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Transcript of Proceedings

LEGAL SERVICES CORPORATION

MEETING OF THE
BOARD OF DIRECTORS

Washington, D. C.

Monday, 8 September 1975

ACE - FEDERAL REPORTERS, INC.

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Meeting of the
Board of Directors

Marvin Center
George Washington University
800 21st Street, N. W.
Washington, D. C.

Monday, 8 September 1975

The meeting was convened, pursuant to notice, at
12:15 p.m.

BEFORE:

- Roger C. Cramton, Chairman
- Marshall J. Breger, Member
- J. Melville Broughton, Member
- Marlow W. Cook, Member
- Revius O. Ortigue, Jr., Member
- Glee S. Smith, Jr., Member
- Glen C. Stophel, Member
- Samuel D. Thurman, Member
- Rodolfo Montejano, Member
- Louis F. Oberdorfer, Member

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bwm 1-1

P R O C E E D I N G S

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MR. CRAMTON: The third meeting of the Board of the Legal Services Coporation will come to order.

We are enjoying new quarters courtesy of the George Washington University.

The first item on the agenda, which as been made available to members of the Board and also to the members of the public, is the adoption of the proposed agenda.

MR. SMITH: I move.

MR. CRAMTON: Mr. Smith moves the adoption.

MR. MONTEJANO: Same.

MR. CRAMTON: All those in favor say Aye.

(Chorus of Ayes.)

MR. CRAMTON: Those opposed?

(No response.)

MR. CRAMTON: The proposed agenda is adopted.

MR. BREGER: Prior to the commencing of the agenda I would like to announce that the Committee on Regulations and Bylaws, which recessed at noon today, will reconvene at the offices of the Corporation at 1725 K Street 15 minutes after the termination of today's meeting of the full Board. That makes a difference from the information you were given this morning. We'll meet at the Board's offices rather than at the George Washington University.

Thank you, Mr. Chairman.

bwm 1-2

1 MR. CRAMTON: The second item on the agenda, which
2 has now been approved, is approval of the draft minutes of
3 August 4th and 5th, 1975, of the Board's, which has been cir-
4 culated to the members of the Board and made available to the
5 public.

6 I might add I have a number of minor grammatical,
7 and punctuation, and one typographical correction that I would
8 make. I think there are six or seven of them. They are all
9 matters of total insignificance in terms of the substance of
10 the minutes and I would propose merely to give them to Counsel
11 for his consideration and not discuss them.

12 Are there changes or admendments of the draft
13 minutes? The minutes are before you for your consideration.

14 Is there a motion to adopt them?

15 MR. COOK: I move they be adopted subject to slight
16 stylistic or technical changes, as stated by the Chairman.

17 MR. CRAMTON: Is there a second?

18 MR. ORTIGUE: Second.

19 MR. CRAMTON: Mr. Cook moved and Mr. Ortigue second-
20 ed the minutes. All those in favor of the adoption of the
21 proposed minutes please say Aye.

22 (Chorus of Ayes.)

23 MR. CRAMTON: All those opposed say No.

24 (No response.)

25 MR. CRAMTON: The minutes are adopted.

bwm 1-3

1 As a member said, the most important function of
2 the Board now is to have some lunch, and under the schedule we
3 intend to follow we will now recess for lunch, reconvening at
4 2:00 o'clock.

5 It has been suggested that the Board meet in execu-
6 tive session for a portion of the luncheon period in order to
7 discuss with Counsel its legal obligations, if any, toward
8 current OLS personnel and the union which represents those em-
9 ployees, and the selection of individuals as OLS employees.

10 In order to hold an executive session, temporary by-
11 laws require the ~~determination~~ of compelling interest and a two-
12 thirds vote.

13 What are your desires, gentlemen?

14 MR. STOPHEL: I move the executive session be held
15 approximately between 12:30 and 2:00 p.m. for the consideration
16 of matters you have outlined.

17 MR. SMITH: Second.

18 MR. CRAMTON: Is there discussion?

19 MR. ORTIGUE: If any action is taken during the
20 executive session, such action would be postponed until we come
21 back on the public record, as has been our usual practice.

22 MR. CRAMTON: I don't see any reason why not. That
23 has been our practice.

24 MR. ORTIGUE: With that understanding, I am ready to
25 vote.

bwm 1-4

1 MR. CRAMTON: All those in favor of the motion please
2 say Aye.

3 (Chorus of Ayes.)

4 MR. CRAMTON: Those opposed say No.

5 (No response.)

6 MR. CRAMTON: The motion is adopted.

7 We are now in recess until 2:00 o'clock.

8 (Whereupon, at 12:35 p.m., the meeting was recessed
9 for lunch, to reconvene at 2:00 p.m. the same day.)

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AFTERNOON SESSION

(2:30 p.m.)

MR. CRAMTON: The meeting will come to order.

Members of the Board had a pleasant luncheon, and during a portion of the luncheon we engaged in an executive session dealing with the subjects mentioned prior to our recess, i.e., to discuss with Counsel the Board's legal obligation, if any, to current OLS personnel and the union which represents those employees, and the selection of those individuals.

Mr. Roabert Oberdorfer has a brief statement on the report of our discussion.

MR. OBERDORFER: For reasons that will become apparent, as time and events develop, I am authorized and directed to say that the transition staff has an appointment with OLS employees, including representatives of their union, for Wednesday of this week and will, during the course of the day, try to advance the time of that appointment to an earlier time.

MR. CRAMTON: The next item on the agenda is the report by the Chairman of the Committee on Administration.

We have a number of items, Mr. Cook.

MR. COOK: Mr. Chairman, we met most of yesterday, and during the course of that, under Tab 3 in your book, you will find management report staffing recommendations. We went

bwm 1-6

1 over this at length, not to the extent probably we will before
2 it's in its final form. We set forth basically the operation
3 of management and staffing, and also our operating costs. As a
4 result of this, I would first like to present to the Board, out
5 of order, Resolution C, which you will find under Tab 1. I ask
6 that one change be made in that resolution, Mr. Chairman.

7 "RESOLVED, that the President of the Corporation, or in the
8 absence of a President, the Chairman of the Board or his designee is hereby
9 authorized to sign and execute, in the name of the Legal Services Corporation,
10 leasehold agreements at a reasonable rental cost for necessary office space
11 for the national headquarters fo the Legal Services Corporation in
12 Washington, D.C., and for necessary office space for the regional offices --"

13 If you would, please strike out the word, "ten."

14 "-- space for the regional offices of the Legal Services
15 Corporation, and to deliver said leaseholds for and in behalf of the Legal
16 Services Corporation; and

17 "RESOLVED FURTHER, that the Chairman or his designee is here-
18 by authorized and directed to do, or cause to be done, all such things as
19 such be necessary or appropriate, including without limitation the execution,
20 filing and delivery of necessary or appropriate documents in order to carry
21 out the authority conferred in Clause One of this resolution."

22 Mr. Chairman, I would move the adoption of that re-
23 solution with the change I just stated to you.

24 MR. CRAMTON: Before you so move, as I recall, the

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the committee made another change, which is not reflected in the draft, and that is the first line would read:

"Resolved, that the President of the Corporation, of if no President is in office, the Chairman of the Board or his designee."

MR. COOK: We discussed that yesterday, and that is correct, Mr. Chairman.

MR. CRAMTON: Does that correctly state --

MR. COOK: That is perfectly all right. I have no objections.

MR. CRAMTON: Is there a second?

MR. MONTEJANO: Second.

MR. CRAMTON: Discussion?

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1 MR. BROUGHTON: Mr. Chairman, it might be well
2 for those who were there at the committee meeting yester-
3 day -- there might be some further elaboration how we stand
4 overall as to the space.

5 MR. COOK: Let me, to the best of my ability,
6 explain, from my meeting, that Staff has advised us that
7 they have maintained or retained an agency for the purpose
8 of the recommending to the corporation various locations
9 in the Washington area. Obviously the very important
10 question was raised relative to the cost and relative to
11 budget items.

12 The figure was given in the original figures of
13 20,000 square feet of floor space. The figure was an
14 attachment just as a throw-out figure of \$6 a square
15 foot. Obviously they were trying to find a figure that did
16 not meet that. The question was rightly raised in general
17 discussion relative to the regional offices and adequate
18 space for regional offices. We felt under the circumstances
19 that we could well fit that into 20,000 square feet. If
20 we could not, there would be sufficient leeway, and we
21 also would have to discuss further with CSA the arrangements
22 that they had and the cost factors that they were carrying
23 on their books relative to the space that was available
24 throughout the country.

25 We did get the figure from a representative

fm2 1 there, from CSA, that they were carrying a total figure
2 of \$130,000 in their space. So we felt that this was not
3 too much out of line. The transition staff said they would
4 bring that uptodate for us. Obviously, we put no figures
5 in here and we have intentionally included the regional
6 offices so we can have a firm ultimate figure of our space
7 and our cost figures not only for this budget, whatever it
8 may be, but certainly for any additional funds that we may
9 ask this year, and certainly we can have a good hold on it
10 for future presentation of budgetary matters.

11 It was also discussed to find areas outside of the
12 so-called downtown corps area, where the cost per square
13 foot may be just slightly less than the figure we had
14 picked out.

15 Does that pretty well --

16 MR. BROUGHTON: It does.

17 Maybe a member of the staff has something to add.

18 MR. COOK. If anyone has anything to add to that,
19 I would be delighted.

20 MR. OBERDORGER: There are nine or ten locations --
21 and the management decided it would be local space for
22 Washington space area of 60,000 or 70,000, instead of
23 120,000 for Washington headquarters space, and the balance
24 of the appropriation for space to be rented either privately
25 or from the Government in the regions.

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2 MR. COOK: However, we were advised by GSA,
3 in regard to Washington, that there was no space available
4 here.

5 MR. CRAMTON: Is there further discussion on the
6 pending motion?

7 (No response.)

8 MR. CARMTON: Are you ready for the question?

9 The vote is on Mr. Cook's motion, seconded by
10 Mr. Montejano, dealing with authorization of the President,
11 or the President's Office, of the Chairman of the
12 Corporation or his designee, to make appropriate arrangements
13 of allocation of space.

14 All those in favore please say "aye."

15 (Chorus of ayes.)

16 MR. CRAMTON: Those opposed, say no.

17 (No response.)

18 MR. CRAMTON: The motion is adopted.

19 MR. COOK: The other resolution I will represent
20 deals wit the remarks by Mr. Oberdorfer just a moment ago.
21 We discuss this matter of the necessity for the higher
22 procedure and to that extent I present to the Board
23 the following resolution:

24 "Resolved, that the Board of Directors of the
25 Legal Services Corpotation heregy authorizes Louis F.
Oberdorfer, Counsel to the Corporation, or his designee,

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1 to take actions necessary to employ personnel requiree
2 to operate the Corporation for the period beginning October
3 14, 1975, to the extent authorized by law and permitted by
4 budget authority provided that the total number of employees
5 does not exceed 90 at any time prior to January 1, 1976."

6 May I start over?

7 "Resolved, that the Board of Directors of the
8 Legal Services Corporation hereby authorizes Louis F.
9 Oberdorfer, Counsel to the Corporation, or his designee,
10 to take actions necessary to employ personnel required to
11 operate the Corporation for the period beginning October
12 14, 1975 to the extent authorized by law and permitted by
13 budget authority provided that the total number of employees
14 does not exceed 90 at any time prior to January 1, 1976."

15 I move the adoption of that resolution.

16 MR. MONTEJANO: Seconded.

17 MR. CRAMTON: Is there discussion?

18 (No response.)

19 MR. BROUGHTON: About a total of 90, you
20 again are going beyond that which would be the staff in the
21 Washington office.

22 MR. OBERDORFER: Yes. That is 90 for the
23 entire.

24 MR. COOK: That is correct.

25 MR. OBERDORFER: An it is an outside figure.

fm5

1 MR. STOPHEL: It is comparable to the 53 operating
2 agencies there.

3 MR. OBERDORFER: Comparable with the 53 in a
4 sense plus the transition which has taken on corporate
5 functions and functions that are now not performed by the 54,
6 but by other agencies or other parts of Government such as the
7 Community Services Administration, the General Services
8 Administration.

9 MR. ORTIGUE: That does take in the regional
10 offices?

11 MR. OBERDORFER: Yes, sir.

12 MR. CRAMTON: Total complements of the corporation.
13 An outside figure for the immediate future.

14 MR. COOK: I think this ought to be made clear
15 because you have got a sceptical look on your face.

16 Remember we are still operating until we know
17 what our budget will be. We are still operating at an
18 administration figure of \$2.3 million. This can vary if we get
19 our new budget. If we are successful in getting it, we
20 then move to \$2.8 million, I believe the figure is.

21 MR. THURMAN: That was the figure.

22 MR. COOK: So within that confine we have come
23 up with a figure which, as you analyze the management report
24 and staffing recommendations, we have tried to be rather
25 cautious. Figuring 90 people at a total limited cost of

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1 \$1,565,000 with a 25 percent fringe purely and simply because
2 of the original inception of just exactly what we are going
3 to do and what direction moves you to \$1,957,000.

4 We are feeling our way and the fact we have
5 got the 90 figure in, as we move ahead, it can be changed
6 by the board at any time.

7 MR. ORTIGUE: My concern is headquarters staff
8 is gearing up. We have people at CSA, who are concerned,
9 and we have got at least -- I know that we have got at least
10 one region that does not have what we could consider a
11 real regional staff. They have been operating for two
12 years now with a make-do; board people.

13 MR. COOK: I think you will find sufficient latitude
14 in here to resolve that problem.

15 MR. CRAMTON: Is there further discussion?

16 MR. BROUGHTON: What region is that?

17 MR. ORTIGUE: Dallas.

18 MR. SMITH: If our experience concerning this is
19 correct, we can always amend this resolution.

20 MR. COOK: I think there is latitude within this
21 framework because we are sitting now with far less than
22 90 people.

23 MR. SMITH: I feel that way too. But I also
24 feel we will have make several changes.

25 MR. CRAMTON: We will have several meetings

fm7 1 prior to the end of the year.

2 Is there further discussion?

3 (No response.)

4 MR. CRAMTON: You are ready for the question?

5 All those in favor of the resolution say "aye."

6 (Chorus of ayes.)

7 MR. CRAMTON: Those opposed, say no.

8 (No response.)

9 MR. CRAMTON: The motion is adopted.

10 MR. CRAMTON: Does that complete the report of
11 the committee on administration?

12 MR. COOK: That is it.

13 MR. CRAMTON: Thank you very much.

14 We now come to the report by the chairman of the
15 committee on appropriation and audit. That is Mr. Stophel
16 on my right.

17 MR. STOPHEL: Our duties primarily involve
18 getting organized in the financial system and the controls
19 area. If you'll refer to tab 5 of your material, you'll find
20 outlined the selection process that was going through by
21 the staff, and this morning in its meeting by the
22 committee in the selection of a certified public accounting
23 firm to develop an accounting system and financial
24 controls system.

25 This is an internal system and does not relate

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1 directly to employment of an outside auditor, which we
2 are required by legislation to do. That will be later.

3 Selection of the firm to develop our system, our
4 accounting system, is not tied directly to employing that
5 firm as an auditor subsequently when it comes time for financial
6 cial audit.

7 You'll notice that proposals were requested of
8 certain firms which are listed for you. Eleven companies
9 submitted written responses. The attachment also includes some-
10 thing of a breakdown of those firms and the basis of
11 their submissions. The interim staff -- and I will ask
12 someone, perhaps Bob Shea will speak in a moment to the
13 criteria. But basically the proposal was for the the
14 establishment on a prompt basis of a system for accounting
15 for the funds that we will be charged with, and for also
16 establishing basic control mechanisms for grantees to
17 follow.

18 The estimated prices set forth are basically
19 computations by our interim staff because no firm submitted
20 a lump sum price saying this will be the maximum you will
21 be charged. It is basically an estimate of the number of
22 hours required, broken down among partner, managers, senior staff,
23 junior accountants, and so forth. The selection process was
24 narrowed down to four persons: Wolf Company; Price Water-
25 house and Company; Ernst and Ernest; and S. D. Leidesdorf

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1 and Company. The company has recommended that we adopt
2 Resolution E in Tab 1, which contains a selection of the
3 accounting firms to develop this, and I'll present the re-
4 solution through its adoption, and then we'll permit any
5 staff member who wants to comment on the selection process to
6 do so.

7 That resolution is as follows:

8 "RESOLVED, that the Board of Directors hereby
9 retains at a rate or fee to be set by the Chairman or his
10 designee, the firm of Price Waterhouse & Company, Certified
11 Public Accountants, to develop the books of account for the Legal
12 Services Corporation; to advise the Corporation as to necessary
13 financial reporting requirements; to develop, in consultation
14 with the General Accounting Office, a system of financial
15 controls for the Corporation; to recommend assignment of
16 responsibilities to appropriate elements of the accounting
17 and finance organizational structure of the Corporation;
18 to develop systems for the processing of transactions in-
19 volving the receipt and disbursement of funds by the
20 Corporation, and to tender such other accounting advice
21 and service to the Corporation as may be necessary or ap-
22 propriate."

23 MR. CHAIRMAN, I move the adoption of this
24 resolution.

25 MR. CRAMTON: Is there a second?

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MR. ORTIQUE: Seconded.

MR. CRAMTON: Discussion.

MR. OBERDORGER: I would ask that the record show I did not participate in the staff consideration or recommendations that resulted in this resolution.

MR. CRAMTON: The record will so show.

Do you wish to call on Mr. Shea?

MR. STOPHEL: Does any board member care to discuss with Mr. Shea the criteria used or any other information that does not appear in the attachments?

MRA. BROUGHTON: I'd like to have a brief discussion.

MR. SHEA: The procedure we followed on this process was to issue an invitation to bid to certain accounting firms that would appear to have the competence to carry out this task.

We received eleven bids and we went through the process of evaluating those bids.

Now, the evaluation process was carried out by Mr. Robert Jenkins of our transition staff, who is from the Consumer Products Safety Commission, and I'd like Bob to relate the criteria against which these bids were evaluated.

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1 MR. CRAMTON: Mr. Jenkins.

2 MR. JENKINS: The evaluation took place in two
3 parts: a technical evaluation and one on price. The tech-
4 nical evaluation considered the understanding of the problem,
5 the approach to resolving the problem, and the experience
6 of the company, and qualifications of the team members.

7 The price was merely a comparison of the rates
8 and estimated number of man-hours proposed to be used by the
9 companies. The four companies that Mr. Stophel mentioned
10 were narrowed down.

11 Two of the companies did not give an estimate
12 proposal of implementing the system in such a manner that you
13 could determine a price. Those two companies were Ernst and
14 Ernst and S.D. Leidesdorf & Company.

15 Wolf & Company and Price Waterhouse and Company
16 were the two remaining companies. There was a difference in
17 price between the two. There was a difference because one
18 company proposed to implement the system and one did not.

19 We are, in effect, recommending the company that
20 proposed to implement the system for us. One did not. The
21 price is comparatively similar.

22 On Attachment 2 there is a list of various prices.

23 MR. CRAMTON: We might add that the Committee
24 and the Corporation have taken the position that as a quasi-
25 public corporation, we go out of the way to invite bids and

1 opportunities for the services which the Corporation needs,
2 such as the accounting services -- I am sure at some point,
3 legal services and the like -- and we plan to provide an
4 example to private and public employers, competitive arrange-
5 ments and opportunities for a wide range of people to bid for
6 the business of the Corporation.

7 MR. STOPHEL: We were somewhat concerned about
8 some of the proposals because, obviously, in order to get
9 a range of estimates from \$4,200 to \$91,250 causes one to
10 believe that perhaps there is miscomprehension, to say the
11 least.

12 It seems to us that in looking at the proposals
13 by these companies that designing and implementing a system
14 should take somewhere in the range of 500 hours. Wolf
15 estimated 520 hours. Price Waterhouse, 400-600 hours.

16 We feel this is probably in the range we are
17 looking at in designing and implementing this plan. We feel
18 that we have selected a firm that can get on the job and do
19 it for us within the time period we are talking about, and
20 also within the price range that we feel is reasonable.

21 MR. CRAMTON: Is there further discussion on this
22 item?

23 (No response.)

24 MR. CRAMTON: If not, are you ready for the
25 question?

1 All those in favor of the motion, say "Aye."

2 (Chorus of ayes.)

3 MR. CRAMTON: All those opposed, say "No."

4 (No response.)

5 MR. CRAMTON: The motion is adopted.

6 MR. STOPHEL: The selection of a comptroller has
7 been deferred until later. For this position we have had 532
8 applications for the position, and that would be narrowed
9 by our interim staff, and our Committee will later have a
10 recommendation.

11 We feel that, hopefully, we may have a president
12 on board who will assist in the selection of this important
13 official as part of our corporate staff. We may come back
14 to it tomorrow. We may move that to the agenda tomorrow.

15 I would also report to you on the status of our
16 fiscal year of the 1976 budget request. The Chairman has
17 been in close contact with our situation here along with our
18 fellow director, Mr. Cook.

19 The Senate has adopted the appropriations bill that
20 includes the total \$96.466 budget request which we submitted.
21 The House has not yet appointed his conferees to meet.

22 As you are aware, the original House submission
23 by the Administration, or the submission was for \$71.5
24 million. There has been correspondence from OMB indicating
25 that they are satisfied with that figure, and yet we feel that

1 there is justification for the \$96 million-figure that was
2 submitted.

3 We hope to be able to make contacts with the
4 House Appropriations Committee members that will educate
5 them to the need, and hopesully that from this conference
6 committee that will be established, we will be successful
7 in obtaining an increase in that figure from the House.

8 Mr. Chairman, you have any other comments on that
9 aspect of our status? Or Senator Cook?

10 MR. CRAMTON: Mr. Cook.

11 MR. COOK: Mr. Chairman, as you are familiar, we
12 were a very, very small part of a large appropriations bill
13 which passed the Senate 61-18 with 21 not voting. The remarks
14 that have been made are totally accurate.

15 The House has not yet appointed a conference com-
16 mittee. The Senate conference committee is composed of
17 Senators Pastore, McClellan, Mansfield, Hollings, Magnuson,
18 Eagleton, Johnston, Huddleston, Sparkman, Hruska, Fong,
19 Brooke, Hatfield, Stevens, and Young. Obviously, no date
20 has yet been set.

21 For those in attendance today who wish to be
22 familiar with the basic discussion relative to legal services,
23 I would only say that they can find it in their copy of the
24 Congressional Record for September the 3rd, starting on
25 page 15177.

1 MR. STOPHEL: Tab 8.

2 MR. COOK: We will obviously wait for the selection
3 of the House conferees, and then I suspect we'll be back to
4 all board members in relation to all procedures from there
5 on in so that you can be right up to date.

6 As you well know, the Board had not been formally
7 approved by the Senate. It had never met, therefore, the
8 House took no action as a separate budgetary item for legal
9 services. We were able to meet with the Subcommittee on
10 Appropriations in the Senate to present our budget, which
11 we do, which was at a figure of \$96.8 million.

12 We were able to sustain a figure in the passage
13 of the budget in the Senate.

14 Therefore, the item that goes to conference
15 between the Senate and the House is \$96.8 million and zero.
16 \$96.8 representing the Senate. Nothing representing the
17 House.

18 So, therefore, we feel that the equation, very
19 frankly, is the equation of between \$71-1/2 million and
20 \$96.8 million. I think I am stating that correctly, and
21 obviously it is up to us to do the best job we can to maintain
22 the figure we justified to the Senate Appropriations
23 Committee, the full Committee, and the Senate itself.

24 MR. CRAMTON: It is possible that some of the
25 people here in this room are interested in the legal services

1 program and might help in this educational effort on which
2 you spoke.

3 MR. COOK: It is kind of lobbying by default, but
4 I agree. We are going to have to sustain our position as far
5 as the House conferees are concerned. Certainly
6 Senator Pastore made it plain in the selection of a conference
7 committee, and he requested unanimous consent that the Senate
8 not recede from its position in regard to these items.

9 In the Senate, obviously, we are in a position
10 for individual members of the Senate to take up that matter
11 when the conference ultimately comes back to the Senate as
12 a whole.

13 MR. CRAMTON: Any questions, or further discussion?

14 (No response.)

15 MR. CRAMTON: If not, we are ready for the next
16 item, Mr. Stophel, which is the priority consideration of
17 possible future funding of Section 221 projects.

18 MR. COOK: Mr. Chairman, may I make one other point
19 clear?

20 For those who feel because we had authorization
21 of \$100 million and submitted a budget of \$96.8 million, we
22 felt at the time -- and the Chairman was absolutely correct
23 in the manner in which he handled the matter, and the manner
24 in which he testified before the Subcommittee -- that this was
25 a budget we could justify at that time, but he made it very

1 crystal clear to the Subcommittee, and it was made clear in
2 the remarks on the floor of the Senate, that it was the re-
3 quest of the Chairman that the Legal Services Corporation
4 would be back for a supplemental appropriation.

5 This fall or winter, once we got our hands on this
6 thing, and we could make a good evaluation on it.

7 I thought it would be important to put that into
8 the record at this time, the fact that you make that abso-
9 lutely clear at the time we appeared.

10 MR. CRAMPTON: That is the next item. I misspoke.
11 That is the next item for discussion.

12 I think Mr. Stophel has a resolution he wants to
13 present.

14 MR. STOPHEL: It is our opinion that we need to
15 proceed in sections for the supplemental appropriation during
16 this fiscal year despite the fact we do not know what our
17 appropriation will be. We feel there are items that were not
18 included in your first submission which need to be considered
19 and submitted as a supplemental appropriation.

20 The resolution which I will pose, will not include
21 amounts, but put our staff on the job of proceeding with
22 this. Such things as the alternative delivery system,
23 evaluation study, which is a mandate in our legislation, we
24 need to begin that study in this fiscal year because it is a
25 two-year study. We feel that in this fiscal year we probably

1 should budget a million dollars for that.

2 The administration section of our budget was
3 reduced, as you will recall, and we are suggesting adding
4 half a million dollars to that.

5 Another matter is that which involves what I
6 call the CAP programs. The local ~~insensitive~~ ^{INCENTIVE} funds that are
7 not a part of printed budget, we feel we need to provide for
8 those in the event they are placed under our jurisdiction.
9 We think it is an evaluation of existing programs which need
10 to be done and are suggesting \$700,000 for that.

11 In short, the resolution that I'd like to propose
12 is Resolution F-1 which has been handed to you.

13 "Resolved, that the interim staff is directed to
14 prepare a budget justification for a supplemental appropria-
15 tion request for fiscal year 1976 for consideration by the
16 Committee on Appropriations and Audit and the Board on
17 October 2-3, 1975.

18 "FURTHER RESOLVED, that the interim staff develop
19 preliminary budget materials for fiscal year 1977 for trans-
20 mission to the Office of Management and Budget in mid-
21 September and for consideration by the Committee on Appropria-
22 tions and Audit and the Board on October 2-3, 1975. The staff
23 submission to OMB state the material has not been considered
24 or approved by the Board."

25 Before moving the adoption of this resolution, let

1 me explain further that in the timetable of submissions to
2 OMB, we need to get materials over there as quickly as possi-
3 ble, and we are shooting for a target date of September 18 for
4 a staff level submission for the 1977 fiscal year.

5 You know the President's budget is formally sub-
6 mitted in January, and OMB needs to comment on our proposals
7 under the limits. So we need to get our materials over
8 there, and we feel that the staff should go ahead and start
9 preparing those materials so we don't get down to the same
10 level of time that we had our last submission where we adopted
11 the budget two days before it was submitted without much
12 justification and had to make up a justification in the next
13 two days as best we could in getting it ready.

14 We feel this gives enough lead time to get material
15 materials ready, and we'll discuss the amounts and philosophy
16 after the resolution is proposed.

17 I move the adoption of resolution F-1.

18 MR. THURMAN: Second the motion.

19 MR. CRAMTON: You heard the motion. Is there a
20 discussion?

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1 MR. ORTIGUE: I would suggest it doesn't have
2 to be in the resolution, but I would urge that the staff
3 would invite persons, organizations that are most familiar
4 with this type of situation and have a peculiar interest
5 in what we are doing, to submit to the staff their suggestions
6 particularly with reference to that 1977 budget.

7 I think that there are organizations that can be
8 very helpful in putting that together, and those should be
9 welcome by the staff.

10 I would hasten to add the time restraints that you
11 are operating under, and would urge those groups that would
12 like to have some input into the staff budget that you
13 would do so almost immediately, because they have got to
14 have time to look at what you submit to them and incorporate
15 them into their ideas.

16 I think that some of you who have been in this
17 can be very, very helpful to us.

18 MR. OBERDORFER: Mr. Ortigue, I am happy to be
19 able to report that we have already received at least one
20 paper from people who have been working with NLDA. Mr. Flug
21 has been in the office conferring with us about his matter.

22 We have the continuing and valuable advice and
23 assistance of Mr. Corbett and the corporation itself in
24 dealing with this thing.

25 The transition staff has retained as a consultant

1 Mr. Lyle Fisher, who is an experienced departmental budget
2 officer who helped us to do this on a crash basis,
3 recognizing that we are again in the process of just having
4 to make do.

5 MR. THURMAN: Are we prejudiced at all in
6 submitting to OMB this '77 budget?

7 MR. STOPHEL: I think so. We need to begin the
8 process, Mr. Thurman, and this will be on a staff level. It
9 will be talking in terms of what could feasibly be used by
10 this corporation in doing the job that everyone, from the
11 amounts that have been suggested, recognizes present
12 appropriations which will not accomplish if we plan to move
13 forward with legal services.

14 So that in order to get on the timetable, so to
15 speak, rather than waiting until after our meeting on
16 October 2 when we would meet and consider this kind of
17 material anyway, we feel this preliminary meeting should be
18 held.

19 Such materials are coming into Mr. Corbett's office
20 now and will be submitted to our own staff relative to the
21 regional people as to what is feasible, what could be put
22 into effect during the next fiscal year if we were to begin
23 developing and expanding programs in areas where there are
24 no present legal services programs.

25 In our committee meeting, for example, there was

1 a discussion of two cities in the south which are of particular
2 interest: Mobile, Alabama, and St. Petersburg, Florida.

3 St. Petersburg -- I don't believe there is a
4 program present. In Mobile there is a one-man law office
5 doing the work.

6 There are areas where there are no offices. We
7 estimate how much would a program in those areas cost, and
8 we would put those in as a preliminary figure. That would be
9 submitted that way.

10 MR. ORTIGUE: May I add to those comments.

11 I think it is very important for everybody to
12 understand, and I think it is particularly important that we
13 Board members keep in mind that in making a submission to
14 OMB we are doing that for their information and edification,
15 and not for their approval or disapproval as far as we are
16 concerned.

17 We want to make it clear that we do not feel that
18 they have a right to do anything about our budget except
19 their function under appropriate legislation, which is with
20 reference to the Executive and not to this corporation.

21 Admittedly they may have the right to say to the
22 President of the United States, "This is inflationary," or
23 "This is more money than you hope to spend, Mr. President."
24 But we want them to have it clearly understood that OMB does
25 not have the right to tell us that this is more than you

1 ought to be doing. It is for their information.

2 The language of the legislation merely says that
3 they would have the opportunity.

4 I think nothing in this legislation prevents the
5 Office of Management and Budget from performing what it is
6 supposed to perform.

7 We discussed this principle this morning when one
8 of the comments from the audience was we have got to remember
9 that the corporation is not an arm of the Executive such
10 as the old legal services program was an arm of the Office
11 of the President.

12 In all that we undertake we have got to make sure
13 that everybody understands that relationship.

14 It would appear, therefore, that there is little --
15 at least for my point of view -- there is little danger with
16 our making that submission. The greatest danger is that we
17 make a submission that does not have sufficient detail to
18 educate the administration as to the needs of this corporation.

19 That is why I would feel a great danger.

20 MR. THURMAN: I am wondering if there is a practical
21 difference in what you are pointing out, what used to be
22 done under OEO and what is done now.

23 Does it have a great impact on OMB?

24 MR. ORTIGUE: I would hope so. I would certainly
25 hope so. Thus far it has not.

1 MR. COOK: In reality, I think your phrase is
2 well taken. I think, if I may, Mr. Chairman, we now face
3 the situation of not only addressing ourselves to the
4 financial committee and the appropriations committee, but
5 we now find ourselves in a position -- I am quite sure in our
6 organizational setup we will be dealing with a joint budget
7 committee of the House and Senate along with the appropriations
8 committee and the financial committee.

9 So all those things, as a practical matter, out
10 there we have to honestly consider them and consider their
11 input.

12 MR. STOPHEL: I think in the discussion of the
13 resolution it would be well to let the staff have your thinking
14 in terms of what is a realistic proposal.

15 One of the comments suggested to the committee was
16 that we go in with what you consider the bottom line, and what
17 you can really run the program with for the next fiscal year.
18 That might be the top market as far as somebody over there
19 is concerned.

20 On the other hand, there are very serious thoughts
21 that as a responsible Board we need to be realistic and not
22 attempt to add or otherwise put in exorbitant amounts simply
23 because we think they will be cut, but rather to be able to
24 justify a submission to the Congressional appropriations
25 mechanism.

1 MR. CRAMTON: The Committee was influenced by
2 several factors, Mr. Thurman. One is that we have not yet
3 had a president, but we may have one in the near future. It
4 may be desirable if he or she had some input in terms of the
5 fiscal '77 budget request.

6 The second one is that although we are not required
7 to submit material to the Office of Management and Budget, the
8 long-term relationships with OMB and the Congressional
9 committees are going to be enhanced if we are cooperative and
10 supply information and attempt to persuade the Office of
11 Management and Budget and the administration and the power to
12 fully support our request.

13 The normal schedule for the submission of
14 preliminary budget information by federal agencies is by
15 September 12. We have been given to September 17 or 18,
16 but really we have to submit something before we have an
17 opportunity to pass on it in detail.

18 We thought there might be a certain advantage in
19 having a staff submission with the opportunity for the Board
20 to consider it at a subsequent point.

21 MR. THURMAN: We will get a copy of that, then,
22 before our October 2 and 3 meeting.

23 MR. CRAMTON: That is right.

24 MR. STOPHEL: You will have an opportunity to
25 discuss it at that time.

1 MR. BROUGHTON: Does this resolution call for --

2 MR. STOPHEL: It says mid-September: 17th or 18th.

3 MR. CRAMTON: Is there further discussion?

4 MR. BREGER: Would the supplemental be up that time
5 as well, or would that be held over until our October 2 and 3
6 meetings?

7 MR. STOPHEL: I think our feeling is the
8 supplemental request would be held and would not be submitted
9 in draft form.

10 MR. CRAMTON: The view was quite strongly expressed
11 this morning that the corporation should not be in the position
12 of making a budget request of the Congress without having
13 had formal Board action on that proposal.

14 We would consider an act on a specific budget
15 justification at the October 2 or 3 meeting, and then
16 subsequently make the request to the Congress.

17 I hope that when we do so, we will have the
18 opportunity to act with the knowledge as to what we receive
19 in the main appropriations bill and hope it will be 96.466
20 million or something very, very close to it.

21 MR. BROUGHTON: When is it likely that this
22 current matter will be decided? They are back in session
23 now.

24 MR. COOK: Well, with the full knowledge of the
25 advice I am about to give you is exactly what it is worth.

1 My experience would tell you that I haven't the faintest
2 idea.

3 (Laughter.)

4 MR. COOK: The reason for that, it is too large
5 an appropriations bill. As you well know, it includes
6 State, Justice, Commerce. There are too many issues involved
7 that many of us have been reading about in the paper, that
8 have nothing to do with our very small inclusion into that
9 morass of budget requests, and it will be very difficult to
10 estimate.

11 MR. CRAMTON: There may be members of the public
12 who are here who have some views on what some of the items
13 are, or the appropriate level of the fiscal 1977 funds request
14 on behalf of the corporation.

15 I think these members of the staff and Board might
16 be interested in the brief expression of some views if there
17 are any.

18 Do I have unanimous consent to hear from Mr. Miller?

19 Would you identify yourself for the Reporter?

20 MR. MILLER: I am D. Miller from the midsection
21 legal services in New Jersey.

22 I just wanted to make a brief reference to one
23 of the working papers already submitted to the staff as done
24 by EAG funding committee which has an upper level of, I think,
25 \$270 million or \$280 million, something like that.

1 It gets to that level in a very logical or
2 systematic way as a series of building blocks. I am sure
3 you have not had the opportunity to read that as yet, but
4 in terms of our initial input, we hope you would like to
5 look at that document.

6 The committee stands ready to help you in every
7 way we can.

8 MR. CRAMTON: The staff received this document
9 several days ago and it was distributed to members of the
10 appropriations committee this morning. We have also received
11 helpful information from the legal services administration
12 and I expect we will be getting other materials in from
13 the NALD and other organizations.

14 MR. MC CLASKY: I am from Chicago Legal Services.

15 Am I speaking timely on this memorandum submitted
16 this morning for the estimated and administrative costs in
17 your budget submission here?

18 MR. STOPHEL: That simply represents that your
19 expenditure falls within the amount submitted. That is
20 not part of the supplemental discussion for the '77 fiscal
21 year.

22 MR. CRAMTON: I might add to that, that part of
23 the main appropriations test was the candid statement that
24 we did not know what the administrative cost of the corporation
25 would be for the four years, 1976, which we are now in, and

1 if we discover they exceeded the \$2.3 million which we
2 expect would be appropriated, we would include an additional
3 item in the supplemental for that.

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1 MR. MC CLUSKEY: There seems to be something in-
2 consistent with the resolution that Senator Cook submitted that
3 was approved. On Page 34 of the Administration Committee's
4 report, the bottom of Page 34, it says "Total, 90 percent,
5 \$1,565,000 plus 25 percent fringe benefits, or a total of
6 \$1,957,375."

7 In this estimate that was submitted this morning to the
8 Appropriations Committee, this figure was reduced to \$1 million.
9 In the first draft and second draft it reflects more conserva-
10 tive assumptions. I think about an average level of compensa-
11 tion and also fringe benefits. 20 percent of salary rather
12 than 25 percent of salary.

13 All of that indicates our continuing uncertainty
14 as to what the administrative cost of the Corporation will be
15 in the current fiscal year. We really don't know, except in
16 some kind of ballpark general estimate kind of way.

17 Is that a correct statement?

18 MR. OBERDORFER: Yes. These figures have been a
19 red herring. We are not trying to pin any long-term efforts
20 on the basis of these figures. This is an effort to deal with
21 the staffing requirements and other plans at a time when we are
22 caught between the existing continuing resolution and the hope,
23 expectation, but not reality, of an increased budget for '76.

24 I am sure that what developed in confusion yesterday
25 is our fault, but we are not trying to pin ourselves or anybody

bwm 2

1 else down with these particular estimates.

2 MR. CRAMTON: George Berns from San Francisco.

3 MR. BERNS: A number of papers were submitted to
4 the national legal services, and I think those papers have
5 all been well done. I think the Corporation for fiscal '77,
6 only by dispensing some portion of that intelligently, and at
7 least in the first submission, should not limit itself by con-
8 siderations that increasing is much too large.

9 MR. CRAMTON: Mr. Flug.

10 MR. FLUG: James Flug, NALDA.

11 Following up on what George said, I do think it is
12 important to remember in its original presentation the Board
13 presented a budget in which it told the Congress it would not
14 be able to provide for any expansion of services. This budget
15 was basically a bare minimum necessary to make up for lost
16 time. You were going to identify new needs. Some of them are
17 sitting on the desk of people like George Berns right now, where
18 potential programs are sitting, waiting to be performed if the
19 resources are there. Some of them need expansion for existing
20 programs in the new areas, or even allowing existing programs
21 to take care of the areas they are supposed to take care of, but
22 cannot possibly take care of all.

23 You are operating on a very minimum level. Even
24 if you get it, I think it would be possible to come up with a
25 good estimate of what can be done in the next fiscal year. I

bwm 3

1 think you would be able to look back on OLS in its years, and
2 you have the benefit of ten years of experience.

3 It will be possible to get an awful lot of money out
4 in an effective, useful, efficient, and well-controlled way,
5 and you should not be afraid of a percentage increase. It is
6 your first time around. I think you are entitled to ask for
7 a percentage increase that is a very substantial increase, and
8 you should not be afraid of it.

9 MR. CRAMTON: Flo Roisman, R-o-i-s-m-a-n.

10 MS. ROISMAN: I hope the Board has been bearing in
11 mind what has been said and hope the Board members know how
12 the programs operate just barely.

13 I hope the Board will also remember something of
14 under nine percent of the entire legal service goes to the
15 rural areas. They have been noticeably disserved in the past,
16 and they have a strong claim to an increase of the fund the
17 Corporation will be spending.

18 MR. CRAMTON: Are we ready for the next item?

19 MR. STOPHEL: I think you have a motion on the
20 floor to be adopted.

21 MR. CRAMTON: Resolution F-1 has been moved and
22 seconded. Is there further discussion?

23 (No response.)

24 MR. CRAMTON: Those in favor say Aye.

25 (Chorus of Ayes.)

bwm 4

MR. CRAMTON: Those opposed say No.

(No response.)

MR. CRAMTON: The motion is adopted.

MR. STOPHEL: The next item covered by the Committee on Appropriations and Audit is dealt with in the Congressional Record that Senator Cook discussed briefly in a series of conferences between the interim staff and members of the Senate.

If you will refer to the second page under Tab 8 in your materials, the last such conference had to do with the Section 221-funded programs. Basically, local initiative funding going through capital grants are now being devoted to legal services. Senator Hatfield and Senator Magnuson were concerned about these funds and what would happen to them with the Legal Services Corporation being in the picture.

In the third column of that page of the Congressional Record is duplicated a letter of Mr. Oberdorfer to Senator Hatfield, in which he says:

"Dear Senator Hatfield: Mr. Evans of your staff inquires further about the statement in my earlier letter that 'this matter will be given a high priority by the staff and the Board of Directors.'

"By that I meant to indicate that the Corporation will undertake to review the Section 221 programs before considering and acting upon any new programs which are not now

bwm 5

operational.

"I trust that this fully responds to your earlier inquiries."

As you are aware, none of our commissions included expansion of offices in our new programs. The suggestion of the committee is that our supplemental request for this year will probably not include expansion of services for the simple reason we don't believe we will have the capability of making adequate determination of awarding grants by the end of the fiscal year that we could move into new services with all the other things we have to do.

However, we feel we should support the commitment here to review the Section 221 program. This says we will evaluate those programs before moving into other new areas that are not now operational, and so we have a resolution to that effect. It's Resolution G in your packet, and I will read that resolution.

"RESOLVED, that the Board of Directors of the Legal Services Corporation hereby directs the staff of the Corporation to give high priority to an evaluation of existing legal services programs which are funded by local Community Action Agencies pursuant to Section 221 of the Community Services Act of 1974; and

"RESOLVED FURTHER, that legal services programs so funded will be reviewed before the Corporation considers and

bwm 6

1 acts upon any new programs which are not now operational."

2 Mr. Chairman, I move the adoption of this resolution.

3 MR. CRAMTON: You have heard the motion and --

4 MR. ORTIGUE: Second.

5 MR. CRAMTON: You have heard the motion, and it has
6 been seconded.

7 MR. BREGER: I take it this motion is suggesting
8 that these programs will get a priority to the allocation of
9 any new funds.

10 MR. STOPHEL: It doesn't say that. It says we will
11 evaluate them before moving to evaluating proposals from other
12 nonoperational programs.

13 MR. THURMAN: That's about all we can say now.

14 MR. ORTIGUE: If at a future time we do the evalua-
15 tion, we determine that these people are doing a good job, I
16 think inherent in this motion these programs will be continued.
17 I think that is the way the Senator reads the assurances from
18 the staff.

19 MR. CRAMTON: It doesn't say that.

20 MR. ORTIQUE: It doesn't make any sense. As I read
21 his concern, he is saying, "Look, I don't want these programs,
22 221, in my state. Others have worked well. I want some as-
23 surance from you that you are not going to fund new programs
24 without taking a look at these programs that have worked well."

25 MR. OBERDORFER: Okay.

bwm 7

Erased Bond

1 MR. COOK: I think I would add something else to
2 that, and that is we all stand in jeopardy of those existing
3 programs being funded by other agencies, of being left out on
4 a limb because of the establishment of this corporation, and to
5 that extent we can't merely say in the future as we evaluate.
6 I think there is going to be a degree of urgency in that
7 evaluation.

8 Obviously we stand in a position that these programs
9 that are funded from other agencies are evaluated in light of
10 the creation of the Legal Services Corporation. Those agencies
11 are going to find a definite timetable to say this is the end
12 of the road.

13 Therefore, I believe there is a real urgency in that
14 analysis you made so that we can be prepared to act at the time
15 that other agencies notify us that their period of funding has
16 come to an end.

17 MR. ORTIQUE: I think that all of this points up
18 the need for this Board to say to the Congress quite frankly,
19 "You created this situation, and you have got these various
20 programs out there, and you have got constituencies that are
21 depending upon these various programs. You come to the aid
22 of this Board with appropriate appropriations for the purpose
23 of carrying out our mandate."

24 I think that is what we have got to be always in
25 a position to say.



Erased Bond

bwm 8

1 MR. MONTEJANO: I am still confused. Is it inherent
2 in the motion that the 221 Program will take priority or re-
3 newed progrmas?

4 MR. STOPHEL: It is not inherent in our proposal
5 that it will take priority in allocation of funds.

6 MR. CRAMTON: Is there further discussion?

7 (No response.)

8 MR. CRAMTON: All those in favor say Aye.

9 (Chorus of Ayes.)

10 MR. CRAMTON: Those opposed?

11 (No response.)

12 MR. CRAMTON: The motion is adopted.

13 Does that complete the items on the Committee on
14 Appropriations and Audit?

15 MR. STOPHEL: It completes the matters taken for me.
16 Tab 9 has a current packet of transition figures
17 which does --

18 MR. CRAMTON: We may return to the Comptroller item
19 tomorrow.

20 MR. STOPHEL: Tomorrow.

21 MR. CRAMTON: I think this would be an appropriate
22 time for a stretch and a coffee break. I notice some equipment
23 has appeared.

24 MR. BROUGHTON: I so move.

25 MR. CRAMTON: We will take a five-minute recess.

(Recess.)

bwm 6-1

1 MR. CRAMTON: The meeting will come to order.

2 The next item on the agenda is the report of the
3 Presidential Search Committee. I call on its chairman,
4 Mr. Thurman.

5 Ladies and gentlemen, will you please resume your
6 seats and be quiet.

7 MR. THURMAN: I guess we had a little of the wind
8 taken out of our sails when we learned there are 532 applicants
9 for the position of Comptroller and 200 nominees for President.

10 There are several items that from time to time have
11 been announced as matters that would not be -- that would not
12 be taken up only in executive session. The matters of public
13 session, certainly the publicity that has been given out, we
14 wanted all publicity, for the formal publicity to end as of
15 September 1, and I suppose it has.

16 I think we have had a pretty good interest on that.
17 We didn't get in the Wall Street Journal and the New York
18 Times, but we have notices in the American Bar Journal and
19 various other publications. I am sure most of you have seen
20 many of these.

21 Several of us had the opportunity in Montreal, in
22 connection with the Bar meeting, the section of General Prac-
23 tice, the section of Legal Education, and many individuals have
24 been contacted by several of us, particularly those of us on
25 the committee and by our chairman.

bwm 6-2

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As a consequence, we have had, as I say, approximately 200 either applications or nominations, and we have had both. The list is available, and I think that perhaps a good many of you have the list -- alphabetical list -- of these approximately 200 names, bearing in mind that many of these are nominations, they are not individuals who have applied.

Many of these individuals do not know that their names are on that list, and this is a list from which we start. If you do not have that alphabetized list, it is available at the office, and you can get that at any time, although I must state to you it is a daily changing list, a daily growing list.

The credentials -- this is something we would certainly like your input on. Let me read briefly a resolution that we would like to take up tomorrow. We would like you to think about it if you haven't had a chance up until this time, and overnight think about it, and we will discuss this tomorrow at a public session.

We have got seven criteria here, and these are not necessarily in order, although I am sure we have got something. Number 1 is good character. Number 2 is good reputation. And that good reputation is among the public; certainly the Bar, the Bar organized and nonorganized; the client community; the various project groups; the Congress; there would be other constituencies.

bwm 6-3

1 Number 3, a commitment to equal legal services for
2 the poor. Now, this can obviously be demonstrated in quite a
3 variety of ways.

4 Number 4, this person must be a good administrator,
5 and we have ticked off a few of the items under a good admini-
6 strator that we think would be important: ability to organize.
7 I think it is obviously terribly important, leadership ability.
8 Ability to work with the Board. Ability to delegate and at-
9 tract good subordinates. Ability to deal with the special
10 problems that legal services programs are faced with.

11 These are just a few: High staff turnover. We hope
12 to cut that down. Recruitment of minorities; hostility from
13 various areas; inexperienced attorneys; high case load; low
14 salaries; various kinds of confrontations.

15 Next, we think that the administrator, this Presi-
16 dent, ought to be innovative, a man of good judgment; a woman
17 of good judgment; public presence; and ability to speak as well
18 as ability to write; and generally intelligent.

19 (Laughter.)

20 We can debate any of these if you like.

21 (Laughter.)

22 Number 5, we have got national visibility. We feel
23 this is rather important. We have some good names suggested.
24 If we come up with the name of a person who does have national
25 visibility, it will be helpful in many parts of the program.

bwm 6-4

1 We talk about commitment, what kind of experience.
2 Obviously one kind of experience is that of legal services
3 programs. Experience in practice, practice with government,
4 practice of a civic nature, political and various kinds of
5 miscellaneous practice.

6 Finally, the various kinds of recommendations. If
7 you have deletions to suggest and/or additions to it, or modi-
8 fications, we would be happy to get them. I think probably we
9 will wait until tomorrow morning on that. That's on the matter
10 of criteria.

11 MR. CRAMTON: Are you going to make those available?

12 MR. THURMAN: We have only a few copies.

13 MR. COOK: I would request that the office produce
14 more so that they will be available and anyone can pick them
15 up. I would suspect most of the people here today would be
16 here tomorrow, and if it would be feasible for the office to
17 prepare more copies so that sufficient copies will be available
18 tomorrow -- would that be all right?

19 MR. ORTIQUE: Yes.

20 MR. THURMAN: The next matter we would like some
21 comments on is our procedures that you think we should go
22 through in reducing this list of 200 down to 1.

23 We met in executive session at O'Hare Airport two
24 weeks ago. We have met this morning. We will be meeting to-
25 night. This is what we have accomplished so far. We have

1 many letters of recommendation as well as applications and
2 resumes. We have many letters that recommended a dozen or so.
3 We have a letter from the PAG group that recommends some 30
4 names. And we have letters from many of you in this room
5 recommending other people, sometimes with complete resumes,
6 other times quite incomplete.

7 We have gone over this with great care. The staff
8 has been invaluable in its assistance in going through the
9 Whos's Who, Martindale-Hubbell, the Law Teachers Directory,
10 and any other sources that we can get to tell us more about
11 these people.

12 I have interviewed and talked with a great number
13 of people about their comments and reaction to them.

14 This morning we had in our executive session repre-
15 sentatives from four groups who had this list of 200 and had
16 given us their reaction to a good many of these. In many in-
17 stnaces not one of us in the room would have heard of a par-
18 ticular applicant or nominee. In many cases one or more of us
19 knew something and quite often a good deal about them.

20 A good many letters have been sent out asking in-
21 dividuals, "Are you interested? Your name has been suggested.
22 If you are interested, please give us resumees, references."

23 We have submitted to the Board numerous names. Out
24 of 200 there are some 50 or 60 that have been eliminated on
25 one basis or another. Sometimes it is a compliment to be

bwm 6-6

1 eliminated. We think the person is just unavailable -- would
2 be awfully good, but if we have assurances that person is un-
3 available, we tend to eliminate them. That is not true in all
4 cases.

5 We have operated on the principle this is a terribly
6 important job. This is a great opportunity for the legal pro-
7 fession, and if we come up with one individual who may not be
8 tempted right now but is the one we select, we will get a dele-
9 gate to go to that person as soon as possible and twist his or
10 her arm.

11 We have sent out letters to the references that are
12 given by individuals. Again, I say some are eliminated be-
13 cause of insufficient stature or experience, insufficient age,
14 or too much age, and others because we think they would be
15 clearly unavailable.

16 Now, on the procedures, I thought we had a very
17 valuable session this morning in which we got some input both
18 pros and cons, and some information we would not have gotten
19 in a public meeting. It bore out the necessity of not having
20 an open discussion of all these 200 individuals in an open
21 meeting.

22 We did get comments on some of these, some pluses
23 and some minuses, which will be very valuable in the delibera-
24 tions.

25 We are going to have another executive session this

bwm 6-7

1 evening on this matter of personnel, and tomorrow we will have
2 another open session which will discuss the criteria and any-
3 thing else within the guidelines here.

4 I am open to suggestions.

5 MR. CRAMTON: Did you identify the four individuals
6 with whom the committee met this morning?

7 MR. THURMAN: I did not. The four individuals with
8 whom representatives of the PAG group met are Thorne Cravens,
9 NBA, Charles Howard. We invited Bill McCalpin of the American
10 Bar Association, but a problem developed and he was not able to
11 come. Bernie Veney was there from the Clients Council.

12 MR. CRAMTON: Mr. Thurman, are you proposing that
13 the Board discuss anything further in connection with the
14 presidential search at this time, or are you suggesting or
15 inviting comments from members of the public?

16 MR. THURMAN: If members of the Board have a comment
17 to make with reference to the procedure on which they would
18 like some member of the public to comment, this would be a
19 good time to bring it up.

20 MR. BROUGHTON: As I understand it, on the list of
21 names that have come in, many people have been proposed. Prior
22 consent has not been obtained.

23 MR. THURMAN: A list of 200. A good many of those
24 will be very surprised to find their names there, but we have,
25 in a great many instances rather seriously considering people,

bwm 6-8

1 but we think probably this person won't be interested, but the
2 person is good enough so we would like to have him.

3 MR. BROUGHTON: You have been pleased with the re-
4 sponse?

5 MR. THURMAN: We are quite gratified. We have some
6 outstanding names here. Some of those with us here this morn-
7 ing share that feeling.

8 MR. BROUGHTON: Mr. Chairman, I would say if we have
9 time, some comments from the audience at this time might be of
10 benefit to the committee and the entire Board.

11 MR. CRAMTON: We do want to get to the next item on
12 the agenda, but I think five or ten minutes on this subject are
13 appropriate.

14 Are there comments on the presidential search or
15 what you have heard or know about it, or what you think the
16 Board ought to know about it?

17 Mr. Cravens.

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1 MR. CRAVENS: I would like to raise on behalf of
2 the project advisors some points that were brought forth in
3 my letter to Mr. Thurman as the participation.

4 I agree, I feel that it was a very valuable op-
5 portunity for a representative of the project directors to
6 give some impressions as to particular individuals on
7 the list, and it seems from this morning's session it would
8 be something, as I pointed out in my letter, and as we
9 discussed as project directors a week or so ago, continuing
10 involvement of project directors and clients and representa-
11 tives of the Bar Association in this sort of deliberation
12 and reduction. It is an interesting process.

13 I think that all members of the Committee and
14 the Board are sort of groping for ways to reduce a fairly
15 large number of people who, as Mr. Thurman pointed out,
16 many of us and some times all of us, don't know at all
17 that list of 200. I think that in my going through the
18 list, I either knew or heard of only 75 people.

19 The method of reducing that, and the manner of
20 getting at this, is a fairly good thing, and in some dis-
21 cussion I would certainly like to hear on the continuing
22 participation of representatives in both public and private
23 sessions.

24 MR. CRAMTON: You have been asked a question,
25 Mr. Thurman. What plan does the Committee have?

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1 MR. THURMAN: You mean I am to ask the question,
2 or I am to give an answer?

3 (Laughter.)

4 MR. THURMAN: Tentatively, I would suppose,
5 you could say we would be interviewing some of the final
6 lists. That may be. I don't know. This is a matter I
7 want to raise with the Board. I also would like to raise
8 it with the group here because this is still bearing on
9 procedure.

10 This is not getting into picking out names and
11 making comments on them. This is a matter of procedure,
12 and I would like your advice on this.

13 MR. CRAVENS: What I had in mind, and certainly
14 what was discussed by the project directors, and what was
15 the basis of my letter and request now, or at least the
16 request for discussion on this, is the process by which
17 you reach the final lists, and in particular, the question
18 that I am raising is the ability to identify some of these
19 other people and to identify people who are serious candi-
20 dates and have been eliminated, how that list is reduced
21 and participation of --

22 MR. THURMAN: These are the criteria we have been
23 using.

24 (Indicating document.)

25 MR. COOK: Sam, may I just say I say, Mr. Craven,

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1 if you knew 75 out of 200, I think that speaks tremendously
2 well for the kind of recommendations that have been made
3 to you. You said you only knew 75 out of 200. I think
4 that is amazing. What I am saying: recommendations have
5 been made. If you knew that many, and I have no idea whether
6 you made any recommendations when you met with the Committee
7 this morning, but if you made a substantial number of recom-
8 mendations out of that particular group, even those you knew,
9 I think this speaks tremendously well for the kind of recom-
10 mendations that have been made to the Committee to begin
11 with.

12 MR. BROUGHTON: Does that include the group
13 that you sent?

14 MR. CRAVENS: One of those I didn't know.

15 (Laughter.)

16 MR. CRAVENS: I am saying I have known or heard of some
17 of these. That is the point. The capacity to bring more
18 perspective, and more experience, and more knowledge, and
19 more contacts to the winnowing down process, is what I am
20 seeking some plan on or some prospectus on.

21 MR. THURMAN: As you recall, this morning we
22 went down the 200 and gave an opportunity to each of the
23 representatives to comment with reference to any one of these
24 you did know, and I think we came up with ratings on a third
25 of those on the list, maybe today.

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1 MR. CRAVENS: I agree this morning's session
2 was extremely valuable , not only from your point of view,
3 but from the point of view of the Committee.

4 It is my concern now, which I am seeking some
5 Board consideration on, of the process from this point on in
6 identifying the serious candidates and then the capacity
7 for those representative groups to comment because it is
8 still a process of investigation.

9 There are some 125 people, some of whom may be
10 serious candidates and some of whom may not be.

11 MR. THURMAN: Say you had six in the room today
12 and no one of the six knew or heard of a certain candidate.
13 We may very well be overlooking a nugget or two. It begins
14 to be difficult. We can't run FBI checks on all 200 of them.

15 If you have some concrete suggestions, I will be
16 grateful. This problem has not been presented to the Board
17 yet.

18 MS. ROISMAN: What about sending a letter to each
19 of these 200 people and asking that person if he would allow
20 his or her name to be considered and submit biographical
21 information, and asking that person to submit a statement.
22 Send a copy of criteria and ask the person to state why he
23 or she satisfies the criteria. Ask for references and ask if
24 the person has any objection to his or her status being
25 made public and comments invited from the public generally.

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1 MR. THURMAN: On well over half of these we have
2 pretty good biographical information, and based on this
3 biographical information -- let me give you a typical
4 example. There is a solo practitioner who got to practicing
5 law. We have not seen anything in the resume to indicate
6 they have any special interest or commitment to the Legal
7 Services to the Poor. This kind of person we pretty much
8 dismiss. We have this background on well over half of these.
9 Letters have gone out. The staff has sent out letters to
10 many others. We have no indication of their interest, but
11 only that they have been nominated.

12 These kinds of letters have gone out. We send
13 out different kinds of letters, depending on the individual
14 involved.

15 MR. SMITH: I want to respond further to Ms.
16 Roisman on that point. What Mr. Thurman said is absolutely
17 correct. As far as we have gone, in many instances, and I
18 don't know what percentage, but a great many of the 200
19 we have written letters asking for exactly what Ms. Roisman
20 suggested.

21 There was a great number where we thought we
22 needed additional information.

23 You are suggesting we write to the 200 and ask
24 are they interested. I think you would agree, if you look

25

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1 at the list, if we ask them in the very beginning, "Are
2 you willing to have your name considered," their first re-
3 action would be no, they have a lot of commitments they
4 could not give up to take up this responsibility.

5 Our evaluation is, it would be a mistake to
6 ask first, would they be interested. There are some people
7 we feel it would be important we should develop and decide
8 rather than ask them. We may have to go to them and con-
9 vince them.

10 I don't think you can put them all in one cate-
11 gory and say: Are you interested?

12 MR. THURMAN: You recall what came up at the other
13 end of town a month ago. I was a little uncertain of making
14 public the list of all those nominated or who had applied.
15 I finally agreed this was a pretty good idea.

16 You have them here today, and the rest of you
17 can get them. We are making it very clear we hope these
18 are individuals, many of whom have been nominated, who don't
19 know about it and have not applied, so there is no embar-
20 assment. We don't write and ask, "Can we distribute your
21 name?"

22 MS. ROISMAN: My concern would be the other
23 thing. So and so won't be possibly interested, take his
24 name off the list, when in fact he might be interested.

25 I would like to ask how that list is to be made

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1 public other than by distribution. I don't know if it is
2 available at this meeting. I don't know if it will be
3 available tomorrow. Has any arrangement been made to make
4 it available?

5 VOICE: It is available.

6 MR. SMITH: The decision was made it would be
7 available on request.

8 MR. CRAMTON: Come to the Leval Service Corpora-
9 tion office, and give us a little note and you will get it.
10 We didn't want to publish it in the Federal Register.

11 MS. ROISMAN: Why not?

12 MR. THURMAN: We made that decision. We are
13 not prepared to re-examine that. You see any advantage?

14 MS. ROISMAN: It seems to me making it avail-
15 able only to people who request in writing serves only --
16 I would not have known, but for this discussion that it
17 was available on if requested in writing.

18 I think you ought at least announce that in the
19 Federal Register that the list is available in writing.

20 MR. CRAMTON: Have we completed this topic?
21 We have another item on the agenda.

22 MR. BREGER: That is a useful idea, announcing
23 that it is available. It satisfies one concern, and
24 there may be others who share that concern.

25 MR. THURMAN: I see no objection to that.

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MR. SMITH: Before we leave this subject, our Chairman talked about this resolution. It wasn't the intent that we move the resolution.

MR. CRAMTON: We wanted to have it lay over tonight and considered tomorrow.

MR. THURMAN: That is right.

MR. CRAMTON: And so it is not for action now, but merely for dissemination and consideration. We invite reaction and comments by members of the Board and members of the public.

MR. SMITH: I thought he was going to make the motion today.

MR. CRAMTON: It doesn't make any difference.

MR. THURMAN: If you read the Federal Register, Larry, you will find in it that in the next few days if you go to the Legal Services office you get a copy.

MR. CRAMTON: The next item on the agenda is the report by the transition staff on the orderly continuation of support center activities. I would like to turn to our able counsel, Mr. Oberdorfer, to make this report.

MR. OBERDORFER: Mr. Chairman, members of the Board, the transition staff was requested at the August 4th meeting to make a study and to return a report to the Board recommending the position the corporation should take with respect to the decision announced by the Community Services

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1 Administration letter of July 23, 1975, to the Chairman of
2 the Board to fund all grantees and back up centers through
3 March 31, 1976.

4 The resolution directed us to discuss alterna-
5 tives available to the Board in implementing section 1006(a)
6 (3) of the Act, if it became necessary to do so on or before
7 March 31, 1976.

8 In accordance with that resolution, the transi-
9 tion staff has undertaken, albeit limited, but considerable
10 studies and activities on this subject.

11 In order to lay a predicate for a recommendation,
12 we invited the attention, consideration and advice of three
13 experienced practicing lawyers whose experience we thought
14 was unique in each having in common a responsibility and
15 proven success in the management and conduct of litigation
16 in which it was necessary to provide the lawyer on the line
17 with assistance beyond his own individual means.

18 We involved in that discussion Carl Eardley
19 who has 37 years of experience, primarily in the civil
20 division of the Department of Justice, where his responsi-
21 bility was essentially to relate to and to provide legal
22 cooperation to U.S. attorneys and younger civil division
23 lawyers, directly involved in important and complicated
24 fast moving litigation.

25 Carl Eardley, after spending those years in the

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1 civil division, let, having become deputy assistant
2 attorney general when William Ruckelshaus became involved
3 in other responsibilities in the government, and was with
4 him in all of those area.

5 When Ruckelshaus left the government, Carl
6 Eardley became his partner in the private practice. Carl,
7 together with my partner, Jim Robertson, who is the very ef-
8 fective counsel for General Motors Corporation in many
9 matters and was before that the director of the Lawyers
10 Committee for Civil Rights under Law, and before that at
11 the other of the stick, the man on the line in the Mississippi
12 office of the Lawer Committee, who participated in this
13 report.

14 Since neither of these gentlemen had direct
15 experience with the Legal Services program, we added this
16 group Kent Morrison, who was once an employee of O.L.S.,
17 now in private practice, himself now unavailable for the
18 moment because he is engaged in heavy litigation, to make
19 a report.

20 These gentlemen are so busy litigating, and
21 not having subpoena power, I could only produce one of
22 them today.

23 It is my privilege to produce Carl Eardley.

24 MR. EARDLEY: Mr. Chairman, members of the
25 Committee, and friends of the poor, I have been asked to

barb11 1 boil my 37 years practice of law down to four minutes. I am
2 a lawyer, and therefore I mumble around and I can't speak
3 extemporaneously for four minutes. So for the first time
4 in my 37 years, I am going to, because I have ot.

5 I I am going to read my comments because they will
6 add up to four minutes. I am going to take about the need
7 for specialized services and I am going to say at the outset
8 I don't see how this could be a controversial subject, and
9 therefore, it does not deserve four minutes.

10 There are roughly 2,000 lawyers employed in
11 the field, to provide free legal services for the poor.
12 For the most part, these lawyers are recent graduates of law
13 schools who have never prepared a complaint or entered an
14 appearance. Their experience in the practical application
15 of abstract legal principles may begin with their work for
16 the Corporation.

17 But But even assuming that they were more experienced
18 perhaps comparable to the assistant U.S. attorneys, the need
19 for legal assistance would still be there. Indeed, the
20 Corporation lawyer needs a lot more help because he doesn't
21 have the FBI to dig up the evidence and to interview the
22 prospective witnesses. The spade work he has to do himself,
23 meaning that with a large case load, perhaps numbering into
24 hundreds, he can't spend weeks in a library researching the
25 law. If he does, the productivity grinds to a halt.

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1 Furthermore, and I think this is rather im-
2 portant, a great many of the Corporation lawyers work in small
3 towns or rural areas where they do not have access to the
4 Congressional Record to many reports, CCH Services, even
5 Modern Federal Practices, or they don't have access to the
6 decisions of other state courts.

7 Hence, if they are going to do a decent job,
8 they must have recourse to outside help.

9 The average lawyer in the field will be called
10 on to handle cases involving welfare, discrimination in
11 housing, and employment, consumer fraud, contracts, divorces,
12 evictions, minimum wage, veterans' rights, and a great many
13 other items.

14 A great many cases will depend on the proper
15 interpretation and application of extremely complex federal
16 statutes. This young man is expected to be an expert in this
17 field. Can the attorneys in any one field master the law
18 in all these fields? The answer, of course, is unequivocally
19 no.

20 I could be suggested that in a field office
21 of some size each lawyer undertakes to handle only cases in
22 one area, such as evictions or divorces. I can state in my
23 long experience in working with young lawyers in the United
24 States Attorney's Office and in my own office, that this
25 will not work. The young lawyer takes a poor paying job for

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1 one reason outside of interest in the information, and that
2 is for experience. They will resist compartmentalization
3 and will leave if it is forced on them.

4 U.S. attorneys, who are often career employees,
5 are nevertheless constantly receiving assistance from the
6 Department of Justice in all fields.

7 In the division in which I labored for about 30
8 years, we gave help to the U.S. attorneys in contract
9 awards to the Admiralty, Social Security, fraud, et cetera,
10 having a special session for each one of these areas.

11 This had several advantages. One, it enabled
12 the United States attorneys to handle a larger case load.

13 Two, it produced far better handling of the cases
14 with beneficial results to the clients in this case, the
15 United States of America.

16 Three, it helped prevent U.S. attorneys from
17 taking contradictory positions, especially where the cases
18 were of first impressions, such as those involving in-
19 terpreation of a new statute.

20 As an example of the very useful work that a
21 back-up center can accomplish, I secured from a friend of
22 mind a manual prepared in the city of New York for the
23 assistance of attorneys who are handling Title 7 litigation,
24 which involve employment discrimination under the Civil Rights
25 Act. It is a magnificent job, and will be very useful to all

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1 of the lawyers who are involved in this very big field
2 throughout the country.

3 I also managed to get hold of a proposed com-
4 plaint, interrogatories and other papers which were prepared
5 to their assistance, and I can say from my own experience
6 this is the kind of help that we gave to the United States
7 attorneys when they called in and said, "We have got to get
8 to court in so many days; we have never had a case like this.
9 What can you do for us?"

10 In closing, I am going to make one suggestion,
11 and that is the people who were working and I am convinced --
12 I don't know what the argument can be on the other side.
13 Assuming there is a debate about the need for specialized
14 legal services, and it is resolved, as I am hopeful it
15 will be, that it is necessary -- and I will make a suggestion,
16 that those who are engaged in this work establish contact
17 with the various government agencies so they can secure
18 the briefs and other legal documents which are developed.

19 For example, the Department of Justice handles
20 bundles of Social Security cases. The Department of Labor
21 handles a great many of the questions which come up there.
22 HEW has a great staff of lawyers working out briefs and
23 I believe that one thing I have always sort of resented is
24 this duplication of efforts that goes on anywhere. No
25 matter how hard you try not to, there is this vast duplication.

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I think you can help avoid some of this by having some of these people assigned to the specialties make contact with the people in the government agencies who have been there for years, who are familiar with the field, who are briefed in many of the positions that are before them and are always willing to give assistance.

Thank you.

MR. OBERDORFER: Thank you, Mr. Eardley.

If I may continue, Mr. Chairman.

End8

1 mil 1 MR. CRAMTON: You may.

2 MR. OBERDORFER: In addition to the paper, which is
3 available to the board, and which, if the board consents, be
4 made available to the public, there was, in addition, a paper
5 prepared by a former director of the Division of Research
6 and Development of OLS, Constance Dupre, who spoke at the
7 briefing session that was held at the Sheraton Hotel, in
8 which she summarizes, according to her recollection, for our
9 edification, in preparing this study, how OLS had, at one
10 time, at least, evaluated a monitored the activities of back-up
11 centers.

12 I was, and I know that it will be a long time
13 before this doubt is resolved, entertaining doubts about some
14 of the meanings and implications of the provisions of the
15 Legal Services Corporation Act with respect to our
16 responsibilities, Mr. Chairman, concerning back-up centers
17 and concerning the timing of our required action.

18 In your papers is a memorandum prepared by our
19 outside counsel, Messrs. Hogan and Hartson, concerning the
20 applicability of this Section 1006(a)(3), to obligations
21 the corporation will assume from the Community Services
22 Administration. That memorandum, which will not be made
23 public, because it is a privileged communication to counsel,
24 concludes that the corporation is authorized to provide
25 specialized legal assistance for eligible clients, or

2mil 1 specialized support service in connection with such
2 assistance, but that that assistance must be furnished by a
3 recipient funded by the corporation and not by the
4 corporation itself.

5 On the other hand, that any research, clearinghouse
6 service, training and technical assistance to recipients
7 disassociated from legal assistance to clients, must be
8 provided by the corporation.

9 Now, as you know, the grants and contracts provid-
10 ing that this support service in both categories is, or is
11 about to be, or is supposed to be refunded or funded by the
12 Community Service Administration until March 31, 1976.

13 If the corporation is not able to decided upon the
14 future of the centers by that time, the memorandum advises
15 that, in the opinion of our counsel, either CSA could be asked
16 now to forward-fund the centers beyond that date, or the
17 corporation could, in the event we are not forthcoming,
18 exercise one or more of several options available to it to
19 maintain center functions for a sufficient time beyond
20 March 31, to ensure an orderly transition, a responsibility
21 that CSA shares with the corporation.

22 In trying to specify, or trying to have some
23 specific data on ways to reach a judgment as to how long it
24 would take us, as a corporation, to act in the event it were
25 necessary for us to act in time to take up our responsibilities

3mil 1 on April 1, the staff asked Rita Geier, the former director
2 of the Seattle, Washington, Legal Services Program, to outline
3 an in-depth evaluation project of all back-up centers.

4 The prepared a report with the assistance of
5 Arnold Miller, a member of a management consulting firm, and
6 Richard Carter of our staff, which, without qualifying,
7 identifies some of the things, perhaps not all of them, that
8 we would want to have done before we made a decision about
9 whether to continue, discontinue, re-assign, or otherwise deal
10 with the back-up centers.

11 Based on all of this, plus various timetables and
12 suggestions that we have received, including one we have
13 received from the Michigan Legal Services Program about a
14 timetable, the transition staff has recommended to me, and
15 I join in the recommendation, and forward to the board of
16 directors, that the director of the Community Services
17 Administration be asked to forward-fund back-up centers
18 through June 30, 1976.

19 I say that with the belief that in the event that
20 he does not do that, on the theory that anything within
21 the capability of energetic people with ingenuity, the
22 corporation would be able to meet its responsibilities.

23 But, having been through what the transition
24 staff has been through up to date in makeshift, ad hoc,
25 just difficult, unscheduled and relatively disorganized

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1 efforts to meet all of the varied responsibilities that it
2 has, that I believe the important initial phase of the corpora-
3 tion's life could be seriously complicated if it were
4 stampeded into deciding and acting on this important matter
5 without great care and taking what time it needs.

6 But I am also satisfied that on the basis of the
7 brief experience I have had here, that the staff and the
8 corporation will be able to make the necessary decision
9 and to take the necessary action by June 30 to meet its
10 responsibilities under the law, and that if just realizing
11 that things, once you make them complicated, they get
12 to be simple again, that one way or another the corporation
13 will be able to do what it is supposed to do under the law.

14 Thank you very much.

15 MR. CRAMTON: There is a proposed resolution
16 as drafted by the staff. Actually two resolutions:
17 Resolution H and Resolution I.

18 Are you now proposing resolution I for consideration?

19 MR. OBERDORFER: My suggestion is that someone
20 offer Resolution I. Yes, I am.

21 MR. BROUGHTON: Mr. Chairman, I would like to
22 suggest that that resolution, or any other, be deferred
23 until perhaps tomorrow or the October meeting. I have
24 tried to go through the material, opinions, and so forth,
25 rendered by the gentlemen and ladies. Mr. Oberdorfer has

5mil 1 very kindly got involved in this. I have not been able to
2 digest all of this, although I read into the night last night.

3 I would like to suggest the board could hopefully
4 discuss this, perhaps at this meeting, and maybe we'll have
5 an opportunity to go through all of this. We just heard Mr.
6 Eardley, which was most useful. I would like to suggest,
7 without a formal motion, with no objection, we defer it until
8 tomorrow.

9 MR. CRAMTON: The original plan was to defer any
10 action on Resolutions H and I, but we did want to present
11 them today so that they would be out before the board and
12 the public, so we might get some information and feedback.
13 We thought we would have some input from members of the pub-
14 lic.

15 We are getting close to the time we were to
16 adjourn.

17 MR. THURMAN: You want us to go back into the
18 material we now have as to the real meaning of the Act?

19 MR. OBERDORFER: I haven't seen it. I did intend
20 to recommend, and I guess I didn't make it clear when I
21 started, to present this material, which is in the board's
22 packet, my particular statement, which I more or less
23 paraphrased, which is under Tab 10 in the board's material.

24 MR. CRAMTON: The other material referred to are
25 Tabs 11, 12, and 13.

6mil 1 MR. OBERDORFER: That's right. I had expected,
2 when I started this time of day, when the agenda was
3 arranged this way, that this would be laid on the table over-
4 night for further discussion.

5 MR. THURMAN: On the merit or just the procedure?

6 MR. OBERDORFER: Simply the question -- may I
7 suggest the chairman read the resolution.

8 MR. CRAMTON: Resolution I.

9 "Whereas, it is impossible to determine with
10 confidence whether the corporation can complete in time for
11 board action by March 31, 1976, the studies and consideration
12 necessary to decide about possible alternatives for
13 implementing Section 1006(a)(3) of the Legal Services
14 Corporation Act of 1974 (Pub. L. 93-355),

15 Resolved, that the Board of Directors hereby
16 authorizes the Chairman (1) to inform the Director of the
17 Community Services Administration of this conclusion
18 and (2) to take the steps necessary to complete the
19 requisite studies and consideration as rapidly as possible
20 and to make appropriate lawful plans to continue those rele-
21 vant programs in operation until those studies and
22 consideration are available for a decision by the Board."

23 That is the resolution that is proposed for action
24 tomorrow morning. There is another resolution, Resolution
25 H, which merely authorizes and directs the transition staff

7mil 1 to undertake a study and evaluation of legal services program
2 and to make recommendations by certain dates and the date is
3 left open.

4 MR. BREGER: This would be an evaluation
5 with what end in mind?

6 MR. OBERDORFER: With the view to trying to decide
7 which of this is my own view. There are activities out there,
8 as I see it, which fall easily in the category of litiga-
9 tion, client support activities, identified by Mr. Eardley.

10 There are activities out there which are --
11 I assume this is hypothesis. The hypothesis is there are
12 also activities out there which fall fairly and squarely into
13 the category of research, training, technical assistance,
14 and whatever the other category was that is supposed to be
15 performed by the corporation.

16 In some of the situations it will be apparent,
17 more or less to the eye, that activity falls squarely within
18 one or other of those categories.

19 There probably also is data, which can be
20 discovered by evaluation or investigation, that there are
21 activities that fall in neither of those categories or they
22 fall in both categories, and some of them are worth preserv-
23 ing, some that are not. The decision-making process, as re-
24 quired here by this statute, which I think is the responsibi-
25 lity of this board, is to, on the basis of information and

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1 data, separate those sheep, if you will, and goats, if you
2 will, and whatever falls in between, and make a decision about
3 what to do. That is going to require a lot of thinking and
4 a lot of effort.

5 I think, having lived in a sort of pressure cooker
6 atmosphere for about six weeks, I think the board would be
7 well served if the people advising you to make those decisions
8 could do so, not in haste, but with care and deliberation.
9 And that is my recommendation.

10 MR. CRAMTON: We will consider that subject
11 further.

12 I propose, if the board is agreeable, that we
13 recess for the evening. The board does plan to dine together
14 tonight, and it has been proposed that the board meet in
15 executive session --

16 MR. THURMAN: I so move.

17 MR. CRAMTON: -- this evening to consider the
18 qualifications of particular persons for the office of presi-
19 dent of the corporation.

20 Under the temporary bylaws, as you know, an
21 executive session may be held under the determination of
22 compelling interest and two-thirds vote.

23 MR. BREGER: I second.

24 MR. CRAMTON: It has been moved and seconded that
25 an executive session be held this evening. Is there

9mil 1 discussion?

2 (No response.)

3 MR. CRAMTON: Those in favor, say aye.

4 (Chorus of ayes.)

5 MR. CRAMTON: The board will meet in executive
6 session tonight. We will recess until tomorrow at 9:00 a.m.
7 in this room.

8 (Whereupon, at 4:45 p.m., the meeting was
9 adjourned, to reconvene at 9:00 a.m. Tuesday, September 9,
10 1975.)

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