions
24 for the Board in meetings and that we wanted to be sure that
25 we put out a solicitation that followed as closely as possible

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1 the language that had been approved and read by the Board.

2 MR CRAMTON: That is true that the Board discussions
3 forced the staff to elaborate and elaborate and offer more al-
4 ternatives -- we share a substantial responsibility.

5 (Laughter.)

6 MR KUTAK: You weren't including me?

7 MR CRAMTON: Well, you attended the first one but
8 not that second one.

9 MS SARD: The other thing that I think that I can say
10 having now talked to some 300 people over the phone with ques-
11 tions is that even though the form may -- you may find it
12 depressing, I don't think that it is having that effect on
13 people. I think that people are taking it as an opportunity
14 to really try to get their creative activities across and to
15 have an opportunity to do them.

16 They groan at the paper, sure and some of the prob-
17 lems, but if we get anything like the number of applications
18 we are going to get, I think, and we are going to be able to
19 fund only a sixth to a tenth of them, we have to have a way to
20 make some real choices.

21 MR KUTAK: I know that it is easier to sit on the
22 sidelines and complain than to be in the front lines, but --

23 MR BAMBERGER: Did you read this letter. Ther real
24 concern was that I think the Board did want a good deal of
25 specificity and I did not want the document to go out and some-

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1 one on the Board say that it did not incorporate the words
2 that they had considered with such --

3 MR CRAMTON: Ms Bedell would like to comment.

4 MS BEDELL: It is very good of you to let me comment
5 and to let me be here. I want to say --

6 MR CRAMTON: Open to the public.

7 (Laughter.)

8 MS BEDELL: With my mouth shut I am welcome -- but
9 now you gave me a chance and I am going to take advantage of
10 this opportunity.

11 We weren't turned off by the materials, but that is
12 because of the outstanding staff we have in New York, we don't
13 get turned off easily. But we were puzzled, we wanted to win.
14 We have an exciting project, we think that it ought to be going
15 on further and we wanted to present it in such a way as to
16 have a chance and you know, I am a tennis player and when I
17 get on the court I want to know, I am supposed to stand in
18 this court and if my ball goes in well then I get 15 points
19 and if it doesn't go in I get love.

20 And I won't settle for love on behalf of Legal Ser-
21 vices in our project, which is a pioneer project for battered
22 women in the way that we have set it up.

23 And I want to know what interests you so that we do
24 not put you and the staff with our material and that is the
25 problem that I can see in the way that it was presented.

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1 That there is no way that we can know whether we
2 are giving you the material that can induce you to take an
3 interest and give us a chance at winning.

4 Now I want to say that I spend my own money and I
5 am a stingy Hungarian that doesn't spend their money, to come
6 down here, just to be able to get some light on this subject.

7 I asked to speak to Mr Ehrlich, I asked to speak to
8 Ms Sard and the answer always was, well, I cannot tell you
9 more and I wonder whether somebody on the Board would take up
10 the cause of telling me what I tell me staff, particularly
11 Jane Bloom, who has put in an application in a different con-
12 nection, is if you do so and so and such and such in this
13 aspect of the project, you have a chance to win.

14 And I thank you very much.

15 MR ORTIQUE: Well of course, we issued the criteria,
16 you saw that?

17 MS BEDELL: Yes, indeed I did.

18 MR ORTIQUE: And then you say that you followed that
19 up with a phone call and somebody said that they couldn't tell
20 you anymore?

21 MS BEDELL: Well, you know it's not very clear.

22 MR ORTIQUE: Have you raised specifically -- asked
23 somebody to give you an example of an innovative project that
24 we may have going on already in some part of the country?

25 MS BEDELL: I wasn't so smart as to ask that question,

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1 but that would be a good question. I hereby adopt it and I
2 am going to ask it.

3 (Laughter.)

4 MR ORTIQUE: It just seems to me that --

5 MS BEDELL: A little free legal advice, that is all
6 that I am asking.

7 MR ORTIQUE: I would just make sure that -- and they
8 may have told you that, but I am sure that somebody here will
9 tell you what they -- what we are looking for.

10 MS BEDELL: I can have that in writing.

11 MR BAMBERGER: Let me say that I will say what ob-
12 jectives we are looking for, but the purpose of this project
13 is to stimulate thinking from people in the programs and I
14 think that it would be counter to that effort, if we as the
15 Corporation began to say well, if you do a,b, and c, you will
16 get funding.

17 We set out the criteria -- the value judgments that
18 will be made, but I will not say to anybody if you send that
19 application in it will be funded and that is sometimes the
20 questions that we got.

21 MR ORTIQUE: No, Clint, I am sure that this lady
22 would not ask that, but item number 2 -- replicability and it
23 says, "Proposed activity should be adaptable to a range of
24 other communities." Maybe the lady doesn't know what that
25 means. Maybe she is confused on that point. It would seem to

1 me that somebody would be able to tell her what that means
2 and give her an example.

3 It would be counter-productive if we were to tell
4 you that if you comply with a,b,and c, because somebody will
5 quickly tell us, I have complied with a,b, and c and I still
6 didn't get any money and that of course --

7 MS BEDELL: Oh, we have out project, we don't need
8 ideals, we just need methods so that we should know that the
9 decision is not going to be made on a standard that we cannot
10 comprehend.

11 It is that old arbitrary business -- the zoning
12 board of appeals has to list certain standards by which they
13 come to a decisions -- Courts, in New York State anyway, have
14 to say well, we came to the decision on the basis of so and
15 so.

16 And that is not the Court telling me how to run my
17 case -- no Court can ever tell me how to do anything anyway
18 and I don't want that. What I want to know is what will make
19 their heads work.

20 MR ORTIQUE: Well, of course, if you ask me that
21 question in one context, I would have to say that it would be
22 counter-productive for us to tell you what would make their
23 heads turn. On the other hand, I think that if you asked
24 specific questions about the criteria, that I am sure that they
25 would be glad to answer that.

1 Because what will make their heads really spin, will
2 get you some money.

3 MR CRAMTON: One probelm on the question that I
4 think what we are addressing ourselves to is essentially the
5 criteria that are listed and the extent -- how meaningful they
6 are.

7 One of them for example, "evaluation" all it says
8 is "Adequacy of methods proposed by applicant to describe,
9 analyze and evaluate its activities." I assume that we are
10 not talking about social clients inquiries that what is called
11 for in terms of evaluation is going to be substantitally less
12 than we built into the Alternative Delivery Systems Study or
13 that the social scientists would want to build in to a program.

14 If it were built in many projects wouldn't be able
15 to build it and it would require so much of the funds going
16 into that effort.

17 MR BAMBERGER: Yes.

18 MR CRAMTON: Well, what does it mean then? It just
19 says evaluation.

20 MS SARD: The reason that it is stated so simply is
21 that adequacy is going to vary depending on what the project
22 is, what is adequate to evaluate one project may not be ade-
23 quate to evaluate.

24 Programs have of course asked that question and one
25 of the simple kinds of answers is that if you have a new in-

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1 take method. There are very simple ways, in terms of program
2 ordinary record keeping that you can tell whether that method
3 improves the efficiency of the in-take system or not or changes
4 the kinds of cases that it takes.

5 And you can easily tell if a leafletting on housing
6 problems in the community has changed the ratio of housing pro-
7 blmes that the program takes. That is simple, that is not a
8 dramatic social science measure. In a

9 In addition, we hope and we will have available to
10 programs during the refining of the contracts in May and June,
11 people with technical backgrounds will be able to help pro-
12 grams refine their evaluation methods, if the applicant has
13 had difficulty in designing them.

14 We are trying to find very simple ways to evaluate
15 things, but to still actually test whether something is making
16 a difference and we think that that is possible.

17 MR CRAMTON: Are you interested in particular subject
18 areas of programs? I gather that this lady is talking about
19 a particular subject area program as distinct from a -- and
20 does that fall within the --

21 MS SARD: Well, Mrs Bedell and I had corresponded
22 about that some time ago, and what I had to answer was --

23 MR CRAMTON: If it doesn't, I think the answer could
24 be --

25 MS SARD: The answer was that I gave her, to the best

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1 of my ability was that such a particular subject matter pro-
2 gram had not been contemplated within the intents of this pro-
3 gram, but she should be particularly careful in the section
4 on experimental grants to quality improvements so that she
5 could show how this was really and innovative delivery method
6 that it might have a chance to qualify.

7 That was the most honest answer I could give, based
8 on the background that we had from the Board.

9 MR CRAMTON: Mr Trudell.

10 MR TRUDELL: Two questions and a statement. I agree
11 with Clint in terms of looking for fresh ideas and innovative
12 approaches to doing different things that need to be done and
13 I think that any proposal writer can make a proposal fit a
14 particular list of criteria.

15 I have two questions in terms of -- has the advisory
16 committee been put together and how was it selected?

17 MR BAMBERGER: The advisory committee has not been
18 put together. It is in the proces of being chosen through
19 consultations with programs, clients councils and the region-
20 al offices and the organized Bar.

21 MR CRAMTON: Have you talked with the committee about
22 the membership on the advisory council?

23 MR BAMBERGER: No, but I will.

24 MR TRUDELL: The reason I asked, because I would
25 hate to see proposals funded when there is underlying motives

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1 in terms of shoring up some deficits or whatever because that
2 does occur pretty regular with a lot of programs.

3 MR ORTIQUE: Say that slow, Dick.

4 MR TRUDELL: What I am saying in terms of -- well,
5 the burden really rests with the committee or the advisory
6 committee in terms of making the selections that they make and
7 then the staff recommending them to the President.

8 If that committee were stacked, I am not saying that
9 it is going to be or will be, you could end up having some
10 proposals funded that that particular grantees need that money
11 to shore up a particular area of their program.

12 We all know what I have said about proposals -- you
13 can write a beautiful proposal to fit anything but there may
14 be some underlying motives for wanting that grant money.

15 MR CRAMTON: You are hearing from an experienced
16 grantsman. . . . grantsman.

(Laughter.)

17 MR ORTIQUE: That's why I asked him to repeat it.

18 MR EHRLICH: Grantsman.

19 MR CRAMTON: Grantsman, isn't that what I said?

20 MR ORTIQUE: No, you let a Freudian slip.

21 MR CRAMTON: Oh, I did? Please excuse me.

22 MR BROUGHTON: Mr Chairman, I have a question. First
23 I share the concern of my distinguished colleague as to the
24 wordiness -- is that it?

25 MR KUTAK: I never objected to verbosity.

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1 MR BROUGHTON: Well, it's out and the point of the
2 memorandum to the committee of February 12 and at the bottom
3 of the page where they stated -- and maybe this is already
4 been said, I ducked out for a moment-- "We anticipate approxi-
5 mately 300 applications".

6 Have you said how many have come in yet, or if any?

7 MR BAMBERGER: None, they are not due until the
8 17th of March.

9 MR BROUGHTON: Then you go to the question of re-
10 serving funds for administrative cost and the 10 per cent ear-
11 marked for research leaving approximately 3.2 -- now for dis-
12 tributing grants.

13 I am a little bit confused as to the math. We said
14 up here administrative costs are 200,000 a year. Now the 10
15 per cent of the research -- is that 10 per cent of the 4 mil-
16 lion dollars?

17 MR BAMBERGER: Yes. The Board did that at the last
18 meeting.

19 MR BROUGHTON: That's -- and then 200,000 that is for
20 the cost am I -- I seem to be missing 200,000 in here some-
21 where.

22 MR BAMBERGER: Okay, because I don't think that we
23 will spend more than 400,000 over the course of three instead
24 of the 600,000.

25 MR BROUGHTON: Now on the average total grant size

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1 over two and a half years of about 75 -- now has the committee
2 made any determination as to the size of the grant or is that
3 something that is to be analyzed by the committee and the committee
4 and the staff?

5 What I am trying to say is that are you pegging it?
6 Are we saying well, you ought to have at least 45 projects --
7 45 grants or 75,000 -- it seems to me that we could well have
8 a project that would have tremendous appeal and tremendous
9 potential that may exceed that.

10 MR ORTIQUE: I thought that these were merely sug-
11 gestions -- I didn't realize --

12 MR BAMBERGER: That's right.

13 MR BROUGHTON: That is what I wasn't clear as to
14 whether this was just speculative --

15 MR BAMBERGER: Quite speculative and I think it is
16 something that we should reserve judgment on until we see what
17 kinds of applications we get.

18 MR ORTIQUE: That's right, until we see some of
19 the applications, it would appear to me that --

20 MR BROUGHTON: -- this would be a judgment that would
21 bring to bear the best thinking of the committee and the ad-
22 visory committee that will be set up later, is that right?

23 MR BAMBERGER: Yes. We intend to have the committee
24 participate in meetings of the advisory committee and keep
25 them informed throughout the process.

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1 MR CRAMTON: One feature these descriptions of the
2 various proposals form or categories that I don't recall be-
3 fore and I wonder if you could -- if it has been considered
4 by the committee and is the dollar limitation on each of them.

5 MR BAMBERGER: They are as they were submitted to
6 the Board.

7 MR CRAMTON: They were in before?

8 MS SARD: They are the identical ones.

9 MR CRAMTON: I thought that they looked like they
10 were and yet somehow I never focused before on the dollar
11 limitations.

12 You want innovative and imaginative ideas and yet
13 some of the categories are restricted to 10,000 for this,
14 and 20,000 for Bar involvement and paralegal and up to 50,000
15 for others and how hard and fast is that? And does the com-
16 mittee have a clear idea as to whether those limitations are
17 well tuned to --

18 MR ORTIQUE: My understanding was that none of it
19 was hard and fast until we could see what we would get.

20 MR CRAMTON: And yet it says that grants up to a
21 maximum --essentially you won't consider it if it's over that
22 and falls in that category.

23 MR ORTIQUE: I didn't -- well, I as Chairman of the
24 committee did not understand that to be a fact because it
25 would seem to me that if we really, as you say, are looking for

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1 innovative proposals, that we don't want anyone to run wild
2 and I guess that was why that was suggested.

3 MR CRAMTON: It is more than a suggestion. It says
4 that, "... that annual grants of not more than 20,000 --" for
5 this paralegal one -- "... annual grants of not more than 20,000
6 for the Bar involvement" -- "50,000 on preventive legal educa-
7 tion"

8 They may be very sensible and it strikes me as ap-
9 propriate, but I hadn't focused on it earlier -- I should have.

10 MR BAMBERGER: Well, I was going to say that the one
11 sort of catch all doesn't have those kinds of limits in it and
12 of course there could be proposals that could combine more than
13 one of these elements.

14 I think that there is an advantage to having those
15 kinds of limits so that you can get some variety of proposals
16 we don't have much money, and if we are going to learn some-
17 thing I think we will learn more if we can do more kinds of
18 things.

19 MR TRUDELL: I think another reason for that is
20 that if the limit was too high, I think just the administra-
21 tive costs of just trying to sort through all of this and ad-
22 minister the grants is a real consideration.

23 MS SARD: One thing that has happened, that we really
24 didn't anticipate, which I have found very interesting is the
25 number of programs and client community groups and client pro-

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1 organizations that are proposing to submit as consortiums.
2 As group proposals.

3 And when they have asked the question, well, what
4 does that mean in terms of dollar amount, I have made the rea-
5 son judgment that they should be somewhat flexible when they
6 are thinking of doing a project that was much more major in
7 size than we had anticipated.

8 I think that is going to get us flexibility, crea-
9 tivity at less of an overall cost and I have been excited to
10 see that programs really are sharing their ideas.

11 MR CRAMTON: Is there further discussion on this?

12 MR BROUGHTON: I would like to ask the Chairman some-
13 thing?

14 MR ORTIQUE: I was just asked -- this is --

15 MR BROUGHTON: This is -- it is the solicitation
16 proposal the section titled "Funding" It is on the bottom of
17 the third page. And what I was asking the committee chairman
18 about was going over to the next page, which I think is page
19 4, where it says, "Organizations of the Private Bar expected
20 to match 50 per cent of the total cost of their proposed activ-
21 ity."

22 MR ORTIQUE: And the question, as it was relayed --
23 I thought when I read that, I thought that that meant one third
24 and the Corporation providing two thirds and as Mel says it
25 says to "... match 50 per cent" -- 50/50 and I thought that we

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1 had a carrot of an extra one third that they could feel, well
2 we put up one third and they will come up with two thirds, but
3 Mel --

4 MR BAMBERGER: I thought that the proposal, as ap-
5 proved by the Board talked about matching -- I took that to
6 mean a 50/50 --

7 MR ORTIQUE: As I just told Mel, I thought it was
8 one third, two third with --

9 MR BROUGHTON: Well the Board resolution spelled
10 that out. Clearly if it is as appears in here 50 per cent,
11 is that not going to have some effect on the private Bar in
12 submitting their proposals?

13 That is to say, well, we can't come up with that. B
14 But I didn't understand the resolution to spell out the --

15 MR EHRLICH: It said matching, was the phrase used,
16 as I recall and I must say that I understood it to mean mat-
17 ching on a 1 to 1 basis.

18 You will recall that some Board members thought that
19 there should be no inclusion of any such project for our group.
20 Others thought there should be quite a lot and the ultimate
21 resolution was yes, but matching.

22 MR BROUGHTON: Yes, but the Chairman was under the
23 impression that it was one third two thirds.

24 MR CRAMTON: I have no recollection about the match-
25 ing business at all.

1 I suggest the transcript if you want to get into that much
2 detail.

3 MR BROUGHTON: I think it does raise a significant
4 point. It seems clear from this language that a private Bar
5 group could bid in any area that is set forth. We'll have
6 to commit to state that it can --

7 MR BAMBERGER: No, I am sorry, I think that it re-
8 fers to proposals that come under the heading of the Involve-
9 ment of Private Lawyers. Now I don't know exactly what other
10 kind of proposal the private Bar might -- well, I suppose
11 that if a private Bar organization submitted a proposal to
12 prepare a manual, I don't think that the Board ever decided
13 that the matching provision applies to that.

14 MR CRAMTON: You are going to a particular page that
15 is entitled "Involement of Private Lawyers". There it just
16 talks about matching annual grants. It doesn't say dollar for
17 dollar but --

18 MR BAMBERGER: And there is nothing in the transcript.
19 I took the matching to mean dollar for dollar and wrote it
20 that way on the solicitation. And the solicitation was re-
21 viewed by the committee.

22 MR BROUGHTON: Now, does that -- "Solicitation for
23 proposal for Enrichment of Legal Services. 2) Legal Service
24 programs, client organizations, Bar associations and others
25 interested in the delivery of Legal Services to the poor."

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1 "Other organizations of the Private Bar". Now that would mean
2 a Bar association, wouldn't it?

3 MR BAMBERGER: Yes.

4 MR CRAMTON: But if they want to do some arrange-
5 ment in the "Innovative Contact Service Arrangement" and so on
6 or prepare a manual, that is not within the one page that
7 talks about involvement of private lawyers. That is the only
8 one that carries the matching grant requirements.

9 MR ORTIQUE: How do you come by that conclusion, when
10 this is all a part of the solicitation?

11 MR CRAMTON: Well, because that is a reference to
12 the one in which the private Bar is inevitably involved, in-
13 volvement of private lawyers and not ones in which they are
14 involved for a different purpose, like preparing a manual.

15 That is the way that I would read it, as a unit.

16 MR BROUGHTON: I would like to see some further
17 thought and analysis be given of this because I am still a
18 little confused about it and I --

19 MR BAMBERGER: I must admit that it does seem to
20 me to do the most with the little bit of money that we have,
21 I really would hope that the organizations of the Bar would
22 be able to carry some of the cost. And the specific project
23 here, I thought that the Board had approved a matching of a
24 dollar for dollar.

25 MR ORTIQUE: The Board approved that there would be

1 a match but I for one thought that we were saying some con-
2 tribution.

3 It wasn't until I actually read this that I see the
4 50 per cent -- well, when I saw the 50 per cent it meant 50
5 per cent of the total, which would be one third as opposed to
6 dollar for dollar.

7 MR BAMBERGER: I am sorry, I don't understand.

8 MR CRAMTON: Your mathematics is different than mine.

9 MR ORTIQUE: Well, if I am asked to put up 50 per
10 cent of an amount then I would feel that I am asked to put up
11 half of what the Corporation is going to put up. That's why
12 I thought the one third.

13 MR BAMBERGER: I see. Well, I thought matching
14 amounts without --

15 MR CRAMTON: Well, is there further discussion on
16 this? Before the solicitation went out it was approved by
17 the committee at an earlier point.

18 Now maybe this particular point slipped by, but --

19 MR KUTAK: But I think that we have guidance here,
20 if the solicitation, as you say comes in, that is not under
21 categories -- 12 pages of regulations, 95 pages of exhibits --

22 (Laughter)

23 MR KUTAK: And falls under something besides involve-
24 ment of private lawyers -- but really as you say, we now have
25 an amplification. If it comes in for one of the 11, we have

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1 MR CRAMTON: No matching grant provision, necessari-
2 ly --

3 MR KUTAK: That's right.

4 MR CRAMTON: Well, the committee has one other item,
5 I gather which is -- if you would like to finish tonight, be-
6 fore we adjourn and that is the Study of Needs of Poverty
7 Groups. Could we get to that Mr Chairman?

8 MR ORTIQUE: Well, if the Board doesn't want to
9 talk any further about these grants -- I want them to be
10 fully satisfied. I do want to say that I would urge that the
11 staff would notify the Board of all of the meetings, the ad-
12 visory committee meeting as well as the committee meetings, so
13 that if any member of the Board wishes to attend any of these
14 sessions, certainly they would be free to do so.

15 I understand that the staff contemplates holding
16 sessions -- I thought you ought to have explained that, that
17 you are going to hold sessions in various parts of the country
18 because you are going to break the advisory committee down in-
19 to several sections or subcommittees and then only at the end
20 will we get the benefit of total deliberations and that can
21 be a little tricky for Board members who might want to have
22 some observations with reference to what is going on in these
23 subcommittee sessions,

24 Because by that time, two thirds of the screening
25 process will have taken place.

1 MR BAMBERGER: We will notify the Board of all of
2 those sessions.

3 MR BROUGHTON: When this went out --

4 MR CRAMTON: January 16th.

5 MR BROUGHTON: The 16th is the memorandum to the
6 Bar groups and so forth and so on. Then you have -- that's the
7 16th and then you had January 26th, which is a -- the document
8 that my friend was concerned about -- what was the date that
9 it went out?

10 MR BAMBERGER: January 26th, 27th and 28th. Over
11 those three dates the solicitation was mailed to Legal Service
12 programs.

13 MR BROUGHTON: I see.

14 MS SARD: The notice to the Bar was mailed earlier
15 because they had to request the solicitation because we did
16 not want to send all of that paper to every Bar association in
17 the country and that gave them the advance notice, so that they
18 could set the solicitation at approximately the same time as
19 the Legal Services centers got it.

20 MR CRAMTON: Can we move to 1007 (h)?

21 MR ORTIQUE: I think that --

22 MR CRAMTON: Is Mr Houseman going to report on this
23 item?

24 MR ORTIQUE: Yes. Under the Amendment to our Act --
25 the Legal Services Corporation Act, Congress has directed us to

1 give to them a report and they say that we are to report on,
2 "Difficulties in Access to Legal Services and the special le-
3 gal problems of ..." and then they went ahead and listed the
4 categories and of course, we understand from the legislative
5 history that that was sort of troublesome because it sort of
6 spelled out some special interest groups and we think that the
7 emphasis is on the special legal problems in access by any
8 group or any identifiable segment of our population and not
9 particularly on those that were enumerated.

10 And it is with that view that we discussed this in
11 Committee last night and Clint is looking at this, working
12 with Alan and the Research Institute on Legal Assistance to
13 conduct and coordinate this study.

14 And whereas it may seem that it is a very difficult
15 one for us to complete by January 1, 1979, Alan has some
16 thoughts on this as to just how difficult we want to make it,
17 in terms of how much money we want to put into it and how much
18 time we want to put into it. Alan. (5:00 p.m.)

19 MR HOUSEMAN: The memorandum explains what we are
20 trying to do. Essentially there are two stages to the study
21 and the second stage will depend what happens in the first.
22 And maybe to use the words two stages is to make the study
23 appear to be more than it is. But the

24 But the first that I think is important to identify
25 all of the existing studies that have been done in the past,

1 either by the Corporation or others and evaluate them and
2 make a decision as to whether we need to go further with any
3 actual work on our own.

4 And the second stage would then be whatever we have
5 to do to fill in the gaps that may exist from the first stage.
6 What I contemplate is that by the middle of May we will have r
7 reviewed all of the studies and secondly learn from field
8 programs, to the extent that we don't already have that know-
9 ledge what they have done or what they are doing that deal
10 with the areas of the study.and

11 And on the basis of the knowledge that we have from
12 the field programs and on the existing studies, we will then
13 decide what further needs to be done and proceed.

14 It may be that nothing needs to be done, we can just
15 prepare a report and send it to the Congress and that's it.
16 It may be that other things will need to be done and if so,
17 we will proceed to do them.

18 I am not sure, because I have not looked at the
19 studies or evaluated the studies yet, nor have I fairly sur-
20 veyed the field programs to find out what they are doing.

21 It seems to me that the way to proceed is to first
22 find out the information and then make a decision about where
23 to move forward and that is the plan that we have outlined
24 here.

25 I don't contemplate this being a major undertaking at

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1 the moment. I will see what has already been done on it and
2 I want to emphasize that we are dealing both with legal prob-
3 lems of these groups as well as the access problems and I am
4 not sure that we have thought carefully enough yet, which is
5 why I want to look at studies and see what we are doing about
6 the access problems of these groups.

7 So, that is the phases that I contemplate going
8 through and I don't think that it is the most difficult pro-
9 ject in the world and I think that we will have no trouble in
10 completing it by January, if not before.

11 I would say one other thing, which I said last
12 night, if you were really going to do a study of special legal
13 needs, veterans, migrants, et cetera, you might have to do an
14 American Bar Foundation Study all over again and I don't think
15 that that is necessary, I don't think that it is what the Con-
16 gress wanted and it's too costly. And we don't contemplate do-
17 ing that. We plan something much less grandiose and I think
18 meet the needs of the Congress and without costing us a great
19 deal of money.

20 That is what the memorandum lays out that we are to
21 do and of course we will keep the Board and the Committee in-
22 formed throughout as to what we are doing.

23 It may be that there isn't much to be done, once we
24 examine what already exists. My own initial reaction would be
25 that there are some things that need to be done and that we

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1 do them.

2 MR ORTIQUE: Now you have got one problem that I
3 didn't note last night. And I should have, was that -- oh,
4 yes, that you will complete your first phase by April 1, which
5 would give --if you do run into a very serious problem then of
6 course the Board meeting in May we would be able to take that
7 up.

8 MR HOUSEMAN: Yes.

9 MR ORTIQUE: I thought I was satisfied last night,
10 and in looking at it this time, I say this May 31st and it
11 said to me, no you weren't satisfied, but now that I realize
12 April 1 --

13 MR CRAMTON: May 31 is after consultation with the
14 Board.

15 MR ORTIQUE: Any other questions from the Board?

16 (No response.)

17 MR ORTIQUE: Comments?

18 (No response.)

19 MR ORTIQUE: That's our report, Mr Chairman.

20 MR CRAMTON: That complete the report of the Commit-
21 tee on the Provision of Legal Services and that also completes
22 our business for today.

23 MR BROUGHTON: I would like to, before you close
24 the door on today -- I yield to Mary Ellen Hamilton.

25 MS HAMILTON: I would like to invite especially new

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1 Board members over to the Client's Council which is at 825
2 15th Street. And we would like to invite you over for a few
3 minutes -- the whole Board.

4 MR CRAMTON: Right now? essentially as soon as
5 people can get there?

6 MS HAMILTON: Yes.

7 MR CRAMTON: What was the address again?

8 VOICE FROM AUDIENCE: 825 15th Street.

9 MR CRAMTON: Well, with that very pleasant addition
10 to our agenda --

11 MR ORTIQUE: I just want to raise with this Board
12 and I don't know -- now that we are under the Sunshine Act,
13 I don't think that we can have an item on the agenda of Other
14 Business, really, but it has come to my attention and I am
15 sure to other Board members have mentioned that complaints are
16 being made out in the field about the Loan Forgiveness Pro-
17 gram -- the manner in which it is now coming out.

18 And I am very concerned about that. I have visited
19 several parts of the country and I would like to ask that the
20 Board be kept apprised by staff -- whoever is responsible for
21 that what is going on in terms of complaints from the field.

22 MR CRAMTON: My view is that that is really rele-
23 vant to this item on the agenda which is Report on Quality
24 and Incentive programs -- it uses investment income there too,
25 and it's --

1 MR ORTIQUE: I didn't know last night that that
2 was part of our agenda. That had been decided by the Board
3 and I thought that that was strictly a Board project.

4 MR CRAMTON: Whether or not it can or cannot come
5 in under Other Business -- we are not yet subject to the Sun-
6 shine Act provisions --

7 MR ORTIQUE: All right,,I just --

8 MR CRAMTON: We haven't yet complied with that and
9 it is sufficiently related but it is getting late, we have
10 gone since 9 o'clock or almost 9 o'clock and it is after five,
11 I think that we should take it up tomorrow along with other
12 budiness.

13 MR ORTIQUE: That's fine, I have no problem. I
14 would ask the Chairman that we be in position so that we can
15 start at 9 o'clock.

16 MR CRAMTON: We are going to start promptly at 9
17 o'clock and our usual practice is to start at 9:30 first day
18 and 9 o'clock the second day, as I recall because people are
19 here and they ought to be able to get up early the second day.
20 We will reconvene tomorrow morning at 9 a.m. In this room,
21 is that correct? Where is Ms Felter?

22 Thank you, see you tomorrow.

23 (Whereupon, the meeting adjourned at 5:15 p.m.)
24
25

