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LEGAL SERVICES CORPORATION  
BOARD OF DIRECTORS  
PROVISION FOR THE DELIVERY OF  
LEGAL SERVICES COMMITTEE MEETING

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December 7, 1991

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1:10 p.m.

Executive Office

The Clarion Hotel  
200 South 4th Street  
The Spirit of St. Louis Room  
St. Louis, Missouri

Board Members Present:

J. Blakeley Hall, Chairman  
Howard H. Dana, Jr.  
Jo Betts Love  
George W. Wittgraf  
Jeanine E. Wolbeck

Staff Present:

John P. O'Hara, President  
David Richardson, Comptroller  
Victor Fortuno, General Counsel  
Patricia Batie, Secretary  
Emilia DiSanto  
Charles Moses  
Kathy deBettancourt  
Leslie Russell

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## P R O C E E D I N G S

1  
2 CHAIRMAN HALL: If I can have your attention, we're  
3 going to go ahead and get started here today so we can get  
4 through. This is the Provision for the Delivery of Legal  
5 Services Committee meeting today in St. Louis, Missouri. We  
6 have all ~~Board~~ <sup>Committee</sup> members present.

7 Just a few opening remarks. We're here to discuss  
8 some issues today at the request of the Audit and  
9 Appropriations Committee. What we have today was pretty  
10 quickly thrown together. I want to say that materials that  
11 I've received on it from Charlie Moses mainly -- I'm sure  
12 he's had quite a few people helping -- have been excellent,  
13 especially considering that there was a short time to get it  
14 together, and considering that he had to prepare for other  
15 committee meetings and for a full Board meeting that's  
16 upcoming. So I certainly appreciate his efforts and the time  
17 he spent and the extra time he spent and the extra time the  
18 staff spent in getting our things together today.

19 I expect this today to mainly be informational.  
20 There's so few of us here that I run it pretty informally  
21 where if somebody from the audience has something they want  
22 to say or they want to correct me, just raise your hand and

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1 let it be known.

2 Howard Dana is with us as well. Howard wants to  
3 sit out there instead of sit up here, but he's welcome to do  
4 as he pleases. He's not near a microphone, so I take it he's  
5 not going to say anything today; I don't know, though. I  
6 don't expect any votes or anything to be taken. As I said,  
7 it will be strictly informational.

8 I will say that some of these topics I knew very  
9 little about before I began to study some of the things. It  
10 looks like some of them are interesting. Some of the  
11 programs may have been ended without due thought and looked  
12 like some things that we may want to go into and look at  
13 again. There's some good ideas.

14 APPROVAL OF AGENDA

15 CHAIRMAN HALL: So, with that, I'll entertain a  
16 motion to approve the agenda.

17 M O T I O N

18 MS. WOLBECK: So moved.

19 MS. LOVE: Second.

20 CHAIRMAN HALL: All in favor say aye.

21 (A chorus of ayes.)

22 CHAIRMAN HALL: All opposed nay.

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1 (No response.)

2 CHAIRMAN HALL: The ayes have it. The agenda is  
3 approved. I'll note on here that there's not an approval of  
4 minutes and I guess that's because the last time this  
5 committee met it didn't have anything to do with what we're  
6 going to talk about today. It was so long ago that it's just  
7 not in there. So, if that needs to be put back in later on,  
8 fine.

9 Having approved that, we're going to move on to our  
10 second topic. Joining us is our president, Jack O'Hara. I  
11 guess the first thing we have is consideration of guidelines  
12 used for unsolicited proposals for Corporation grants. I'm  
13 not sure who is going to speak. Charlie Moses?

14 CONSIDERATION OF GUIDELINES USED FOR UNSOLICITED

15 PROPOSALS FOR CORPORATION GRANTS

16 MR. MOSES: For the record, my name is Charles  
17 Moses. I am the Acting Director of the Office of Field  
18 Services. One small correction probably should be made at  
19 the outset here, Blakeley, so that you understand exactly who  
20 has seen what at this point.

21 The majority of the materials that we have sent to  
22 you already were sent to you so that we could have our

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1 discussions in setting up this meeting. They are currently  
2 being copied for the other Board members. When I had to  
3 leave last night from the Corporation headquarters, the  
4 copying had not been completed. So they have not been  
5 distributed to everybody.

6 In large part, it was more so informational so that  
7 you would have an understanding of what the topics that we  
8 were discussing were originally. All of the other  
9 distributions of materials that you feel that we need to  
10 distribute, based on where you'd like the committee meeting  
11 to go, can be done or are being done now.

12 CHAIRMAN HALL: In fact, you're correct because you  
13 can see what I have here is like half of what you sent me.  
14 I've taken quite a bit of it out.

15 MR. MOSES: Right. There was a lot of that  
16 information we didn't think that you might want to bring up  
17 as committee chairman or that you didn't feel was appropriate  
18 to what you wanted to do as committee chairman. So we were  
19 working with you first so we could distribute equally to all  
20 the Board members.

21 The first item on the agenda is the issue of  
22 unsolicited proposals, guidelines for unsolicited proposals.

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1 This has come up over the course of several meetings. First  
2 what I'd like to do is give you an understanding of what  
3 those proposals are. We talked about these at the Audit and  
4 Appropriations Committee meeting in Washington at the last  
5 meeting.

6 Basically, the Corporation has, for every year that  
7 I've been there, which is more than many people, at least for  
8 the last five or six years, has had a very limited amount of  
9 funds that have been available for unsolicited proposals that  
10 are meritorious that are submitted to the Corporation.

11 To give you some idea of what we have had to deal  
12 with over the last several years, I've gone back to find out  
13 the number of requests that have been coming in over the last  
14 several years for these guidelines. In 1989, we only had 23  
15 requests, 23 requests that were not funded. In 1990, there  
16 were only 14. However, in 1991, there were 40.

17 That gives you some idea of the small amount that  
18 we've been dealing with her. In fact, there have been a much  
19 fewer number of these that have ever been funded. I think in  
20 any one year the most that were ever funded were five, all of  
21 them for very small amounts of money, that the president  
22 decided after looking at the proposals that these were the

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1 types of innovative proposals he felt the Corporation should  
2 fund.

3 In addition, on occasion we have funded more  
4 long-range proposals, generally with the national support  
5 centers for productions of manuals or documents that had not  
6 been included in their work plans and for which they did not  
7 have funding from the regular Corporation funds.

8 That gives you a little bit of a flavor for the  
9 small amount that we've been talking with here. There has  
10 been a specific written guideline that the corporation uses.  
11 By guideline, I mean an administrative guideline for what  
12 these proposals must contain in order to be considered.

13 This is not a guideline that's used in deciding  
14 which proposals should be funded. Rather, it's a guideline  
15 for administrative purposes to make sure that everybody  
16 submits the same information so that everybody is on a level  
17 playing field when final funding decisions are made.

18 After the Audit and Appropriations Committee in  
19 Washington, we've met with Jack O'Hara. We understand that  
20 there have been some concern that in fact not everybody might  
21 have known that they could always come to the Corporation for  
22 additional funds. Quite frankly, we had not publicized this

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1 in the past because, number one, the amount of money had been  
2 so small and, number two, we always would publish for comment  
3 any grant that was made under this.

4 So anybody who would read national publications  
5 automatically knew that the Corporation was giving out  
6 unsolicited grant proposals. In fact, that publication for  
7 comment was always 30 days prior to any grant going final.  
8 So any grant could be stopped and would be stopped on the  
9 basis of comment, if necessary.

10 After discussing the matter with Jack O'Hara, he  
11 has directed that in the event that this committee were to  
12 decide that we should still have the flexibility to provide  
13 these grants if the Committee and the Board decide that they  
14 want the flexibility to provide these grants, that the  
15 guidelines would be published in the Federal Register so that  
16 everybody would have an opportunity without having to contact  
17 the Corporation first.

18 One final thing that probably should be understood  
19 about these types of grants, generally these types of grants  
20 have fallen over the last three years into two separate  
21 categories. There have been those grants that have been  
22 service delivery oriented grants either for production of

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1 manuals, one or two, or for direct delivery of service to  
2 clients.

3 In addition, there have been those grants that we  
4 call emergency assistance grants. Before this past year,  
5 there was no separate line item that had been funded by  
6 Congress for emergency assistance. These are for things such  
7 as fires, floods, tornadoes, hurricanes.

8 Frequently, when there is a disaster, such as this  
9 nature, the local program that's affected has several  
10 immediate needs. We have always tried to help meet those  
11 needs, whether or not it's providing a generator to the  
12 Virgin Islands after Hurricane Hugo when they had and were  
13 told they would have no electricity for six months without  
14 it, or whether it was providing money, as this Board helped  
15 us provide and voted to provide, for extra service delivery  
16 after the earthquake in California in 1989.

17 All of those emergency grants have always been  
18 considered by the Corporation staff as an unsolicited grant  
19 proposal. So these guidelines have always been used for the  
20 emergency assistance grants. I think that at the point as  
21 this committee considers these types of grants, and  
22 particularly after we publish these guidelines, I would

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1 certainly hope that the committee would still provide this  
2 staff the flexibility to contact individual programs after  
3 emergencies.

4           Just this past week, we've had to try and contact  
5 Guam because of a major typhoon which hit and has been very  
6 devastating to the island. At this point, the individuals at  
7 Guam tell us that they do not need any additional assistance.  
8 However, they are still assessing the situation. We  
9 certainly hope that this committee feels that this type of  
10 unsolicited grant is something that the Office of Field  
11 Services should be able to do. I think it's something that's  
12 very much needed, particularly by programs that have suffered  
13 a disaster.

14           Are there any general questions at this point?  
15 Would the committee chair want me to go into specifics of  
16 individual grants or is this sufficient?

17           CHAIRMAN HALL: Well, that was going to be one of  
18 my questions. But I thought I'd start by asking the other  
19 committee members if they had any questions. Then I'd ask  
20 Board members who were sitting in the audience, who are no  
21 longer sitting in the audience, if he had any questions, and  
22 then if anyone else had any comments.

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1 Jo?

2 MS. LOVE: Even though they said they didn't need  
3 any assistance from the main Board, but we would fall in the  
4 category that we could help them; right?

5 MR. MOSES: The Corporation has always tried to  
6 provide assistance and to find out if programs need  
7 assistance. I say always but over the last three years that  
8 I'm aware of. We've tried to do that for major disasters.  
9 I'm assuming you're talking about the typhoon in Guam.

10 MS. LOVE: Right.

11 MR. MOSES: It's my understanding, after we have  
12 been on the phone with them, that they do not feel at this  
13 point that they need additional assistance. However, I must  
14 add, the program director was not available at that time.  
15 We're still trying to get through to Guam to the program  
16 director. We talked with the managing attorney. I'm not  
17 sure if that answered your question.

18 MS. LOVE: Yes.

19 MR. DANA: Mr. Chairman?

20 CHAIRMAN HALL: Mr. Dana?

21 MR. DANA: I think there may be some, and I sense  
22 there is some, misunderstanding as to the thrust of the

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1 concerns of the Audit and Appropriations Committee. Charlie,  
2 I know you're aware that this Board has proposed two years in  
3 a row, and most recently successfully proposed to Congress,  
4 that it set aside \$500,000 so that the Corporation can deal  
5 with emergencies. So this Board is clearly on record to  
6 empower the Corporation to deal with emergencies.

7 Our concern was that both with respect to the  
8 handling of emergency situations, but more specifically with  
9 respect to the unpublicized nonemergency grants, there did  
10 not appear to be any Board sanction policy governing this  
11 area; that there were guidelines that you have distributed to  
12 the committee that indicates what an application should have  
13 in it. But it appeared to be a situation that was entirely  
14 unregulated by the Board. There was not even a policy that  
15 said that if there's any money left over, the Corporation  
16 management president can give it away to whoever he wants to.  
17 He was just silent on the subject. That's a situation which  
18 troubles this lawyer because it appears to be an area for  
19 potential abuse.

20 No indication that any inappropriate grants have  
21 ever been awarded by this Corporation, but I think that to  
22 the extent that there is money available for grants, that all

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1 programs ought to be aware of that, that they should  
2 understand what is the favored area for grants at that  
3 moment.

4 They should understand the rules of the game so  
5 that they would have a fair shot at it and it wouldn't only  
6 be the people in the know that would be able to grab that  
7 pot. That was the reason. I think that there are many of  
8 who would like to see this Corporation have additional funds  
9 for the purpose of addressing innovative grant proposals, new  
10 ideas, different ways to provide legal services for the poor.

11  
12 So the concept of one-time grants is something that  
13 I think, in a more expansive funded world, and hopefully  
14 we'll get there soon, would be something that we'd want to  
15 build in. But we want to build it in, I think, with some  
16 rules so that the grantees understand and that we can have  
17 some sense that what's happening is consistent with Board  
18 policy.

19 CHAIRMAN HALL: Ms. Wolbeck?

20 MS. WOLBECK: Currently, who makes the decision on  
21 that money? Who makes the decision as to who is going to get  
22 that money?

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1 MR. MOSES: Currently the president of the  
2 Corporation makes the funding decisions.

3 MS. WOLBECK: Your concern is that not everyone  
4 knows that it's available?

5 MR. DANA: Since we've been on the Board, for  
6 instance, one time the president came to us, not this  
7 president but a predecessor, and said, "I want to fund a  
8 grant for a native American project." We said fine and voted  
9 for it. Frankly, that's what I thought the rules were. If  
10 he was going to do a one-time grant, he would bring it to the  
11 Board.

12 But I found out recently that that is not at least  
13 some members of the staff's, I think you included, view of  
14 how it should proceed. It's at least your view, and I'm  
15 looking at you and wondering if I'm correct, I think it is  
16 your view that the president of the Corporation or the staff  
17 has the authority, without benefit of anything from the  
18 Board, to issue grants. That was the situation which, since  
19 there appeared to be no rules, troubled me.

20 I also am troubled by the fact that the pots of  
21 money out of which these grants come are undefined. In  
22 theory, I guess all of the money that is available, that is

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1 carryover money, in the various lines could be used,  
2 apparently without Board consent. That bothers me.

3 MR. MOSES: I can explain a little bit about where  
4 the pots of money come from. They are very, very mired. If  
5 you look at a list of the funds, at the bottom in virtually  
6 every category there's a small amount.

7 What the most recent two presidents have insisted  
8 is that for any grant that that president chose to make --  
9 and I should exclude President O'Hara here; he has not made  
10 any unsolicited grants, but for any grant that that president  
11 chose to make, they always made it from or to an entity that  
12 could arguably fit within the parameters of that line.

13 For example, the unsolicited grant proposal for  
14 the Indian Law Support Center that funded a training a year  
15 and a half ago for Indian lawyers was made out of the native  
16 American line in part or I think also partly out of the  
17 National Support line because it was a national training.

18 The unsolicited grant proposals for Drake  
19 University to support training, because it's been national in  
20 scope, have been made out of the National Support line.  
21 There has been this attempt to make sure that the grants  
22 comply with the lines as voted by Congress and as, I was

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1 presuming, approved by the Board in the budgets.

2 Frankly, my own personal viewpoint as to whether or  
3 not a president has that authority or doesn't have that  
4 authority frankly doesn't matter. What I have been doing and  
5 the way that we've operated this has been basically at the  
6 direction of the president. If there is any discussion  
7 between the president and the Board on that matter, that's  
8 their discussion. That's not a discussion that's stashed  
9 necessarily in our -- I don't think.

10 CHAIRMAN HALL: I'll note that our Chairman, Mr.  
11 Wittgraf, has joined us at the table and tell him that he's  
12 welcome to join in with this line of questions whenever he  
13 pleases. George?

14 MR. WITTGRAF: Is it my turn?

15 CHAIRMAN HALL: Yes, sir.

16 MR. WITTGRAF: Thank you. I apologize beforehand  
17 if I cover something that's been covered already. I came in,  
18 I think, as Mr. Dana was expressing one possible concern on  
19 behalf of the Board, that being that perhaps there are  
20 eligible grantees across the country who wouldn't be aware of  
21 available funds and, hence, wouldn't be in a position to bid  
22 for them or to request them.

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1 I've got a different concern. I guess I'd ask Mr.  
2 Moses to respond to it or the president to respond to it,  
3 either one. It seems to me that initiatives, ideas, concerns  
4 will come to the president and the staff from committees of  
5 the Board. It might be this committee, having to do with  
6 provision for the delivery of legal services regarding  
7 particular innovations or unmet needs.

8 Operations and Regulations has, as another  
9 committee of the Board, has been concerned obviously over the  
10 last nine, ten months with experimental funding of a  
11 competitive nature. Audit and Appropriations has had  
12 different suggestions made to it as to different kinds of  
13 spending or different approaches that might be tried in  
14 spending, and there might be some ideas there.

15 So, looking at those three committees it would seem  
16 that -- and as they bring their ideas and reports to the  
17 Board as a whole, the Board may have some things it's trying  
18 to do. I guess the one thing that occurs to me particularly  
19 is innovation in competitive funding.

20 I would hope, although I think Mr. Richardson has  
21 chided me in recent weeks, that this may arguably be beyond  
22 the parameters of what the law, the appropriation law allows.

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1 I would hope, for example, that if there were monies  
2 available that we as a Board would know about it so we might  
3 give first priority, if it was our first priority, to having  
4 additional funds available for competitive bidding or  
5 competitive funding experimentation.

6 So if the Congress gives us a little under a  
7 million dollars to use and it turns out there's another \$1,  
8 \$2, or \$3 hundred thousand that might be available, that we'd  
9 at least be able to see if it couldn't be used in that way.  
10 I guess that's my concern.

11 I don't know that it really requires a response  
12 particularly, Mr. Moses, although either you or Mr.  
13 Richardson might admonish me again that if we go outside the  
14 statutory lines to which you've referred, that we do run some  
15 risk of violating the intent, if not the literal law, as  
16 passed by the Congress.

17 But I'm concerned that what the staff is doing  
18 under the leadership of the president is in sync with what  
19 the Board is thinking, be it the efforts of the committees of  
20 the Board or be it the Board as a whole.

21 CHAIRMAN HALL: Mr. Moses?

22 MR. MOSES: Well, what I would try to explain

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1 is -- and I think you understand this from talking to Mr.  
2 Richardson, because of the way that Congress does vote our  
3 funding now, they vote it very specific in line items. If  
4 there is an amount at the end of the fiscal year that's left  
5 in that line item, then that amount would basically be folded  
6 into the Corporation's regular carryover, at which point this  
7 Board could decide they could do whatever they wanted to with  
8 it as a discussion of their carryover issue.

9           However, it's my understanding that during the  
10 fiscal year in which the funds are voted -- for example, if  
11 you have funds voted for native Americans, and I believe  
12 there's a small carryover every year in that line, that  
13 during that fiscal year, if this Board were to try to take  
14 those funds for native Americans and change the  
15 characterization of those funds by adding it to the  
16 competition study, I think that there might be a problem with  
17 that.

18           MR. WITTGRAF: There is a line of distinction  
19 you're drawing there, if I understand you, between current  
20 year funds, in this case let's say fiscal year 1992 funds,  
21 and the sanctity which goes with the line items where they  
22 appear in the appropriation, and prior fiscal year funds

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1 which have been allowed to be carried over by the Congress  
2 and then aren't as constrained in their use as are the  
3 current year's funds. Is that a legitimate distinction?

4 MR. MOSES: That's true. The one other thing I  
5 might add is that this Board currently, it's been my  
6 understanding at least at a staff level, that the Board had  
7 wanted the Corporation to maintain the sanctity of those line  
8 items even if there were carryover. I might be wrong on  
9 that. Dave could address that better than I.

10 MR. RICHARDSON: For the record, I am David  
11 Richardson, the Comptroller of the Corporation. What you're  
12 assuming is, in fact, correct. We have maintained the  
13 sanctity of each line. However, as a general practice, there  
14 is a reprogramming issue that we need to go through.

15 For instance, if we would reprogram the money from  
16 the native American or the migrant money into another line,  
17 we would have to go to Congress or we have gone and made them  
18 aware of it. The issue is if it's 10 percent or \$250,000.  
19 In this case, it's under, but we've always done it as sort of  
20 a protection basis.

21 MR. WITTGRAF: That requirement involves what,  
22 then?

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1 MR. RICHARDSON: A reprogramming notice is a notice  
2 to Congress detailing what we intend to do with the money,  
3 which line it's coming from, intended purpose, and which line  
4 it's going to. We do that each year. After the Board votes  
5 on the carryover, we provide that information to both House  
6 and Senate Appropriation Committees.

7 MR. WITTGRAF: And we have 15 days in which to do  
8 that as a Corporation?

9 MR. RICHARDSON: No, sir. They have 15 days to  
10 respond to our notice.

11 MR. WITTGRAF: So if we have given notice  
12 following, say, a Board meeting and no inquires, no  
13 objections are raised within 15 days, then we go ahead?

14 MR. RICHARDSON: That is correct, sir.

15 MR. WITTGRAF: Generally, the Congress has not  
16 objected to reprogramming, has it, at least in recent years?

17 MR. RICHARDSON: No, sir, they have not. In my  
18 tenure in the Corporation, they have only turned down one  
19 reprogramming notice, and at a later date it was resubmitted  
20 and approved.

21 MR. WITTGRAF: So, that would apply to a current  
22 fiscal year as well as prior fiscal years?

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1 MR. RICHARDSON: That is correct, sir. We have, in  
2 the past, only used the prior year money. But during the  
3 year, it could be reprogrammed.

4 MR. WITTGRAF: So I agree with Mr. Moses  
5 cautiousness obviously about staying within the Congressional  
6 guidelines or line items, but even those, subject to notice,  
7 are not absolutely sacred?

8 MR. RICHARDSON: That is correct, sir.

9 MR. WITTGRAF: Thank you. Thank you, Mr. Chairman.

10 CHAIRMAN HALL: Charlie, there's been some mention  
11 here of whether or not or at least what power the Board has  
12 in light of the Act itself to okay or deny these particular  
13 requests. Can you tell me what the Act does say on that, who  
14 it gives authority to, and what dangers we run by taking a  
15 part in the decision, in overruling the president, rather?

16 MR. MOSES: Well, the one place that I know that  
17 this is addressed in the LSC Act -- and I think Vic is here.  
18 He might want to address this more thoroughly, but I believe  
19 it's Section 1007. I believe it's subsection (f) -- which  
20 gives the president the authority to make all grants and  
21 contracts consistent with this title.

22 I'm not sure that that's an exclusive authority,

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1 but it does give the president that authority. Vic might  
2 want to address that issue.

3 MR. FORTUNO: I was about to say good morning. I  
4 guess it's good afternoon. Yes, it's Section 1007. I think  
5 it's 1007(e) that provides that the president has the  
6 authority to make grants and enter into contracts. It's not  
7 clear from that that it's exclusive. Certainly, the  
8 convention has been for the president to make grants and  
9 enter them into contracts. I think our bylaws -- it's  
10 1601.33 -- provides that the president of the Corporation  
11 shall be its executive officer and shall have the  
12 responsibility and authority in accordance with the Act,  
13 rules, regulations promulgated pursuant to the Act to make  
14 grants and enter them into contracts.

15 However, that's qualified with the clause "subject  
16 to the direction and policies established by the Board." It  
17 seems to me, although the Act isn't abundantly clear and  
18 certainly confers upon the president the authority, although  
19 not on its face, necessarily exclusive.

20 It seems that our bylaws at 1601.33 provide that  
21 the president has -- and they use the term not just authority  
22 but responsibility which seems to focus that function more on

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1 the president. It does, however, provide that it's subject  
2 to the direction and policies of the Board.

3 MR. DANA: Mr. Chairman?

4 CHAIRMAN HALL: Mr. Dana?

5 MR. DANA: That's really my concern. I don't think  
6 anybody is suggesting that the president not sign contracts  
7 and be the person to execute contracts that the Corporation  
8 enters. The issue is whether there is any direction and  
9 policy from the Board in this area or whether there should  
10 be.

11 Now maybe it is the decision of this Board to have  
12 no policies and no direction in the area of dispensing monies  
13 that are leftover on lines and/or these emergency funds.  
14 That would not be my preference. I am not focusing on the  
15 legal right or the legal responsibility of the president to  
16 execute contracts. I am focusing on the direction and policy  
17 from the Board that governs that.

18 CHAIRMAN HALL: Charlie, I was going to ask you to  
19 give us an example of the types of programs that have been  
20 granted, some specifics that could have a bearing on whether  
21 or not we should have a policy. Have they been successful?  
22 Have they not? Have there been studies on whether they were

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1 or whether they weren't?

2 MR. MOSES: Certainly. As I said earlier, over the  
3 last three years they basically -- all the unsolicited grant  
4 proposals fall into two categories, one being programmatic  
5 unsolicited grant proposals, one being emergency grant  
6 proposals.

7 I understand that the Board, and Congress for the  
8 first time, has recognized this Board's intention to have  
9 emergency grants. However, since we're looking at a  
10 multiyear level of it, I think it's important that you  
11 understand that even emergency grants have been handled and  
12 continue to be handled as unsolicited grants for purposes of  
13 administration and for classification.

14 CHAIRMAN HALL: Let me ask you this, Charlie.  
15 Until recently, I mean the past couple of years, has the  
16 Corporation made emergency grants?

17 MR. MOSES: I'm sure the Corporation has made them.  
18 The first time that I personally was involved with it was in  
19 1989.

20 CHAIRMAN HALL: I see those different than  
21 unsolicited proposals, although I do see how you put them in  
22 the same bucket.

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1 MR. MOSES: It is a difference administratively.  
2 It's probably a difference without a distinction.

3 CHAIRMAN HALL: The difference seems to be that the  
4 legal services providers or programs, if they have an  
5 emergency, an earthquake, they obviously think well, let's go  
6 to the Corporation and see if we can't get some emergency  
7 funds.

8 That's different from them saying well, we know  
9 there is a pile of money there and they do make unsolicited  
10 grants, so let's make one like that. It's as if they -- at  
11 least that's a difference. I suppose now, though, that's  
12 going to be mute. Everybody knows that unsolicited grants  
13 can be made. So that problem may be solved.

14 MR. MOSES: Well, it might. I mean, the procedure  
15 for making the unsolicited grants or even the emergency  
16 grants would probably remain the same. In fact, the  
17 emergency grants would probably still be made by the  
18 president. I'm not sure that the president --

19 I don't know if the Board wants the president to  
20 bring every emergency grant up to the Board before it's made  
21 or not. That might have a deleterious effect. If we need to  
22 get emergency assistance out quickly, it could very well

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1 create a problem.

2 CHAIRMAN HALL: As I recall, the last time we were  
3 pretty slow in getting emergency assistance out to California  
4 and some places. As a matter of fact, it might have even  
5 been some months. It seems like it was because the staff  
6 studied their proposals and found out that there was  
7 insurance money to cover some of it. So we, I suppose, were  
8 proper in being cautious at that time.

9 MR. MOSES: One thing I might add is it was only on  
10 some of the proposals that we were quite slow. On other  
11 proposals that were more immediate, we have been told, in  
12 fact, by some of the programs that we were more reactive than  
13 the government's emergency preparedness people.

14 CHAIRMAN HALL: You're exactly right. I had asked  
15 you about the types of things that have been funded through  
16 these unsolicited grants.

17 MR. MOSES: Right. Assuming that the committee  
18 wants to totally separate out the emergency grants, I cannot  
19 go into those. Would you like to know about the emergency  
20 grant types too?

21 CHAIRMAN HALL: In my mind, I understand an  
22 emergency grant and why they are made. I mean, I know what

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1 type of grant that is. I know what they did with the money.  
2 They alleviated some emergency situation. But it's the other  
3 ones like the ACCA that you and I had discussed.

4 Just give us a general flavor of what the money has  
5 been used for, what it's gone for and who has gotten it?

6 MR. MOSES: Probably the best thing to start with,  
7 if you'll let me pull something here --

8 CHAIRMAN HALL: Sure.

9 MR. MOSES: The current grants from this past  
10 year -- we can start from there and work backwards with the  
11 unsolicited grants.

12 CHAIRMAN HALL: With an amount and with a short  
13 synopsis of what they're doing with the money.

14 MR. MOSES: Certainly. We can do that. One thing  
15 that you should understand is that a lot of the grants that  
16 have been made for this fiscal year are still in the  
17 production stage.

18 MR. DANA: Mr. Chairman?

19 CHAIRMAN HALL: Mr. Dana?

20 MR. DANA: The definition for "in the production  
21 stage"?

22 MR. MOSES: In other words, frequently these

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1 emergency grants -- for example, the one that was made this  
2 year to the Consumer Law Center dealt with the production of  
3 a handbook that was supposed to take 18 months. So they are  
4 currently still working on that handbook. We have no final  
5 product yet, but then we don't expect it yet for another  
6 year.

7 Similarly, last year there was an unsolicited grant  
8 made to the National Center on Women and Family Law for the  
9 production of a handbook, a manual, and a client educational  
10 pamphlet on the issue of child support.

11 We have already seen drafts of the handbook and the  
12 manual, and those have been approved by the Corporation staff  
13 and have been approved by the advisory committees, but they  
14 have not been finalized yet. So, as far as we're concerned,  
15 that's a grant that has not been completed.

16 A type of grant that is an unsolicited proposal  
17 that would have already been completed might be, for example,  
18 the grant that was made this past year to Drake University to  
19 assist with the annual trial advocacy training. It's not a  
20 large grant. It was about \$15,000.

21 MR. DANA: Of what relevancy is the fact that the  
22 grant is ongoing? You have awarded the grant; have you not?

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1 MR. MOSES: We've awarded the grant. The only  
2 relevance is it was my understanding that Mr. Hall wanted to  
3 know the results from some of these grants. For those grants  
4 that are ongoing that we do not have final results for yet, I  
5 can't necessarily tell you that there has been a manual  
6 produced and distributed to --

7 MR. DANA: I misunderstood Mr. Hall. I thought he  
8 was asking what the grant was all about.

9 CHAIRMAN HALL: Well, I guess the result of that is  
10 that a manual be produced. The purpose is to educate. I  
11 mean that just gives me a flavor of what that particular  
12 grant was for.

13 Let me take it like this. You may have already  
14 said this and I may not have heard, but, for instance, 1990,  
15 how much money was involved in these unsolicited grants?

16 MR. MOSES: In 1990?

17 CHAIRMAN HALL: Or any year that you can give me a  
18 ballpark to give me an idea. The grants are around \$200,000  
19 or \$2 million or \$50,000?

20 MR. MOSES: No, much less than \$200,000.

21 CHAIRMAN HALL: How much money are we talking  
22 about?

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1 MR. MOSES: If we look, for example, at this year,  
2 this year there was a grant up to a little over \$15,000 that  
3 was made to Drake University to assist in its trial advocacy  
4 training. There was a grant made --

5 MR. WITTGRAF: Excuse me, Mr. Moses, Mr. Chairman.  
6 Are you talking about fiscal year 1991 or calendar year 1991?

7 MR. MOSES: I'm talking federal fiscal year, this  
8 past fiscal year.

9 MR. WITTGRAF: Okay, so fiscal year 1991?

10 MR. MOSES: Correct.

11 MR. WITTGRAF: Thank you.

12 MR. MOSES: There was a grant made to the National  
13 Consumer Law Center of approximately \$44,000.

14 CHAIRMAN HALL: And what were they going to do with  
15 the money, Charlie?

16 MR. MOSES: The National Consumer Law Center is  
17 doing a manual on public utilities, and utility cutoffs  
18 particularly.

19 CHAIRMAN HALL: Is that a support center?

20 MR. MOSES: Yes, it is.

21 CHAIRMAN HALL: Are they funded with other monies?

22 MR. MOSES: They are funded by us as one of our

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1 national support centers, yes.

2 CHAIRMAN HALL: And yet they made an unsolicited  
3 grant as well?

4 MR. MOSES: They put in a proposal for a project  
5 which they felt was very needed by field programs,  
6 particularly because they had seen the problem of utility  
7 cutoffs becoming more and more of a problem. They said this  
8 was something they did not have sufficient funds in their  
9 regular grant to do, but they thought it was an excellent  
10 idea and they requested that the Corporation provide them  
11 some funding for it.

12 CHAIRMAN HALL: Do you get a lot of requests like  
13 that from current Legal Service money recipients? From our  
14 programs do you get a lot of requests or is that unusual to  
15 get requests from someone who is already funded?

16 MR. MOSES: I won't say it's unusual. However, the  
17 majority of the requests that we get for unsolicited  
18 proposals are from other entities. It just so happens that  
19 this -- by this year I mean federal fiscal year 1991 -- there  
20 were three unsolicited proposals funded. Of those three, two  
21 of them were to current recipients of LSC funds. One was, of  
22 course, the National Consumer Law Center. The second that

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1 was to a recipient of LSC funds was to western Carolina,  
2 Legal Services of Western Carolina.

3 CHAIRMAN HALL: I was kind of getting the idea  
4 earlier that the unsolicited funds were secret or at least  
5 not known, but apparently Legal Service programs as well as  
6 others have, in the past, requested funds and been granted  
7 funds under this scheme.

8 MR. MOSES: That's correct. I think that it's  
9 known, how well known I'm not sure. We don't necessarily go  
10 out and publicize it. However, at the same time, having said  
11 that, we frequently will get proposals from Legal Services.

12 CHAIRMAN HALL: Do we solicit proposals like this  
13 or are these just things that come in the mail to you?

14 MR. MOSES: These are all unsolicited, yes. The  
15 Corporation has the authority if the Board decides that it  
16 has an issue that it's interested in -- for example, Mr.  
17 Wittgraf was talking about the area of competition. There is  
18 some question as we start working toward that whether or not  
19 we will have to solicit for people to work with that study.

20 I know that there have been some other ideas about  
21 Board initiative money. If there is a Board initiative, it's  
22 quite probable that we would then solicit for those with a

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1 specific request for proposals of some type. In fact, just  
2 this past year, there was some additional native American  
3 funding which, my understanding is, David Martin discussed  
4 with the Board of Directors.

5 We did, in fact, have a request for proposals from  
6 current native American grantees. That I consider solicited.  
7 That's why I haven't even included that in any of this  
8 discussion. That was about \$68,000, I believe.

9 CHAIRMAN HALL: If you would tell me something a  
10 little bit about ACCA and who they are and what they do and  
11 who they serve, I'll end my line of questioning.

12 MR. MOSES: Certainly. ACCA is the American  
13 Corporate Council Association. The Corporation last provided  
14 a grant to the American Corporate Council Association in  
15 1989. That grant ran for one year. Generally speaking, all  
16 unsolicited grants will run for no more than one year.

17 CHAIRMAN HALL: It was for \$50,000?

18 MR. MOSES: For \$40,000. In fact, what that did  
19 was it helped to fund the public interest arm of the American  
20 Corporate Council Association which is called ACCI, the  
21 American Corporate Council Institute. The primary purpose  
22 behind the grant to ACCA was for pro bono activation among

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1 Corporation counsel.

2 ACCA is an association of major corporation general  
3 counsels. So they would deal with everyone from AETNA, the  
4 insurance companies, Boise, Cascade, Campbell's Soup,  
5 Hallmark, General Motors, virtually any major corporation  
6 that has its own corporate counsel department.

7 ACCA, as part of what it had to do for this grant,  
8 held a series of ten seminars in major cities throughout the  
9 country with the general counsels from those cities. It  
10 picked large and small cities and basically they would have  
11 all of the companies that were headquartered in those cities  
12 that have a meeting for a day where ACCA would explain the  
13 benefits of pro bono service from a corporate perspective.

14 Generally this was done in cooperation and  
15 coordination with the local LSC-funded field program in the  
16 area. So, ACCI/ACCA would help to sign up the corporate  
17 general counsels, and then they would help to funnel them  
18 through the local legal services offices for cases.

19 CHAIRMAN HALL: Charlie, did any of these young  
20 corporate lawyers actually handle cases for the poor?

21 MR. MOSES: I'm sure they did. It wasn't this past  
22 grant but one of the previous grants, ACCA did a survey of

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1 what was done during that year. That survey revealed that  
2 over 230,000 hours were provided by corporation general  
3 counsels or corporation counsels on a pro bono basis to  
4 various different clients around the country.

5 In large part, ACCI, as the promoter of corporate  
6 pro bono -- well, they claim to have responsibility for the  
7 230,000 hours. I'm not sure you can give them all of that,  
8 but at the same time, I'm sure that they certainly did have  
9 an impact.

10 CHAIRMAN HALL: Now, currently within the  
11 Corporation, there is a system for deciding which of these is  
12 to be funded and which is not. That system is not strictly  
13 limited to the president giving it a yes or a no. Can you  
14 describe how that's done?

15 MR. MOSES: There is a review system through the  
16 Office of Field Services. Basically, that review system  
17 includes the divisional directors, each of the divisional  
18 directors of Field Services under the direction of the deputy  
19 director and working with the director of Field Services.

20 CHAIRMAN HALL: What types of things do you all  
21 consider when you decide whether or not one of these  
22 unsolicited matters should be funded?

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1 MR. MOSES: I think primarily if you look at -- I  
2 know the guidelines were distributed to the Audit and  
3 Appropriations Committee. We probably should have had copies  
4 for this committee too. If you look at the guidelines,  
5 basically they will show you that you consider things such as  
6 what it will do for the community.

7 The particular need is expressed. Everything from  
8 support in the local community for the project to other  
9 financial assistance that it might have that it's able to  
10 garner. Frequently, with any type of one-time grant the  
11 Corporation tries to make sure that we can get other funds  
12 dedicated to the project at the same time that we put in  
13 money.

14 In other words, we don't want a situation where we  
15 fund 100 percent of grant. We would like to leverage that so  
16 that we would fund maybe up to 50 percent of a grant, a  
17 variety of things of that nature. Then, of course, we will  
18 consider what various different needs are at the moment.

19 When I say, for example, that it includes the  
20 divisional hats in field services, it's important for you to  
21 understand that that's the Grants and Budget Division and  
22 particularly the Technical Assistance Division. Some of the

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1 more recent grants that we've made have been in the technical  
2 assistance area. That's something that's being considered.

3 CHAIRMAN HALL: Thank you, Charlie. Any other  
4 committee members or Board members? Mr. Dana?

5 MR. DANA: Charlie, at one point you were talking  
6 about three grants for this year. You talked about the  
7 \$15,000 to Drake. We certainly won't have to look into the  
8 \$44,000 for the National Consumer Law Center, which you've  
9 explained. Then you talked about Legal Services of West  
10 Carolina. How much was that and what was that for?

11 MR. MOSES: It was approximately \$12,000. That was  
12 for a project which the program director was developing with  
13 local universities. The only one that I remember right now  
14 is Furman out of Greenville. But it was three or four  
15 different universities. They are developing a project to use  
16 prelaw students from the universities to come in potentially  
17 for credit as their undergraduate curriculum to help do  
18 intake and operations within the office.

19 MR. DANA: Of the four programs that you've talked  
20 about, the ACCA \$40,000, the \$15,000 to Drake, the \$44,000 to  
21 the National Consumer Law Center, and the \$12,000 to the  
22 Legal Services of Western Carolina, do you know if any of

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1 those were approved by the Board or a Board committee?

2 MR. MOSES: I do not know. I know that primarily  
3 as a staff member what we've worked with on these have been  
4 with the president.

5 MR. WITTGRAF: Mr. Chairman, thank you. Mr. Moses,  
6 you've talked about \$71,000 in fiscal year 1991 that was  
7 loose money as a sort, as I understand it, money that wasn't  
8 being utilized either from fiscal year 1990 or 1989 or else  
9 was some money that was uncommitted on existing line items  
10 for fiscal year 1991.

11 How much might have been available if there had  
12 been other so-called unsolicited grant proposals? What was  
13 the upside? If \$71,000 was actually committed, then, based  
14 upon the proposals made using the guidelines and the form and  
15 so forth --

16 Again, I'm perhaps being unfair to you. Maybe this  
17 is a question more fairly directed to Mr. Richardson. But  
18 what might have been available?

19 MR. MOSES: I think that would be more fairly --

20 CHAIRMAN HALL: Mr. Richardson?

21 MR. RICHARDSON: Thank you, sir. I see Mr. Dana  
22 has the Audit and Appropriations book out. Certainly that's

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1 what I will refer to. If you have the green book that's  
2 available for our committee, it does detail in the particular  
3 line items how much money is still available.

4 For instance, in the basic field program -- and if  
5 you do have it, it's page 16 of the Audit and Appropriations  
6 book -- we're looking at particular column 13. There is at  
7 this point \$31,000 in the basic field category.

8 You can add to that the \$30,979 because that is the  
9 money that the Board voted last year to remain in the basic  
10 field but has not yet been used. Originally that was \$60,000.  
11 We have awarded \$30,000 to different grantees there. In the  
12 native American line, Charlie was mentioning the \$68,000 or  
13 so that was into the native American. That was awarded, all  
14 of that money. Thirty of that was from FY 90 and the  
15 additional money was from 1991.

16 The migrant money, again looking at column 12 and  
17 13, we still have the \$274,000 that the Board maintained in  
18 the migrant money. There is \$175,000 that still has not been  
19 used from the four states. Some of the money has been used.  
20 Money has been awarded, I think, to most every state, either  
21 doing a needs study or setting up a program.

22 There was one or two -- I'll doublecheck later --

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1 there was a Kentucky program who basically gave up their  
2 grant this year. So there is an additional one. Instead of  
3 the four states, there is one additional.

4 MR. WITTGRAF: Gave us a migrant grant.

5 MR. RICHARDSON: Gave up a migrant grant, yes. If  
6 you'll refer to page 17 in the national support line, there  
7 was approximately \$105,000 to begin with. This is where the  
8 money for the Drake training was charged to. There is still  
9 \$80,000 left.

10 In the stay support, there is \$46,000 there. I'm,  
11 of course, not adding as we go. But in each of those lines,  
12 that is money that is undesignated. There is similar amounts  
13 of money available in this year's budget. We have a draft  
14 that we're working with the Project Advisory Group. They  
15 look at our figures. We look at theirs. We just make sure  
16 that our funds agree.

17 They certainly are aware that there are pots of  
18 money here. I've received two calls myself this week from  
19 national support centers wanting to know about money that  
20 could be available in the national support line. That  
21 information has been given to them.

22 MR. WITTGRAF: If I'm following your figures, Mr.

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1 Richardson, something like \$200,000 actually has ended up  
2 being unutilized for fiscal year 1991 in addition to the,  
3 roughly, \$70,000 or \$71,000 that Mr. Moses described.  
4 Looking at fiscal year 1992 and realizing we're just  
5 beginning it, I'm just trying to get a ballpark idea, what's  
6 your sense?

7           Would it be something in the \$200,000 to \$300,000  
8 neighborhood that, in effect, would end up being unutilized  
9 and, hence, could be available for so-called unsolicited  
10 grant proposals?

11           MR. RICHARDSON: Yes, sir, about \$225,000. I can  
12 identify the lines that they're coming from if you'd like  
13 that.

14           MR. WITTGRAF: No, not. At least for me, I just  
15 wanted to have a general sense of it. I guess Mr. Dana has a  
16 question. I've got another one later.

17           MR. DANA: Just a clarification. In fact, David,  
18 wasn't there \$1,705,391 in uncommitted carryovers that could  
19 have been used?

20           MR. RICHARDSON: Yes, sir. I was speaking only to  
21 the lines, the program lines at this point. We can certainly  
22 turn the page. If you look at the grant recoveries, that is

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1 money that -- I don't know the exact date -- may be grants  
2 back to 1987, 1988 that we're now giving the money back to us  
3 and, of course, the interest income. There are other monies.  
4 I was only speaking to the grant money.

5 MR. WITTGRAF: I think, Mr. Richardson, you've  
6 probably answered the question as I asked it. Looking at the  
7 budget as a whole, perhaps there could be a million to a  
8 million and a half dollars available as we get later into a  
9 fiscal year for unsolicited grant proposal utilization?

10 MR. RICHARDSON: It's possible. I qualify that by  
11 saying because a part of this \$1.75 million was from the  
12 management administration line. Certainly that could be  
13 reprogrammed. If there was that type of carryover again, it  
14 could be reprogrammed to issue grants. In the past we have  
15 done that also, by the way.

16 When there has not been money available, for  
17 instance, in a state support or national support, but yet  
18 Drake wanted to do a training, we would fund that with M&A  
19 funds.

20 MR. WITTGRAF: As I understand you depending upon  
21 the needs the president saw in management and administration  
22 and so forth, anywhere between about a quarter of a million

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1 and a million and a quarter, I suppose, might be available.  
2 That's fine. That answers my question.

3 I think we'll get to it later in the agenda. I'll  
4 be interested probably more then in Mr. Moses reaction than  
5 yours as to whether or not we need to make a more aggressive  
6 effort to try to cause people to be innovative with monies  
7 that are not utilized and whether rather than sitting back  
8 and waiting for unsolicited proposals we want to go out and  
9 solicit proposals for innovation.

10 MR. RICHARDSON: Certainly Mr. Dana is aware, I  
11 hope, and Mr. Hall, we have had a different thrust through  
12 the Board. In the past, prior Boards have decided basically  
13 to keyhole the money away, not make it available. They've  
14 used it for carryover to supporting the M&A line and have  
15 done it basically through the appropriations process.

16 That thrust has changed and certainly with the M&A.  
17 Two years ago we were actually appropriated approximately  
18 \$8.2 million. The rest of our budget was through carryover.  
19 With the new thrust of the Board, getting the money out the  
20 door certainly is appropriate.

21 We, of course, are trying to do that. One thing  
22 you should be aware is after the last meeting when the

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1 guidelines were distributed to the Board, I actually held the  
2 Board book so that we could get those guidelines in the Board  
3 book and they were distributed to the field. So they should  
4 have copies of that information.

5 MR. WITTGRAF: In terms of the concept of holding  
6 on to the money, then, Mr. Richardson, if I'm understanding  
7 my reading of what's happened the last, say, three fiscal  
8 years, the Corporation, or the Board in particular, have not  
9 really been rewarded by Congress for hanging on to monies but  
10 really have been -- punished may be too pejorative a term but  
11 we'll use it for a better one at the moment -- have been  
12 punished to the extent that then what we asked for in terms  
13 of management and administration money is reduced by the  
14 carryover that we've got.

15 So we haven't really helped ourselves, I guess. If  
16 anything, we've helped the Congress have a very, very small  
17 crumb that maybe is going to balance the overall federal  
18 budget. Again, I say a very, very small crumb. But it  
19 really hasn't done any good of any kind, has it, or am I  
20 missing something?

21 MR. RICHARDSON: No, sir. I think your  
22 characterization is correct. It has been used for the

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1 management and administration. Actually, this budget when  
2 the Congress did appropriate the \$9.777 million for M&A, it  
3 was the first time that we have gone away from that thrust.  
4 That certainly is a result of the efforts of this Board.

5 MR. WITTGRAF: There's no benefit to not getting  
6 the money out the door, so to speak, then, as far as the  
7 appropriations process goes, I guess is what I'm concluding.

8 MR. RICHARDSON: No, sir, there is not.

9 MR. WITTGRAF: I think Mr. Moses wanted to say  
10 something before, but maybe we want to wait for Agenda Item  
11 7. I may be screwing up the chairman completely here, and I  
12 apologize for that if I am.

13 CHAIRMAN HALL: No. We're going to move on here  
14 quickly, but I had one question. So that Charlie can have  
15 the last word, he can answer it. I was going to say I  
16 suppose the question should follow, because of the past  
17 thrust to hang on to the money and now the thrust to get it  
18 out the door, have there been some unsolicited grants that  
19 you all would have liked to have seen made but you kind of  
20 have this desire not to make it over too much money? I mean,  
21 we have a lot left over. Maybe you hated to make too many in  
22 one year. Do you feel a sense of that?

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1 MR. MOSES: I'm sure that there are many that are  
2 turned down every year that possibly could have been very  
3 worthwhile programs. Some are turned down for different  
4 reasons. Some of them have potential regulatory problems and  
5 so we have to turn them down.

6 CHAIRMAN HALL: But were some turned down because  
7 you just didn't want to put out the --

8 MR. MOSES: Well, I'm sure that there are those.

9 CHAIRMAN HALL: That probably will change, could  
10 change?

11 MR. MOSES: Depending upon what this Board decides.  
12 I know that while Chairman Wittgraf was conversing with Dave,  
13 I had a chance to check with Mr. O'Hara. I believe that it's  
14 our position that if this Board -- I had mentioned earlier  
15 that we would be prepared to publish something in the Federal  
16 Register if there was some problem with notice.

17 I think that it's Jack's position that certainly  
18 the staff can develop some more specific guidelines if the  
19 Board would like that in conjunction and consultation with  
20 the Board. So there could be Board-agreed-upon guidelines  
21 for this type of grant that could be published so that any  
22 individual would have more accurate access.

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1                   CHAIRMAN HALL: I feel like Mr. Dana would  
2 certainly like to see that and I would too. That's probably  
3 a good idea.

4                   MR. WITTGRAF: I guess if I could reiterate the  
5 point I tried to make earlier, I think at least the Board  
6 consultation is appropriate because if you had concluded  
7 there was \$100,000 or \$200,000 available, the Board might be  
8 more concerned with directing that towards a competitive  
9 funding experimentation as opposed to the kinds of efforts  
10 that you've described as having been undertaken in fiscal  
11 year 1991.

12                   Maybe we wouldn't, but perhaps the Board would and  
13 I guess should be given the opportunity at least to know  
14 about it. Thank you, Mr. Chairman.

15                   CHAIRMAN HALL: Mr. Dana?

16                   MR. DANA: I think that is a very constructive  
17 suggestion. What I'd like this policy to deal with among  
18 other things are the situation that arises -- in other words,  
19 I think there ought to be a policy to deal with emergency  
20 funds. We want that money out in an emergency. It is my  
21 assumption that we would want the staff to have terrific  
22 discretion to work and to act without waiting for a meeting,

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1 if necessary.

2 I think Congress has an interest in making sure  
3 that money, or encouraging at least that money in a  
4 particular line for national support or migrant perhaps be  
5 available in that area and not reprogrammed without Board  
6 action into some other area.

7 I think that the Board has an interest in making  
8 sure that if, in fact, there are resources, as the chairman  
9 indicated, that would be available to the Board or to  
10 management to carry out the Board's policies or to experiment  
11 with the Board's initiatives, I think we'd like to be aware  
12 of that.

13 So, if you can, in your effort to draft for  
14 yourselves a policy and direction that we could consider, if  
15 you would consider those various components, I think that  
16 would be a help. From my point of view, the grant  
17 application guidelines that have been distributed are really  
18 not, to my way of thinking, the kind of Board policy and  
19 direction that I think you need to hear from us. I think  
20 those are fine.

21 But I'm not sure that we need to design what each  
22 grantee must put in its application. We should be more

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1 concerned with the process, notice, involvement of the Board,  
2 making sure that everybody gets a fair shake at it, making  
3 sure that Congress' policy determinations, as it's spelled  
4 out in the appropriations, are dealt with appropriately and  
5 that kind of thing.

6 CHAIRMAN HALL: Howard, have we killed number 7,  
7 consideration of the provisions of funding for innovative  
8 grant proposals?

9 MR. WITTGRAF: Mr. Chairman, I'd like to have Mr.  
10 Moses respond to that a little bit more if we're combining  
11 the two now in our deliberations, if he thinks particularly  
12 whether or not the Board ought to be urging the Congress  
13 beyond the so-called Board initiative's money that we  
14 received for fiscal year 1992, the \$977,000, if there is a  
15 need such that we ought to be asking for innovative grant  
16 monies separate from the so-called Board initiative monies  
17 or separate from the change that's left by not being utilized  
18 during the course of the fiscal year or the grant year?

19 MR. MOSES: Quite frankly, I hadn't thought about  
20 that.

21 CHAIRMAN HALL: Mr. Dana?

22 MR. DANA: If I could answer the chairman's

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1 question, I can't answer it for you, obviously, Charlie, but  
2 it does seem to me that for the last decade, Legal Services  
3 have been stretched to the breaking point. Every year  
4 grantees have had the agonizing experience of letting people  
5 go.

6 There has not been, except to the extent that it  
7 came from other funding sources, very much money available to  
8 Legal Services to experiment with new and different ways of  
9 providing legal services. I believe that we are blessed with  
10 300-or-so programs that contain very innovative, far thinking  
11 people.

12 I think that to encourage them with -- if we ever  
13 could get to the point where we had sufficient resources from  
14 Congress to do this, I think the idea of formalizing a pot of  
15 funds to encourage people to make innovative grant proposals  
16 that the Corporation would evaluate and award on an annual  
17 basis would be an exciting prospect.

18 We wouldn't be dealing with just \$77,000 and 3 out  
19 of 29 grants. We would get a lot of grants, a lot of grant  
20 applications and a lot of good ideas, and help reenergize  
21 some people who need it.

22 CHAIRMAN HALL: Well, with today's hearing, some of

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1 those innovative grant proposals might be made in the form of  
2 an unsolicited grant request. I hope that they are.

3 MR. DANA: The real issue is whether this committee  
4 thinks that the Corporation should set aside or should  
5 provide in the future for a sum of money for solicited or  
6 special grant proposals, one-time grant proposals that  
7 programs would apply for in an organized way similar to  
8 what's been going on in an unorganized way in the unsolicited  
9 grant area, presumably after we have policy guidelines and  
10 directives from the Board to sort of formalize the process.

11 CHAIRMAN HALL: Unless there are other questions or  
12 a comment from our president on any of this -- Jack?

13 MR. O'HARA: I concur with Charlie's comments. We  
14 had discussed this in a meeting last week. We have some  
15 other things that we have been doing that I think are in line  
16 with the Board's thinking, as reflected by Mr. Dana and  
17 concurred by everybody else. I'll let it go at that.

18 CHAIRMAN HALL: Thank you, Charlie, and thank you,  
19 David. We're going to move to Item No. 3 which is listed as  
20 the consideration of the current Corporation policy governing  
21 interstate subgrants. Charlie, are you going to stay with  
22 us?

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1 MR. MOSES: Yes.

2 CHAIRMAN HALL: Start out.

3 CONSIDERATION OF THE CURRENT CORPORATION POLICY GOVERNING  
4 INTERSTATE SUBGRANTS

5 MR. MOSES: The first thing possibly may I should  
6 say is that I think that the use of the term policy here is  
7 an unfortunate usage. It's primarily been a practice or  
8 procedure not necessarily a Board-adopted policy.

9 For background purposes, so that each member of the  
10 committee fully understands where this came from, there was  
11 recently a situation in a solicited migrant grant in both  
12 Mississippi and Alabama. The Corporation had additional  
13 migrant funds that were being solicited in those areas.

14 Both individual programs that requested those  
15 monies wanted to provide service not by themselves but simply  
16 to subgrant all of the funds that they would be getting minus  
17 administrative costs to another service provider that was, in  
18 fact, outside of their states and jurisdictions.

19 At that time the Corporation began to work with the  
20 individual service providers in Mississippi and Alabama. We  
21 have since come to what I think is actually the best solution  
22 in those areas in that both of those states now are creating

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1 their own migrant divisions.

2 They are using their own migrant services so that  
3 they themselves will know what their own migrant needs are  
4 rather than someone from another state. They will be able to  
5 control the services themselves. I think that's the best  
6 solution in this area.

7 However, the reason this came up was because in  
8 this discussion there had been basically a refusal of the  
9 Corporation to fund a subgrant of the migrant funds that went  
10 across state lines, the idea being that the Corporation from  
11 a practical or practice matter did not generally allow grants  
12 across state lines.

13 I have done some research to try and figure out  
14 where this came from and have found it traced back to 1985  
15 and 1986 in relation to various different matters related to  
16 another migrant subgrant in a different location. To my  
17 understanding, this procedure or practice was originated at  
18 that time.

19 I have not necessarily been able to find a Board  
20 policy that's been adopted that way. However, it had been at  
21 that time adopted by the Executive Office of the President.  
22 It's my understanding that that procedure once adopted has

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1 simply been continued to be followed.

2           Clearly, this is a matter that this committee can  
3 consider if it would like to. I think that there are clear  
4 policy reasons why this practice was adopted originally, not  
5 the least of which is the fact that at the point where we had  
6 McCollum Board requirements inserted into our appropriations,  
7 someone recognized the fact that it would probably be best to  
8 have services delivered by individuals in a state because  
9 those individuals where the practicing attorneys were  
10 residing would have the best control over it.

11           There are certainly some policy ideas behind this  
12 practice related to not only that but the basic idea of  
13 control of a grant within the jurisdiction. However, having  
14 said that, I again reiterate, after tracing it back, we can  
15 see practical reasons for it. We can see procedural reasons  
16 for it.

17           It's been a matter of policy adopted by the  
18 Executive Office and simply continued ever since it was  
19 adopted in 1986. Having said that, I'm not sure, unless you  
20 have any questions --

21           MR. O'HARA: Mr. Chairman?

22           CHAIRMAN HALL: Yes, Mr. President?

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1 MR. O'HARA: Mr. Chairman, if I may, there were  
2 some other considerations which, when these particular  
3 subjects were discussed, I happened to be involved in. We  
4 were concerned about the fact that the particular state which  
5 was going to receive the interstate subgrant, on the one  
6 hand, was telling us that they needed additional attorneys to  
7 service the client area, that they didn't have enough  
8 attorneys to handle the client area. On the other hand, they  
9 were saying they were saying they could send their attorneys  
10 into the other state.

11 When we looked at that and we weighed the  
12 difference between leaving those attorneys in the other state  
13 and creating a program of its own in the state which was  
14 going to give the subgrant, it seemed to us that it weighed  
15 more in the favor of trying to get that state to hire  
16 attorneys with experience in that area and develop their own  
17 programs.

18 So that was a departure from -- I know Charlie has  
19 said this was not policy because it isn't policy; it was  
20 procedure that had been used up to this time. That was one  
21 of the reasons we did not go with that subgrant.

22 MR. MOSES: In fact, I'd like to add here. I

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1 believe this is a procedure that had been adopted basically  
2 prior to anyone who is currently in the Office of Field  
3 Services being there. So to that extent that it had always  
4 been on the books, it was simply assumed that it had been a  
5 policy decision that had been made that was continued.

6 I would also add there were some other reasons in  
7 addition to the ones that Jack mentioned that we don't  
8 necessarily need to get into for the record here concerning  
9 the particular migrant subgrant that brought this issue to  
10 the Board's attention.

11 I don't think that it's necessarily beneficial at  
12 this point for us to go into those particular issues,  
13 particularly in public, because the situation has been  
14 straightened out and everyone seems satisfied.

15 MR. DANA: Mr. Chairman?

16 CHAIRMAN HALL: Mr. Dana?

17 MR. DANA: Mr. Chairman, I think what Charlie has  
18 indicated is that there are policy reasons, some of which he  
19 can recall, some of which have been lost in antiquity,  
20 supporting a policy that applies in the migrant area only or  
21 generally in the Corporation. Which?

22 MR. MOSES: Well, I've only seen it applied in the

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1 migrant area. However, I think that if it's a policy useful  
2 for the migrant area, it probably would apply generally.  
3 There are two exceptions that I'm aware of right now to that.  
4 But basically all of the exceptions have been grandfathered  
5 in in that they were in existence prior to the formation of  
6 this procedure and they were allowed to continue.

7 MR. DANA: I am unpersuaded by the discussion that  
8 there is much of a basis for a blanket prohibition against  
9 subgrants that cross state lines. We, as a Corporation,  
10 constantly go out and hire lawyers and we hire lawyers in  
11 other states.

12 We just hired a law firm that I don't think has an  
13 office in Texas to provide some advice and counsel to us in  
14 Texas in a particular lawsuit. We have, in this nation,  
15 national experts that do not exist uniformly throughout the  
16 nation.

17 We've gone through a lot of trouble to develop  
18 national support centers that go out and provide across state  
19 lines legal services to grantees all across this country to  
20 assist them in areas where the expertise at the National Law  
21 Center is required.

22 To have a policy, however conceived, that would

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1 sort of blanket this area I think needs far better  
2 justification than has been presented today. I don't think  
3 we have such a policy. I mean, I think it may be  
4 administratively adopted, but the Board has never adopted  
5 such a policy. I think we have done a lot of things  
6 inconsistent with such a policy, which we would be at best  
7 muddleheaded.

8 I think it is a good idea to encourage expertise at  
9 the local level. I don't have any problem with that as a  
10 general proposition, but in some cases you have expertise  
11 that doesn't exist. There ought to be a way for a local  
12 grantee to go out and hire that expertise across state lines  
13 and to preclude it as a matter of course because of some  
14 muddleheaded policy that no one can remember when it was  
15 adopted.

16 No one is here and it hasn't been approved by the  
17 Board. It's just passed on from person to person and was  
18 used in this particular case because it helped achieve the  
19 result that was desired. I don't want the policy to be  
20 perpetuated on that basis.

21 CHAIRMAN HALL: Mr. Moses?

22 MR. MOSES: If I can say one thing, and I know that

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1 you are I are getting very close to the specifics of an  
2 instance. But even within the realms of this policy as  
3 articulated and including the results of what were done with  
4 the migrant grants recently, there's a very big distinction  
5 between subgranting all of your funds from one state to  
6 another and using individuals from another state to come in  
7 and help you on some type of contractual basis.

8 The Corporation has never had, to my knowledge, any  
9 problem with using on a contractual basis for experts to come  
10 in and help you to establish and create your own localized  
11 delivery mechanisms. In fact, that happens all the time. In  
12 fact, in these particular migrant instances, in at least two  
13 of the four states that recently achieved new migrant grants,  
14 they are bringing in people from outside of the state to  
15 assist them in what they are doing.

16 MR. DANA: On what basis are they bringing them in?

17 MR. MOSES: They are bringing them in on a  
18 consulting basis to assist them.

19 MR. DANA: So they are taking money that we give  
20 them and going out and hiring people from another state to  
21 come in to provide them advice and counsel and assistance?

22 MR. MOSES: So that they can -- recognizing that

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1 they don't have all of the expertise in this for advice and  
2 counsel. In fact, as I'm sure you're aware, we're even  
3 working on a training mechanism for them.

4 MR. DANA: Are we going out and hiring individuals  
5 or are we sending money to the programs from which these  
6 people comes?

7 MR. MOSES: Quite frankly, I would have to look at  
8 their agreements. I don't have those in front of me. I  
9 don't know.

10 MR. DANA: It seems to me that that makes immense  
11 sense and is exactly what I thought a subgrant was, where you  
12 would ask or you would take money that we give one program.  
13 They enter into a contract with another program to get goods  
14 and services across state lines, services typically.

15 MR. MOSES: Well, with this particular instance, I  
16 think that if you look at the specifics of the subgrants --  
17 I've just recently started working with subgrants. I don't  
18 have an extensive background with them. But it's my  
19 understanding that the traditional subgrant is still a little  
20 bit different from, say, a purchase order, primarily because  
21 at the point where you subgrant it out, you give up a lot of  
22 your control to that other individual or organization so that

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1 they have a lot of the control over actual provision,  
2 decisions regarding provision, that type of thing, as opposed  
3 to if you were to hire expertise to come in and help you, you  
4 maintain that localized control which you might lose and,  
5 very frankly, probably would lose some of with a subgrant  
6 situation.

7 CHAIRMAN HALL: Do the other committee members have  
8 any questions?

9 (No response.)

10 CHAIRMAN HALL: Other Board members?

11 (No response.)

12 CHAIRMAN HALL: Charlie, just a couple quick  
13 questions. I understood that there have been some interstate  
14 subgrants that have worked, that we have made and have  
15 worked.

16 MR. MOSES: There have been.

17 CHAIRMAN HALL: When were those? Have those been  
18 since 1985?

19 MR. MOSES: To my understanding, the only ones that  
20 have been -- subgrants have to be approved every year. So  
21 yes, technically there have been interstate subgrants made  
22 since 1985.

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1 CHAIRMAN HALL: New ones?

2 MR. MOSES: Well, each year is a new subgrant.  
3 However, my understanding from what I was provided before I  
4 left Washington was that the instances in which those  
5 subgrants have been allowed have been instances in which they  
6 dated back for as many as 20 years or more. So they  
7 basically have been grandfathered in to the existing system,  
8 part of the establishment of this procedure or practice,  
9 whatever you want to call it, short of a Board policy.

10 CHAIRMAN HALL: But you wouldn't see a problem with  
11 a Board policy that would say, for instance, that if a  
12 particular program was extremely problematic that it might  
13 be disqualified from getting monies for a subgrant. You  
14 could do something along those lines.

15 MR. MOSES: If the Board wanted to adopt a policy  
16 like that, yes. In fact, quite frankly, when we look at  
17 subgrants, we will relook at things such as that nature at  
18 the viability of the subgrantee.

19 MR. DANA: Mr. Chairman?

20 CHAIRMAN HALL: Mr. Dana?

21 MR. DANA: Would it be appropriate to ask the staff  
22 to generate a -- the president has suggested that there is a

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1 difference between an administrative procedure and a Board  
2 policy. I guess I really am looking for a policy. If in  
3 fact the Corporation does feel that certain kinds of  
4 relationships between grantees and others should be verboten,  
5 then it seems to me that the Board ought to say that as a  
6 policy.

7           If some things are okay, some interstate  
8 cooperation is okay, if purchase orders and cooperative  
9 ventures are acceptable, it seems to me that now that the  
10 matter has come out, you ought to draft for our consideration  
11 a policy that would govern the Corporation in the future as a  
12 policy recommendation to the Board which the Board would then  
13 adopt, assuming they agreed with it.

14           MR. MOSES: If I may ask a question, would you want  
15 a policy that would cover everything from interstate training  
16 to interstate service delivery to --

17           MR. DANA: Speaking candidly, I would say that  
18 there should be no policy in this area. There is no blanket  
19 prohibition against subgrants or interstate cooperation, that  
20 it makes sense. There may be policy reasons for or against  
21 it. But if you want to prohibit something across the board,  
22 then it seems to me that ought to be in the form of a draft

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1 policy for Board consideration. Otherwise, there ought to be  
2 no policy in this area.

3 MR. MOSES: And you mean there should be no  
4 administrative practice?

5 CHAIRMAN HALL: How, if I may, it certainly seems  
6 like it should be a case-by-case decision.

7 MR. DANA: In the absence of a Board policy, I  
8 think it would be unless there is a -- I may be getting in  
9 over my head a little bit because I think it's clear that the  
10 Corporation can adopt procedures by which it operates in the  
11 absence of -- that is consistent with a Board policy.

12 A Board policy being silent in the area, whatever  
13 the Corporation does it's not violating Board policy. If I  
14 were all by myself, I would say there should be no blanket  
15 prohibition against interstate contracts, subgranting or  
16 contracts.

17 What I'm really asking you to do is draft a policy  
18 recommendation for the Board's consideration which gives you  
19 the kind of latitude you want but speaks to this issue.  
20 Maybe after you draft it nobody will second it, assuming I  
21 move it, but I don't --

22 MR. O'HARA: I think we can do what Mr. Dana wants.

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1 agenda, consideration of vehicles through which the  
2 Corporation could assist LSC-funded grantees to recruit and  
3 retain staff attorneys. I will speak about at least one  
4 mechanism, in any event, that my office has recently been  
5 looking into which is a loan repayment assistance program.

6 We've been exploring the concept and trying to  
7 ascertain what is being done in that area by other entities  
8 and organizations towards the development of a concept that  
9 would assist programs in both recruiting and retaining staff  
10 attorneys.

11 I guess in theory loan repayment assistance would  
12 be a replacement, so to speak, for the Reggie Program which  
13 has existed up until 1985 or so. We're just doing some  
14 experimentation and some theorizing but generally from a cost  
15 benefit standpoint.

16 We are looking into mechanisms by which we can  
17 achieve a similar result for much less expense. We have  
18 learned things from the Reggie Program. I guess one of the  
19 most significant things was that administratively there were  
20 problems.

21 Perhaps through a loan assistance repayment program  
22 we may be able to attract individuals who, because of

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1 depressed salaries in many parts of the country, are not  
2 willing to work at a legal services program, though they may  
3 have an interest. I think that's the group that we are  
4 forced to focus on most.

5 I think that dollars alone will never be such that  
6 they will attract public service attorneys. There has to be  
7 an underlying interest, either moral, ethical, or something  
8 within the individual that makes them want to commit their  
9 lives to public service.

10 I think that the programs miss even some of these  
11 individuals because the dollars are so depressed. So to the  
12 extent that the Corporation can offer a mechanism by which  
13 the job can be more attractive, they may pull in some of the  
14 individuals that are not currently seeking legal services  
15 positions.

16 In that vain, my staff has been contacting and are  
17 continuing to contact organizations that provide loan  
18 assistance. I believe three of our programs have such  
19 programs in existence. Several universities do. I know  
20 Jacksonville area legal aid, for instance, has a program.  
21 I've spoken with the dean of Loyola University and they have  
22 recently initiated such a program.

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1           We're initially trying to tap into the various  
2 mechanisms that exist to try to formulate something that may  
3 work for the Corporation. Outside of that, we are also  
4 looking into prospects for developing alternative approaches  
5 to financing such a program.

6           I think that the easiest way and I guess the way  
7 it's usually addressed is a particular line item from  
8 Congress. But I think there are potentials for other funding  
9 mechanisms which may allow the project to call for at least  
10 minimally for little or no additional financing.

11           I believe Mr. Richardson discussed grant  
12 recoveries. I would assume that the Board would desire that  
13 grant recoveries at some point go back to the field. Using  
14 that part or some of those monies in a loan repayment  
15 assistance program to support the hiring of these staff  
16 attorneys would be a potential mechanism.

17           CHAIRMAN HALL: Ms. Wolbeck?

18 ~~MR. RUSSELL~~ MS. WOLBECK: Would you explain to me what you're  
19 talking about with the loan assistance repayment versus loan  
20 forgiveness? Is there a difference?

21           MR. RUSSELL: There's not really a difference.  
22 It's nomenclature. The principal situation is there are

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1 several ways it could work actually. There is more than one  
2 way. But generally, law students or possibly even existing  
3 legal services staff would be eligible to have a portion of  
4 their student loans, outstanding student loans, paid for by  
5 the Corporation in exchange for their commitment to a legal  
6 services program.

7 MS. WOLBECK: Is that the same thing as loan  
8 forgiveness?

9 MR. RUSSELL: It's the same thing, basically.

10 MR. WITTGRAF: Mr. Russell, would it be fair to say  
11 to follow on Ms. Wolbeck's question that loan forgiveness  
12 more typically would come from an entity that had made the  
13 loan in the first place, like the government or a bank?

14 MR. RUSSELL: Absolutely.

15 MR. WITTGRAF: In this case we're not talking about  
16 making loans. We're talking about hooking up with somebody  
17 who has got a loan and then paying off part of it on some  
18 basis.

19 MR. RUSSELL: That is a technical distinction, and  
20 since the Corporation does not grant loans to law students to  
21 attend law school, it has been phrased, at least for purposes  
22 of my division looking at it, a loan repayment assistance

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1 program.

2 MR. WITTGRAF: Yes. I think that probably makes  
3 more sense. You haven't looked at all at our getting into  
4 the lending business as a Corporation; have you?

5 MR. RUSSELL: No.

6 MR. WITTGRAF: I mean, that's a possibility. I  
7 assume we enough to worry about without getting into that.

8 MR. RUSSELL: In general, that's where we're going.  
9 Things are still in the developmental stages. We have a lot  
10 of ideas. We intend to explore them further. For instance,  
11 utilizing, we have a great resource in that we conduct the  
12 law school civil clinical project each year. That has  
13 created a great relationship with the law schools.

14 There is a potential for leveraging law school  
15 grants with loan forgiveness should a clinical student decide  
16 that this is something he or she wants to do as a career.  
17 There may be some mechanism where we can work with various  
18 law schools to insure that that happens. These are just some  
19 of the ideas that we're exploring. There are others, but as  
20 they are developmental, they may not be too interesting to  
21 explore right now.

22 MR. WITTGRAF: Mr. Russell, could you, to the

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1 extent you're familiar with them, describe what kinds of loan  
2 repayment efforts the three existing legal services programs  
3 have tried or are trying?

4 MR. RUSSELL: I can't detail for you exactly what  
5 procedures they have undertaken in terms of implementing  
6 their program. That is something that my staff is still  
7 exploring. I have spoken to Ken Spuler, the director of the  
8 Jacksonville program, but not in detail regarding how his  
9 program exactly works. That is something that is planned for  
10 each of the three existing legal services programs that  
11 conduct a program.

12 MR. MOSES: Mr. Wittgraf, if I can add, I'm not  
13 trying to sound like the negative person here at the table  
14 all day long, but in addition to these three who already have  
15 loan assistance programs, we have also talked with some  
16 individual programs that have rejected the idea of a loan  
17 assistance program.

18 Frequently, when it's been rejected, it's had to do  
19 with an issue surrounding a union negotiation or it's had to  
20 do with the idea that the Board was uncomfortable, allowing a  
21 loan assistance program for individuals that got a  
22 traditional type of loan to get through law school and then

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1 ignoring the person who was exactly like that person who,  
2 instead of taking a loan out for school, worked three jobs.

3 They felt very uncomfortable with providing  
4 additional compensation to Employee A and neglecting Employee  
5 B. The only reason I'm saying that is to point out that it  
6 is obviously a very, very complicated issue. But we are,  
7 nevertheless, trying to continue to look into it.

8 MR. RUSSELL: If I can just add to that, in my  
9 conversations with some program directors and even some  
10 program staff, there is an interest amongst the field  
11 programs in such a program. However, there are staff  
12 attorneys who have been staff attorneys for periods of years  
13 who are also interested in the program. I have been asked  
14 just from a theoretical standpoint how such a program would  
15 play vis-a-vis a recent graduate and an established attorney.

16  
17 So there are again questions and things that have  
18 to be considered in the development of any such a program.

19 MR. WITTGRAF: It seems to me one key distinction  
20 that has to be resolved yet also is whether or not this  
21 effort is a national effort administered by the Legal  
22 Services Corporation or a program-by-program effort with

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1 monies from the Legal Services Corporation to a given program  
2 for them to utilize the effort.

3 Mr. Moses raised the concern about how this  
4 interplays with union negotiations and union contracts. I  
5 can see that that's a problem. Am I correct in my  
6 recollection that the Reggie Program essentially was a  
7 nationally-administered program and then, through the  
8 Corporation for the benefit of individual programs?

9 Conceivably, we could look at a loan repayment  
10 program as a national effort made available in effect to  
11 grantees by the Corporation by entering into an arrangement  
12 with a given attorney. He or she would go to East River  
13 Legal Services or to Legal Services of Western Carolina for a  
14 certain period of time if he or she was going to have some  
15 form of loan repayment made.

16 If we did that, hopefully we would stay out of the  
17 problem of the union contract and the union negotiations.  
18 Maybe I'm wrong there, but it seems to me there's a  
19 distinction between giving money to the program and letting  
20 them do something, as you say, maybe three you're trying to  
21 do now with their own monies, or doing it through the  
22 Corporation nationally and approaching it that way.

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1 MR. MOSES: I was simply going to add yes, Reggie  
2 was a national program. However, it was not primarily  
3 coordinated through the Corporation. Well, for any year that  
4 I'm aware of with Reggie documents, and granted, a lot of the  
5 documents have been either archived or disposed of, it was  
6 generally administered through Howard University on a  
7 national level.

8 In the final year of operation of the Reggie  
9 Program, Howard University gave up that grant. So, for the  
10 final year of operation of the program, it was administered  
11 on a national basis through the Corporation. I was simply  
12 trying to correct you there.

13 CHAIRMAN HALL: Mr. Dana?

14 MR. DANA: Mr. Chairman, could Leslie or Charlie,  
15 for the benefit of the committee, explain the Reggie Program,  
16 what it was intended to accomplish and what the  
17 administrative problems -- well, forget the administrative  
18 problems for a minute. Just explain the Reggie Program and  
19 indicate what it was about.

20 CHAIRMAN HALL: Before you do that, Mr. Tietelman,  
21 you indicated you had something to say. I thought it might  
22 be on some of the matters they've just discussed if it's

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1 going to go into the Reggie now. Did you have a comment?

2 MR. TIETELMAN: First of all, welcome to St. Louis.  
3 I'm the St. Louis director.

4 The other thing is I think you need to look at this  
5 as a broader picture of what you're doing with the funds, in  
6 that if you give this money to recruit new attorneys, you're  
7 then casting a bias to new attorneys, and the programs of the  
8 next 10 years will be able to hire new attorneys.

9 You're also saying something about the older  
10 attorneys. My program has an average years in legal services  
11 of 12 years. I lost an attorney several years ago and then  
12 set up a pension plan. I lost an attorney who was 39 or 40  
13 years old who said she has to figure out what she's going to  
14 do when she retires. She needs a retirement plan, which the  
15 federal government offered to her in an ALJ program.

16 There are a lot of lawyers, thousands -- I mean,  
17 there are more lawyers now in legal services in that senior  
18 category. If the Legal Service Corporation were to do an  
19 incentive, the legal aid programs would say if you set up a  
20 pension --

21 We have a profit-sharing plan. Don't ask me how we  
22 got that. We have a profit-sharing plan which works very

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1 well. We can vary the amount of money each year according to  
2 what we have when we collect attorney's fees. Another  
3 vehicle would be to do something like one percent of your  
4 salary or one-half of one percent -- that's not a token  
5 amount -- matched by the program.

6 That would mean you could set up -- the program  
7 should set up profit-sharing or pension plans to keep  
8 experienced attorneys. By making a decision to give money to  
9 an improvement program and loan forgiveness, you're then  
10 neglecting the people who have already paid off their loans  
11 but can't continue to stay at legal aid.

12 Once they have really established a tremendous  
13 amount of ability, skills, and dedicated themselves, they  
14 have to leave. Either it will be because they have to send  
15 their kids to college or they have to develop a retirement  
16 plan. I just think you need to look at the whole picture.

17 You have a vast number of lawyers within the  
18 programs that have a lot of experience that need to be kept.  
19 There are a lot of programs in this country after the next  
20 census comes out that will not be able to hire another  
21 attorney for the next 10 years.

22 You're favoring a certain area that will be able to

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1 hire attorneys. Others will never be able to hire attorneys.  
2 I'm just saying it's a broad perspective of the entire  
3 staffing of legal services one way or the other.

4 MR. DANA: I'd like, if I could, to respond briefly  
5 to that. The context in which this discussion is taking  
6 place is, at least from this director's point of view, a  
7 substantially increased level of funding from Congress. It  
8 seems to me that if we cannot achieve a substantially  
9 increased level of funding from Congress, we probably don't  
10 have the flexibility to get into this area.

11 I think there are lots of problems in legal  
12 services in making sure that legal services' attorneys are  
13 able to retire with dignity is one of them, are able to  
14 remain in legal services if they should is another. But  
15 another problem that starting salaries are so low and the  
16 costs of education are so high that lots of people, in  
17 particular people who have had to borrow extensively to get  
18 that education and who may or may not come from the client  
19 community themselves, can't go back into legal services  
20 because economically they can't pay off the loans and  
21 survive.

22 That would be one problem that could be addressed

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1 by some kind of long repayment program or reconstituted  
2 Reggie Program. But I really would like to know what your  
3 memory, understanding, recollection, or belief is about this  
4 so-called Reggie program; what was good about it, what was it  
5 supposed to do.

6 MR. RUSSELL: He's been at it longer than I have.  
7 I'll refer to Chuck.

8 MR. MOSES: What I was going to say is that at this  
9 point, Mr. Dana, it might be convenient if you had one of the  
10 individuals that had been working on the Reggie Program. Ms.  
11 Batie worked on the reports concerning the Reggie Program. I  
12 think it might be useful if she could give you some  
13 background. This is from her former life at the Corporation.

14 MR. WITTGRAF: Mr. Chairman, before Ms. Batie goes  
15 into the Reggie and we have some questions about that, could  
16 I make just one more response to Mr. Tietelman?

17 CHAIRMAN HALL: Surely.

18 MR. WITTGRAF: Obviously the point that he raises  
19 about keeping people in poverty law is a critical point. I  
20 think we recognize it. I think our concern as a Board arose  
21 initially probably from the forum we had with Board directors  
22 in Jackson, Mississippi, now just about three months ago

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1 where they talked about the difficulty of hiring, as Mr. Dana  
2 indicated, and then retaining beyond just a year or two some  
3 of their attorneys.

4           It doesn't mean any lack of sympathy toward the  
5 problem you've addressed. I guess one reason I'm a little  
6 less wedded to the Reggie approach perhaps than some others  
7 might be is because while that was an effort to get some of  
8 the best and the brightest into poverty law, in fact that  
9 happened and it happened for lots of other reasons too  
10 besides the Reggie Program.

11           Now many of them there become careerists, as we  
12 know from the number that we're honoring Monday. They are  
13 just a sampling of the people across the country. But I'm  
14 looking at it, I guess, in a political way as well, political  
15 appropriations. That is that while, again as Mr. Dana  
16 suggested, we're going to urge a higher level of funding, I  
17 think, for the Corporation and in turn for the programs for  
18 fiscal year 1993 by making a separate or special request  
19 dealing with the specific problem of hiring new lawyers and  
20 helping them with their loan needs.

21           We may be able to get a little bit more money on a  
22 separate line item in addition to a general increase for

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1 field grants. It's one way to get a little bit more money.  
2 It's not easy to do, as Mr. Moses and Mr. Russell and you  
3 have indicated.

4 I see it as a bit of a political approach that if  
5 we can say to the Congress it would be nice to have some  
6 money here in addition to the increase in the basic field  
7 grants, we might, between those two things, manage to get  
8 that much more. I don't know how much that much is, but  
9 every little bit helps, I guess. It all adds to the volume.

10 With that, Mr. Chairman, thank you.

11 CHAIRMAN HALL: Mr. Tietelman, I think that's a  
12 good point. Your idea has as much merit as a loan repayment.  
13 We'd like to have them both. But apparently we have a  
14 possible better shot at the other. I certainly don't think  
15 that anyone here felt that one idea was better than the  
16 other. They both appear to have merit.

17 MR. RUSSELL: I can say that in another response to  
18 Mr. Tietelman's comment that the Corporation has not  
19 neglected the fact that there are a substantial number of  
20 staff attorneys who had been with the program for a number of  
21 years. I know that specifically because my office prepares  
22 the fact book. I'm well aware of the numbers.

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1           We have received a number from one program  
2           inquiring into that exact same situation. It is something  
3           that both my office and the Office of Human Resources is  
4           looking into. As to what can be done, I'm not certain. But  
5           it's a situation that we are on notice of. Somehow, some  
6           way, maybe we can figure out a way to address it.

7           MR. MOSES: I might add that when we say we've  
8           received a letter from one program, in fact it's on behalf of  
9           all programs in a particular state. So it's not simply one  
10          program that we're currently working with. It's  
11          approximately 20, I believe.

12          MR. DANA: This letter relates to what?

13          MR. MOSES: Relates to a retirement plan.

14          CHAIRMAN HALL: Why don't you gentlemen part and  
15          let Pat come between you there because the mike can't be  
16          moved over.

17          MS. BATIE: Good afternoon. For the record, my  
18          name is Patricia Batie. I am the corporate secretary, but  
19          I'll be addressing the Board from my former position as  
20          assistant manager of the Monitoring Division, a position I  
21          held when I was involved with the review of the Reggie  
22          Program. I don't recall specifically when that was, but it

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1 was, I believe, in 1983 or 1984.

2 If I could clarify, Mr. Dana, you were interested i  
3 knowing what was good about the program and the problems we  
4 found with the program

5 MR. DANA: Initially, what I'd like you to explain  
6 to us so we all have a common understanding, what was the  
7 Reggie Program? What was it intended to do? What were its  
8 alleged reasons for being?

9 MS. BATIE: Not having dealt with this for some  
10 time, what I recall is that the Reggie Program was the  
11 conduit, if you will, for field programs of young attorneys  
12 out of law school. They served as recruiter and a placement  
13 service, for lack of a better term.

14 The programs, if I recall, would make requests,  
15 submit requests for Reggies at some point during the year.  
16 The Reggie Program staff would go around the United States  
17 visiting various law schools, having recruitment drives, and  
18 would get interested students or law school graduates to make  
19 application for positions as Reggies.

20 Ultimately, through some process that I don't  
21 recall, the Reggie Program staff would place Reggie fellows  
22 with various legal services programs throughout the United

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1 States. They would enter contracts, they being the Reggie  
2 fellows, directly with the programs, as I recall, for a  
3 specific period of time.

4 I don't recall if it was a one or two year period.  
5 But in any event, that is basically what the program, the  
6 Reggie program did for the field programs. Their primary  
7 objective was to recruit on behalf of the field programs  
8 young law school graduates.

9 It is also my understanding that there was at that  
10 time some focus on recruiting minority attorneys and placing  
11 them in the legal services programs.

12 MR. DANA: Is it also your understanding that the  
13 Corporation paid the Reggie's salary for a period of time?

14 MS. BATIE: Through Howard University or after they  
15 gave it up?

16 MR. DANA: Before, while the program was  
17 functioning.

18 MS. BATIE: It is my understanding that the Reggies  
19 were paid with LSC funds that were granted to the Reggie  
20 Program. The Reggie Program, I believe, disbursed those  
21 funds to the Reggie fellows, to the programs that had Reggie  
22 fellows. So it was sort of a pass through situation from LSC

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1 to Howard University to the program.

2 MR. DANA: And then ultimately to the person  
3 involved?

4 MS. BATIE: That is correct.

5 CHAIRMAN HALL: Pat, it's my understanding that  
6 originally the program didn't focus on minorities. It was  
7 just brilliant lawyers.

8 MS. BATIE: That's correct.

9 CHAIRMAN HALL: When it was taken over by Howard  
10 University, the executive director of the program there began  
11 to put an emphasis on it. I guess when you say the purpose  
12 of the Reggie Program, it was not focused on minority?

13 MS. BATIE: No, no. That became a focus after it  
14 went to Howard University.

15 CHAIRMAN HALL: It became a priority of that  
16 particular --

17 MS. BATIE: Executive director, that's correct.

18 CHAIRMAN HALL: We have asked Vic Fortuno to join  
19 you because he led the monitoring team in 1984, I believe,  
20 that looked into Reggie. Anyway, Pat, go ahead.

21 MS. BATIE: I'll ask Vic to jump in and correct me  
22 if my memory fails me, but if I've responded adequately to

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1 what the Reggie Program was and what its goal and objective  
2 was. I'm not sure.

3 MR. DANA: Well, I had an embellished view, but  
4 maybe mine was clouded some. Vic, is that your --

5 MR. FORTUNO: Unfortunately, I was on the phone  
6 when this all started, so I came in towards the tail end.  
7 I'm not sure what was said.

8 MR. DANA: I understood that one function of the  
9 Reggie Program was to be a national recruiting arm so that  
10 programs, relatively small programs would have the advantage  
11 of a high-powered recruiting effort, good lawyers, and that  
12 they were and that everybody in legal services wanted a  
13 Reggie because they came with their own funding attached and  
14 were superimposed on top of existing funding so it was  
15 another body.

16 I think one purpose of it was to sort of --

17 MR. FORTUNO: Recruit talent and distribute it  
18 nationally.

19 MR. DANA: Well, that's one part. Also, was there  
20 not some sort of common training that went on?

21 MR. FORTUNO: Yes, there was.

22 MR. DANA: So that after having been recruited,

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1 wherever they went to law school, they came together and got  
2 sort of primed for the legal services experience before they  
3 went out into the field?

4 MR. FORTUNO: That's correct. It was more than  
5 just an orientation. There was substantive training and  
6 schools training that was provided to the Reggies. They had  
7 both first and second year Reggies, I believe, that they were  
8 one-year contracts renewable for a second year.

9 The program, I think, initially may have had three  
10 homes. I know that before Howard it was the University of  
11 Pennsylvania. Most recently it was Howard. Actually, four  
12 of you would consider after Howard that it was actually in  
13 house at the Corporation just briefly.

14 I think it was intended to recruit the most  
15 promising, able people for legal services and people who  
16 would evident some commitment to legal services work. I  
17 don't know whether the focus on minorities was necessarily  
18 that much stronger than it was at Penn.

19 I think that that particular racial or ethical  
20 background may itself have proved to be a valuable factor or  
21 characteristic in doing legal services work. So I think that  
22 those were certainly factors that were taken into account

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1 wherever it was, whether it was operated out of an office in  
2 D.C. or later at the University of Pennsylvania or  
3 subsequently at Howard.

4 I think maybe that quality was looked at more  
5 closely in later years. I don't know that the difference was  
6 enormous. I don't know that while it was at Penn it was  
7 ignored. I think that's always something that was taken into  
8 account.

9 MR. DANA: Would it be fair to say that in the  
10 heyday of the Reggie Program employment in legal services  
11 generally was rising at a substantial rate? Certainly,  
12 congressional funding was rising throughout the 1970s. After  
13 the election in 1980 funding fell off and there wasn't a  
14 substantial amount of hiring going on. It arguably stalled  
15 in the 1980s.

16 MR. FORTUNO: What stalled?

17 MR. DANA: The program itself.

18 MR. FORTUNO: I'm not sure what you mean by  
19 stalled. We had, I believe, three year contracts with Howard  
20 University funding the Reggie Program. It was a substantial  
21 amount of money that was given to Howard because it wasn't  
22 just to provide for an administration; that is, to provide

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1 for staff that would run a program that went out and  
2 recruited.

3 They would have people go out to various law  
4 schools all around the country, interview students there.  
5 They had a screening process to weed out applicants and to  
6 settle on the most promising of applicants. That was just  
7 part of what they did.

8 On the other side, what they had to do was accept  
9 and consider applications from programs all around the  
10 country. So you have somewhere in excess of 300 grantees  
11 possibly. I don't know that all applied, but you certainly  
12 could have in excess of 300 grantees asking for Reggies.

13 There weren't enough to go around so they had to  
14 weed those applications out, determine which were the most  
15 deserving, and then match the persons selected to be given  
16 Reggie fellowships with programs at which they would work.  
17 So it was a fairly involved process.

18 Of course, you're going to have some overhead  
19 there. You're going to have to pay people to do that kind of  
20 work and do all the travel and do the training, and organize  
21 training events. That itself is a fairly substantial  
22 commitment of time and resources.

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1           But in addition, they paid the salaries of the  
2 Reggies. That's why the grants were as substantial as they  
3 were. I don't recall perceiving when we were there in 1984  
4 that there had necessarily been such a significant drop off.  
5 I know there was a study done later on and we had nothing to  
6 do with that, so I'm not familiar with the particulars of the  
7 study.

8           I know that while we were there they had been doing  
9 a job for awhile. My recollection is it was a job that I  
10 personally felt worthwhile. I maybe came to it with a bias  
11 because I was a staff attorney to a program back in the  
12 1970s. I had heard about it and always thought highly of the  
13 Reggies.

14           But our concern while we were with the program in  
15 1984 was more it would appear to us at one point to be  
16 problems with the way the funds were being administered and  
17 possibly some personal use of the grant funds. That took up  
18 a lot of our time and attention.

19           The program overall, that particular problem, which  
20 was a significant one aside, seemed to be working relatively  
21 well. Certainly, it had a good past and a laudable  
22 objective.

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1 MR. DANA: Why was it terminated?

2 MR. FORTUNO: Frankly, it wasn't terminated. What  
3 happened was we had been -- I think the way it came about was  
4 they were due for monitoring. Without being monitored, they  
5 weren't going to be -- the contract wasn't going to be  
6 renewed. The Corporation, for one reason or another, had not  
7 been out to monitor them in a while. It was having trouble  
8 getting a monitoring team together to go out there to  
9 monitor.

10 Willy Branton, who is since then passed away, who  
11 was a partner at Sydney Austin, had been dean at Howard. He  
12 and a number of others had been in touch with the president  
13 of the Corporation, then Donald Bogard and expressed their  
14 concern with the contract is almost up.

15 You guys haven't been out to monitor. We know that  
16 without getting out there and monitoring and giving them a  
17 clean bill of health, you're not going to renew it. The  
18 president of the Corporation said put a team together and  
19 went to my boss, who didn't do monitoring -- it was the  
20 Office of Compliance and Review -- and said I'd like him and  
21 some other people, meaning me, to get together.

22 I think we were notified one week and we had to be

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1 out there Tuesday the following week. So we had to come up  
2 to speed fairly quickly. We went out. We did our review. I  
3 know at one point there was a problem with access to certain  
4 documents.

5 I was in touch with the vice president for fiscal  
6 affairs and the treasurer of Howard. They were resistant at  
7 first. My understanding is they had been told -- in fact,  
8 the vice president told me that he had been told by  
9 individuals in house that it was some sort of a hatchet job  
10 and it was racially motivated.

11 I assured him that it wasn't, told him why it was  
12 we wanted access to these things. After hearing us out and  
13 reviewing some documents that we had in our possession, he  
14 said he was going to throw the doors wide open, have us go  
15 in, and look at everything because if it was as it appeared  
16 to us at that early stage, then he wanted to know about it.

17 Ultimately, it appeared pretty much to be what we  
18 thought it was in the early stages. The university decided  
19 that under the circumstances, they were going to let the  
20 people associated with the programs administration there at  
21 Howard go, and they did, including, if I remember correctly,  
22 a tenured faculty member.

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1           The university also decided that it did not -- and  
2 my suspicion was that they did not want the publicity that  
3 would accompany this. I think they were concerned, and here  
4 I may be reading into it, but my reading of the situation was  
5 that I recall at the time Howard was one of the largest  
6 recipient of federal grant funds.

7           In fact, I checked at the time and remember that  
8 they were among the top 10. They received an awful lot of  
9 grant money, federal grant money. I think, frankly, Howard  
10 was concerned that what happened on this one instance, what  
11 was to them a relatively small program and not one that was  
12 netting them any money. They weren't making any money off of  
13 this. In fact, if I remember correctly, they were  
14 subsidizing the program.

15           I think they were concerned that the intended  
16 publicity would do harm to their ability to draw federal  
17 grants funds. Howard, on its own, decided that it did not  
18 want to see renewal of the grant, that they were going to let  
19 the grant expire and not seek renewal. They were going to  
20 let the people who were associated with the program -- there  
21 were some concerns about go -- and that's what happened.

22           The Corporation then, however, honored the

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1 commitments to the Reggie fellows, took the position that if  
2 you've been offered a fellowship by the program, the  
3 Corporation will stand behind it. We will honor it. We will  
4 operate it from within. You'll get paid your salary and  
5 you'll be placed with a program. If you're with a program,  
6 we'll see your contract through.

7 I believe it was at that time that there was one  
8 in-house study and maybe even a study outside the Corporation  
9 to see how effective the Reggie Program was at that point in  
10 time. We weren't involved in that, that is to say Pat and I  
11 weren't. We were involved with the review that ultimately  
12 led to Howard deciding not to seek renewal of the grant.

13 MR. MOSES: I was just going to continue from there  
14 if you want to know a little bit about the studies. Now, I -

15 -  
16 MR. DANA: Were there studies from which the  
17 Corporation then concluded that they should terminate the  
18 program?

19 MR. MOSES: That is correct. What ended up  
20 happening, after Howard gave up the grant, the Reggie Program  
21 continued operation for probably a little over a year from  
22 the Corporation, from the Office of Field Services. In fact,

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1 you were talking about the Reggie training earlier.

2 The Corporation put on the Reggie training that  
3 year. I know that because I was asked to go and participate  
4 as a participant. So I went through the week long federal  
5 litigation training. What ended up happening is that as they  
6 were looking at the Reggie program, they had decided to bring  
7 it up before the Board for continuation of the program if it  
8 was going to be continued in house.

9 There was at that time a study done in house  
10 concerning primarily whether or not the Reggie Program was,  
11 number one, bringing in the types of attorneys that it had  
12 articulated that it was funded to do.

13 CHAIRMAN HALL: Charlie, before you go on, is this  
14 the study that you provided me?

15 MR. MOSES: That's correct.

16 CHAIRMAN HALL: Who did that?

17 MR. MOSES: I think it was done -- and I'm reaching  
18 here because I was not involved with this -- there are no  
19 names on it. This is from a Board book in 1985 that we were  
20 able to find this. I believe it was done by two individuals,  
21 Dan Rathman and Dean Roiter.

22 MR. DANA: Names from the past.

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1           CHAIRMAN HALL: I'm sorry I interrupted you. I'm  
2 sorry. Go ahead.

3           MR. MOSES: Actually, that was not the only study.  
4 There was also an outside study done by Willie Cook who was  
5 at that time the chairman of the Reggie Board of Directors.

6           CHAIRMAN HALL: Well, all he did was try to  
7 determine how many Reggies were still -- that was the extent  
8 of his study.

9           MR. MOSES: That was the extent of his study. That  
10 is correct.

11          CHAIRMAN HALL: He just studied like half the  
12 programs responded.

13          MR. MOSES: That is correct. So it was basically  
14 on the basis of this study which, as soon as we can find a  
15 good copy -- we provided one earlier to Blakeley just as an  
16 advance copy for the chairman of the committee to know what  
17 was going on. That was the only copy we've been able to  
18 find. I'm trying to find one in the files so we can get a  
19 good copy. It's not a particularly good copy of the study.

20                 But the primary emphasis, I think, of the study was  
21 they found two things. Number one, they found that the  
22 majority of the people that were coming up as Reggies were

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1 not minorities and were not women. The study felt that this  
2 had been the articulated purpose of Reggie.

3 They didn't understand why if the program had had  
4 an articulated purpose to target that group that there were  
5 not more representatives in the Reggie selections.

6 CHAIRMAN HALL: But that wasn't true. That wasn't  
7 articulated.

8 MR. MOSES: I'm merely reporting what I think that  
9 the study was saying. I think the second thing that it was  
10 saying was that there was not a high retention rate after two  
11 or three years of the majority of Reggies. That's not to say  
12 that they are not still a lot of people who started as  
13 Reggies, and that's not to say that those people aren't very  
14 good.

15 I think that they were looking, however, at the  
16 retention of the long run of the largest number. It's my  
17 understanding, although, quite frankly, maybe the best method  
18 for the Board to look at would be the transcripts from the  
19 1985 meeting, but on the basis of primarily this study as  
20 well as testimony presented to the Board in its June 1985  
21 meeting in Detroit, that they voted to no longer fund the  
22 Reggie Program.

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1 MR. WITTGRAF: Mr. Chairman?

2 CHAIRMAN HALL: Mr. Wittgraf?

3 MR. WITTGRAF: May I ask one quick question? What  
4 was the amount of annual funding? You mentioned at the end a  
5 three-year grant for Howard University, but approximately  
6 what was being spent per year?

7 MR. FORTUNO: Pat tells me \$4 million, although for  
8 some reason or another \$5 million and change sticks in my  
9 mind. But that may not have been on an annual basis but for  
10 a three-year term. In any event, I think our memories are  
11 sufficiently vague that --

12 I've been informed that our report was, in fact,  
13 provided to the Board. If so, I'm sure that we identified  
14 that figure in there. So if you do have that, I think in the  
15 introduction we would lay some of that out. I frankly  
16 haven't seen the report that you've been furnished in years.

17 MR. WITTGRAF: I was trying to get a sense of how  
18 substantial a commitment of dollars it was.

19 MR. FORTUNO: It was substantial.

20 MR. WITTGRAF: Four or five million a year or for  
21 three years --

22 MR. FORTUNO: No. I think that that may have been

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1 for a three-year period, although I'm not sure.

2 MR. MOSES: I thought it was for a one-year period.

3 MS. BATIE: I think so.

4 MR. MOSES: I think it was a little over \$4 million  
5 for a one-year period.

6 MR. FORTUNO: That could be.

7 MR. O'HARA: Vic, I may have a document here that's  
8 a summary, a comprehensive analysis of the Reginald Heber  
9 Smith Community Lawyer Fellowship Program. In the second  
10 paragraph it says total LSC expenditures for the Reggie  
11 Program since 1976 have exceeded \$43 million. I assume this  
12 is the report that came out in 1985 or 1984.

13 MS. BATIE: That's not ours.

14 MR. FORTUNO: I'm not familiar with that. Our  
15 report is about three-quarters of an inch thick.

16 MR. WITTGRAF: Four to five million a year sounds  
17 about accurate. That answers my question, Mr. Chairman.

18 Thank you.

19 CHAIRMAN HALL: This will answer your question,  
20 George. The report will say that from August 1, 1983, until  
21 July 31, 1984, \$4.717 was spent to fund 203 Reggie positions.  
22 I think overall it was something like \$40 million. It wasn't

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1 \$4 million a year, but it was more like maybe -- well, close  
2 to that; wasn't it?

3 MR. FORTUNO: Somewhere in the range of \$4 or \$5  
4 million a year, close to \$5 million a year.

5 MR. WITTGRAF: Thank you.

6 CHAIRMAN HALL: I wanted to comment on this study.  
7 Nobody else has seen it, but when they do see it, what stood  
8 out to me was that, one, they do conclude that Reggie was not  
9 cost effective. I mean, apparently from Vic's monitoring  
10 team the way that that thing was administered was terrible.

11 So I just didn't see how they could compare -- they  
12 criticize the high administrative costs which apparently  
13 could have been cut way down. Apparently this guy was  
14 practicing law on the side or not spending most of his time  
15 doing it.

16 MR. FORTUNO: I think our conclusion was that not  
17 all of the money that went to the program was necessarily  
18 used for the intended purpose. That being the case -- and we  
19 certainly couldn't identify with a great degree of  
20 particularity just how much of the money that was intended to  
21 administer the program didn't go to those purposes.

22 We don't know. We know that a fair amount of it

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1 didn't go to those purposes. So it seemed that the program  
2 in those proportions could have been operated for less money,  
3 or if the amount of money that was being provided to  
4 administer it had all been used to administer it, it's  
5 possible that we would have seen a better run program and a  
6 more effective program.

7 CHAIRMAN HALL: Well, you can't really say how much  
8 it would cost to properly run that program. Therefore, at  
9 this point, no one can ever say whether it worked or whether  
10 it didn't work. Isn't that basically true? That's what I  
11 came up with.

12 MR. FORTUNO: I'd be inclined to agree with that  
13 statement.

14 MR. WITTGRAF: It worked to an extent, Mr.  
15 Chairman. I think that a number of good people were brought  
16 in to, many of whom have remained, the practice of poverty  
17 law.

18 MR. FORTUNO: In my judgment, a great many have.

19 MR. WITTGRAF: It may not have been done on a cost  
20 efficient basis.

21 CHAIRMAN HALL: I meant the cost looking at --

22 MR. WITTGRAF: Right.

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1 MR. FORTUNO: I mean the lion's share of the grant  
2 actually was in contract form, but the funding to Reggie was  
3 for payment of Reggie fellow salaries. The administrative  
4 costs were relatively minor in comparison to the salary  
5 expenditures.

6 Nevertheless, it seems that the administrative  
7 costs didn't fully reflect what was going to the program.  
8 Although even that is -- some of the money may have not gone  
9 to the intended purpose. Nevertheless, Howard was  
10 subsidizing the program. So it could have been a wash, I  
11 don't know. Howard was providing free space and other --

12 CHAIRMAN HALL: I think for a year's time they  
13 decided 30 percent of the money had gone to the  
14 administrative costs of the Reggie program.

15 MR. DANA: Mr. Chairman?

16 CHAIRMAN HALL: Yes, Mr. Dana?

17 MR. DANA: I don't know the extent to which you and  
18 your committee want to explore this. I think it would be too  
19 bad, frankly, to dismiss the concept of the Reggie concept  
20 because a provider in 1983 was doing a less than exemplary  
21 job, if in fact it has real merit. I for one would like to  
22 have a copy of the report that my former Board member, Mr.

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1 Rathman, did. As I recall, he was in college at the time.  
2 So he may have done this after college.

3 MR. MOSES: I think it was after college, but I'm  
4 not sure exactly. I mean, it was in 1985 and I believe he  
5 was a full-time employee of the Corporation.

6 MR. DANA: After he was a director for a year or  
7 so?

8 MR. MOSES: He might have -- I think he was a  
9 director for a year. My memory doesn't go back that far.

10 MR. WITTGRAF: It may be, Mr. Dana, that you'll be  
11 able to work for the Corporation someday too.

12 MR. DANA: Are you holding out that as a  
13 possibility? I'm sure we could work something out.

14 MR. FORTUNO: I believe he had been a director and  
15 was at the time a regular employee, full-time employee of the  
16 Corporation and was attending law school at night.

17 MR. MOSES: In fact, Mr. Dana, I have to once again  
18 apologize. We've had some copying problems at the  
19 Corporation. We were intending to try and get this after we  
20 had had a chance to talk with Blakeley first. If this is  
21 what he wanted the Board to see, we were going to try to get  
22 it out to the Board.

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1 MR. DANA: I would love to see it with the  
2 interlineations and everything else that was added would be  
3 interesting reading.

4 MR. MOSES: I've got to mark out my notes about you  
5 in here, though.

6 MR. DANA: So, if you could, that would be great.  
7 It does seem to me that this should be viewed as an option  
8 for dealing with the objective of making sure that good  
9 people can enter legal services at the entry level in  
10 addition to a loan repayment program. This kind of  
11 information should be available to all members of the  
12 committee, and at least this Board member would like it too.

13 CHAIRMAN HALL: To comment on that, I agree with  
14 you Howard. It was very interesting to me. It was a program  
15 that was ended not because it didn't work but because the  
16 management was so poor. It just kind of stopped for no  
17 apparent reason. There was a study done afterwards to  
18 determine if it was a successful program.

19 They just seemed way off base to me to say because  
20 it cost so much for what it did it wasn't worth it because it  
21 was costing too much. It wasn't properly run. That's just  
22 not -- then their other criticism was that it didn't bring

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1 minorities. There was only 50 percent of them that were  
2 still in legal services who were minorities.

3 So it said it failed its purpose there. That  
4 really wasn't its purpose. So it looks to me like it may be  
5 something that -- it would be something that I would want to  
6 look back into. Once properly run, it may be a very, very  
7 good idea. I couldn't tell from here -- there really didn't  
8 seem to be any studies on how many Reggies we had originally  
9 started out as opposed to how many were still with programs.

10  
11 They did say how many were still with programs, but  
12 I never could find it. Maybe I just missed it. I never could  
13 find an overall figure to compare how many stayed, how long  
14 they stayed, you know, to get some kind of idea on that.

15 MR. FORTUNO: I'm also not sure what they were  
16 comparing them too. Are you going to take Reggies and  
17 compare them to non-Reggies that start out with programs? I  
18 started out with a program. I'm no longer at a program. So  
19 I guess I would have been among those who left.

20 But as for Reggies, and I don't know what the study  
21 did, whether it compared those who got to a program through  
22 Reggie to those who got to the program outside of the Reggie

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1 channels and whether the retention rate for those that got in  
2 through the Reggie were somehow higher, lower, the same as  
3 those who got in through other channels. I don't know  
4 whether that was done. I, frankly, have not seen this report  
5 at all.

6 MR. DANA: Mr. Chairman?

7 CHAIRMAN HALL: Yes.

8 MR. DANA: There is a report that was presented to  
9 the Corporation. This is a summary of it. It was presented  
10 in June of 1985. It indicates that benefits analysis  
11 revealed that present and former Reggie fellows account for  
12 12.6 percent of all attorneys currently employed by LSC-  
13 funded legal services programs; 14 to 16 percent of all  
14 minority attorneys currently employed; and 8 to 9 percent of  
15 all women.

16 CHAIRMAN HALL: Gentlemen, if we could take a  
17 10-minute convenience break. I don't run too many of these  
18 committees so I don't always do what I should, but I should  
19 have offered a convenience break. Let's take one for about  
20 10 minutes, if we may.

21 (A brief recess was taken.)

22 CHAIRMAN HALL: We're going to start back up. I

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1 don't know where we stopped off. We were talking about the  
2 Reggie Program. Do any of the Board members have any more  
3 questions on that or want to continue with it?

4 (No response.)

5 CHAIRMAN HALL: I'll ask the committee members. Do  
6 you ladies have any more questions on the Reggie Program and  
7 topic Number 4?

8 (No response.)

9 CHAIRMAN HALL: Do the other Board members have any  
10 more questions on our topic Number 4? If not, I'm going to  
11 move to 5.

12 (No response.)

13 CHAIRMAN HALL: I appreciate you all. Who is going  
14 to speak to us on Number 5, consideration of vehicles through  
15 which the Corporation could facilitate the work of client  
16 organizations on a national level? Kathy deBettancourt and  
17 Victor Fortuno?

18 CONSIDERATION OF VEHICLES THROUGH WHICH  
19 THE CORPORATION COULD FACILITATE THE WORK  
20 OF CLIENT ORGANIZATIONS ON A NATIONAL LEVEL

21 MS. deBETTANCOURT: For the record, my name is  
22 Kathleen deBettancourt. I usually speak about competition,

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1 but I'm going to be talking about clients today. The  
2 Corporation did have an organization called the National  
3 Clients Council from about 1976 through 1983.

4 The purpose of that program was to provide a  
5 conduit through which information about the client community  
6 could flow through to the Board of Directors and particularly  
7 to train local client members of the local Boards of  
8 Directors. It was a very important function for one reason;  
9 lawyers don't speak English.

10 The Act requires that one-third of each local Board  
11 of Directors be composed of client-eligible members.  
12 However, to be an effective advocate for the client  
13 community, they have to understand jargon and the LSC Act and  
14 regulations. For example, they have to be familiar with the  
15 requirements for setting priorities, for example.

16 They have to understand the PAI requirement.  
17 There's a lot of things that if client members know, they can  
18 provide more rigorous oversight and also provide -- and be a  
19 more effective advocate. The National Client's Council was  
20 defunded or the Corporation decided to deny refunding to the  
21 National Client's Council in 1984 because -- and Vic can  
22 speak more about this -- the preponderance of the evidence

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1 that the monies were used not for the purposes of the  
2 program. That's how lawyers talk.

3 Again, as in the case with the Reggie, the Client's  
4 Council was defunded not because it didn't have an important  
5 purpose but because the administration of the program over  
6 six years was determined to be so poor that it wasn't  
7 providing sufficient training. It had dropped the  
8 newsletters that had been going out to the client Board  
9 members. In other words, it wasn't providing an effective  
10 conduit for the client community.

11 Now that raises the question, would another  
12 national client organization be useful. There are various  
13 options that the Corporation could look at. Again, I think  
14 we need to look at various ways to go. One question is  
15 whether a national organization might be the most useful way  
16 to go about it.

17 When you create a national organization you create  
18 a very expensive bureaucracy with staffs and salaries that  
19 becomes once removed from the client community again and  
20 provides a temptation for the kinds of administrative  
21 difficulties that we've seen in the Reggie and the other  
22 national clients council.

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1           The Corporation could consider spending that money  
2 instead by sending it directly to the local programs.  
3 Clients have the opportunity to be the most successful  
4 advocates at the local level. At the local level, the client  
5 Board members can determine the priorities of the local  
6 program, how they are using their resources. It's at the  
7 local level that decisions are made.

8           Again, at the national level, clients also have  
9 representation on the Board of Directors. The Act requires  
10 that clients have advocates at the national level. One thing  
11 that perhaps the Corporation could consider is -- I know Ms.  
12 Love and Ms. Wolbeck have made some attempts at reaching out  
13 to local client Boards of Directors.

14           One very important thing that the Corporation can  
15 do whether through a client's council or through this  
16 committee is to fund client-Board training. That money  
17 should go directly to the local client members. Now there  
18 has been in the making a video which will be very successful.

19           The one thing that should be done is a more hands-  
20 on training. I think there should be at least an attempt to  
21 have regional trainings for local Board members so that they  
22 can have someone explain to them how they can be an effective

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1 advocate.

2           The money then would be going directly to the local  
3 areas where it would do the most good. There are other  
4 things the Corporation could consider doing. There is at the  
5 Corporation itself a client ombudsman who receives quite a  
6 few calls from clients.

7           Whether he's able to help all of them or not, he at  
8 least enables clients who have a problem, either getting to a  
9 program or knowing where to go, he can at least direct them  
10 and give them some assistance. Perhaps there should be an  
11 800 number for clients to call to get assistance if they are  
12 unable to reach the local program or they are unaware of  
13 where the local program is.

14           That information can be disseminated. We get phone  
15 calls all day long. So even without this being widely  
16 advertised, there are clients who contact the Corporation.  
17 Some other ways that the Corporation can perhaps reach out to  
18 local communities is to either find funding for or ask for  
19 funding from Congress to do some surveys in local communities  
20 of clients.

21           One ongoing issue is whether the priority-setting  
22 process of the local programs is done often enough and

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1 whether it really addresses the needs of the client  
2 community. If the local programs are not able to reach the  
3 client community sufficiently, then there's a disfunction  
4 between the priority-setting process and the needs of the  
5 client community.

6 Perhaps the Corporation could assist with that by  
7 funding or finding funding for client surveys. Something  
8 similar to that has been done with the legal need surveys but  
9 those are only in a few states. These are various options.  
10 One question again is whether it would be more effective to  
11 centralize this and create a staff or whether to give the  
12 money to the local programs or target the money.

13 Are there questions?

14 MS. WOLBECK: When you determine that the national  
15 client council is not effective, who did do that?

16 MR. FORTUNO: My role in that one was slightly  
17 different. My role with the Reggie Program was to go out and  
18 assess them and to make some sort of determination as to how  
19 effectively they were operating. What we found we found by  
20 surprise. We didn't know that's what we were going to find.  
21 We didn't have any indications of that prior to going in  
22 there, frankly.

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1           The National Clients Council, my role was a little  
2 different. There had been a team that had gone into monitor  
3 them and they were scheduled for monitoring. A team was  
4 assembled.

5           MS. WOLBECK: Was this done on a regular basis?

6           MR. FORTUNO: Yes. This was done on a -- I don't  
7 know that it was done annually, but it was every couple of  
8 years or so. A gentleman who was then, and I believe remains  
9 to this date, dean of clinical education at Notre Dame headed  
10 up that team. They went in with some outside consultants and  
11 with some in-house staff.

12           What they found troubled them some and they  
13 reported their findings to the Corporation. Based on that,  
14 the Corporation determined it was appropriate to deny them  
15 refunding. That's when I got it and took the case through  
16 its defunding.

17           It went through the administrative process in  
18 house, that is a hearing before an independent hearing  
19 examiners and appealed to the president of the Corporation  
20 and then into the federal courts, the federal district court  
21 and ultimately the circuit court.

22           That's the part of the case that I was involved in.

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1 Once the review was done and the Corporation decided that the  
2 appropriate action to take would be to deny them refunding,  
3 that's when I became involved. So I certainly have some  
4 knowledge of the program as it was being run at the time that  
5 the Corporation decided to deny them refunding.

6 I don't know that I have any particularly valuable  
7 insight to offer to the notion of a client's council  
8 generally other than my personal views. I thought that the  
9 idea again was a laudable one. I think that what we're about  
10 is to provide funds for the delivery of legal assistance to  
11 the poor, to eligible clients.

12 I think it's important to hear from the people that  
13 you are there to serve. This provided a voice. This provided  
14 a mechanism, a structured mechanism which could speak,  
15 wouldn't have to be the only voice. I mean, there is nothing  
16 that made it the only voice for the client community, but it  
17 made it a voice for the client community, an organized voice.

18 This organization could lobby the Corporation. I  
19 used the term advisedly. But certainly they could speak for  
20 the client community in dealing with the Corporation and  
21 dealing with the Hill. They could answer questions. Kathy  
22 said something about lawyers who don't speak English.

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1           Here was a place that clients from all around the  
2 country could call with questions that they might have so  
3 that they could help guide clients from around the country  
4 through differing situations. They could get them in touch  
5 with the right people.

6           MS. WOLBECK: Who does that now?

7           MS. deBETTANCOURT: Well, we do have a client  
8 ombudsman.

9           MR. FORTUNO: This program had a national office  
10 here in D.C. and had regional offices around the country.  
11 They conducted training. Being, as you folks know, on a  
12 governing body is no easy task. To think that it's only the  
13 nonlawyers who may approach this a little unsure as to what's  
14 required of them, what their responsibilities are, and for  
15 that matter liabilities too, is I think a little naive.

16           I think lawyers approach it the same way, a little  
17 unsure about just what exactly is my role and what are all  
18 the parameters here. They are not always entirely certain.  
19 I think that here you had people who had a mind -- we've got  
20 clients from around the country to assist, to provide advice,  
21 not legal advice but to help them in dealing with the legal  
22 community because, as Kathy said, lawyers don't speak

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1 English.

2 But also they help to put on training to help them,  
3 that is the client-eligible Board members. They weren't just  
4 there to serve, generally speaking, client-eligible Board  
5 members. They were there to assist all client-eligible  
6 individuals.

7 But one of their functions was to help  
8 client-eligible Board members be better Board members, to  
9 better understand their role. They had workshops. They had  
10 training sessions. They had literature that was distributed.  
11 They engaged in self-help training.

12 They were a way of getting the client's point of  
13 view as an aggregate, as a group to the corporation. It  
14 wasn't just the one client calling up and saying this is what  
15 I think. It was clients communicating with this national  
16 organization that then in turn would communicate with the  
17 Corporation.

18 So I think that the objectives are certainly  
19 laudable. I think that what happened was unfortunately there  
20 were some problems with some of the money maybe being used  
21 for personal purposes. That seemed to overshadow everything  
22 else. The concern about that I think was that the folks who

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1 were there and the program the way it was being run just  
2 wasn't working.

3 That program, those people, that particular entity  
4 wasn't to be funded by the Corporation in the future. We  
5 prevailed. I think everybody who looked at it agreed that it  
6 was unfortunate and that the Corporation was within its  
7 rights to say it's not responsible to continue to fund this  
8 entity in its present form.

9 MS. WOLBECK: But haven't the states taken over  
10 that responsibility state by state, then?

11 MS. deBETTANCOURT: No. Emilia tells me some  
12 states do.

13 MS. WOLBECK: And where are they funded?

14 MS. deBETTANCOURT: I mean, they take it on  
15 themselves. But that very valid function of client Board  
16 training has lapsed. It's not done in any organized fashion.  
17 That's a very important one. I think the Corporation  
18 should --

19 MS. WOLBECK: So you know that it's not done in all  
20 states, then?

21 MS. deBETTANCOURT: It's not done nationwide.

22 MS. WOLBECK: I know it is done in Minnesota. It's

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1 not done in most states, then? They have client trainings.

2 MR. FORTUNO: It differs from place to place. I  
3 think there are regional clients councils. They are local  
4 clients councils. I suspect that they probably do a fairly  
5 good job of addressing local and regional problems. But  
6 there is no national clients council.

7 They were denied refunding back in -- the action  
8 was commenced in January of 1984 and that is one that you  
9 hear about regularly because it was so costly. We went  
10 through 21 days of testimony, full days. We went through  
11 both the administrative process internally, the ALJ, the  
12 hearing before an independent hearing examiner on the in-  
13 house review and the federal district court and circuit  
14 court.

15 Ultimately, it turned out to be very expensive. I  
16 think that one all told, and depending on how they  
17 calculated -- and, of course, there are different ways of  
18 calculating these figures so it's hard to come up with just  
19 one figure, but this is one that you will hear people refer  
20 to as having cost the Corporation a quarter million dollars.

21 To some that figure is high and to some that figure  
22 is low. It just depends on how you calculate it.

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1 Nevertheless, I think what everybody will agree on is it was  
2 expensive. It took a lot of time. It took a lot of my time.  
3 It took not just my time but the time of lots of people.

4 It happened over a period of about a year and a  
5 half. It was a lengthy case and it was a costly case. But  
6 with that ended the national organization. There is no  
7 national organization now. What we have are local and  
8 regional organizations which probably do a decent job of  
9 addressing local and regional needs.

10 MS. WOLBECK: Where is their funding? What are  
11 they taking that funding out of?

12 MR. FORTUNO: I think that they get their funding -  
13 - and again, it may vary from location to location. Emília  
14 may have a better handle on this, but I think that in large  
15 part their money comes from local programs. So that local  
16 programs may make available some funding and may make  
17 available resources, say, office space, phones, photocopying  
18 equipment.

19 MS. WOLBECK: So it's coming out of what could  
20 normally go to the field if they could get some help from the  
21 national level?

22 MR. FORTUNO: I do believe that at the time there

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1 was a national organization. There were also regional  
2 organizations. So these organizations didn't spring up with  
3 the demise of the national organization. In fact, I have no  
4 empirical data whatsoever, but my suspicion is that the local  
5 and regional organizations were probably more active back  
6 when there was a national organization to kind of coordinate  
7 things and to help organize them and sponsor activities.

8 Emilia may be better able to speak to that.

9 MS. DISANTO: I can probably speak just a little  
10 more generally. As Vic said, there is no national clients  
11 council. There are some states that have statewide clients  
12 councils which are often funded by the programs within the  
13 states themselves.

14 We also have some clients councils that are  
15 sometimes within a particular program. I think at one point  
16 in time Legal Services of North Carolina had a clients  
17 council that they used to assist in -- they funded in that  
18 they provided office space, telephone space, secretarial  
19 support, things of that nature.

20 Just working off my memory right now, we've seen  
21 clients councils, particularly on, I'll say, a more regional  
22 basis and on a program-by-program basis where some have

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1 worked and some have not worked. Most recently, for  
2 instance, we've even gotten notice from some programs that  
3 they are dismantling their particular clients council that  
4 they had in their program.

5 I can't give you specific names because it's  
6 something that just kind of comes to my attention in passing.  
7 So some states have them. Some states don't. Some are  
8 regional. Some are not. Some programs have them within  
9 themselves. But typically they are all funded by Legal  
10 Services Corporation funds, for lack of a better word.

11 CHAIRMAN HALL: Ms. Love, do you have a question?

12 MS. LOVE: She answered my question.

13 MS. WOLBECK: I have another one. Do you know what  
14 the field thinks about this? Do they want a national client  
15 council? Do you have any kind of a --

16 CHAIRMAN HALL: Why don't you come forward?

17 MR. SAUNDERS: Mr. Chairman, my name is Don  
18 Saunders. I am joint employee of the Project Advisory Group  
19 and the National Legal Aid and Defenders Association. I  
20 don't want to certainly contradict what Mr. Fortuno was just  
21 telling you because certainly it has been a while since there  
22 has been an LSC nationally-funded client organization.

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1           But I just wanted to very briefly bring you up to  
2 date on where the Project Advisory Group is with regard to  
3 its own interest in the creation of a national client group.  
4 For about the last year and a half, the Steering Committee of  
5 the Project Advisory Group, which is made up of a number of  
6 clients from various parts of the country, have been looking  
7 at the same kinds of issues that you were just hearing about  
8 and pretty much coming to this same conclusion Mr. Fortuno  
9 was saying.

10           There is a great deal to accomplish by having a  
11 structured national clients organization. For the last year  
12 and a half, we've been working quite hard on creating what is  
13 known as the national organization of client advocates. I  
14 believe both of you met with a number of representatives in  
15 Oregon of that organization.

16           We have had two sets of officers elected. The  
17 elections were held in Oregon. It is certainly not something  
18 that is structured as the former clients council was. But I  
19 know you have seen that organization developing. I know you  
20 were actively involved with it in Oregon.

21           That's the genesis of that, was the feeling among  
22 the Steering Committee and the Project Advisory Group that a

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1 national structured client organization was valuable. We  
2 hope soon to have participants from the national organization  
3 of client advocates to participate with the national Board  
4 and to provide you input from the client perspective.

5 But there has been a great deal of work in the  
6 client community. There are indeed regional representatives  
7 from across the country from the client community who do  
8 participate. Mr. Chairman, I just wanted to bring you up to  
9 date on that.

10 CHAIRMAN HALL: I appreciate it.

11 MS. WOLBECK: Where is this getting funded?

12 MR. SAUNDERS: It is generally funded and supported  
13 by the Project Advisory Group.

14 CHAIRMAN HALL: Before you go, are there any other  
15 questions? Mr. Wittgraf?

16 MR. WITTGRAF: Mr. Chairman, I was wondering with  
17 the evolution of this organization whether the need exists  
18 for a national clients council, whether it would be  
19 duplicative having both, whether efforts of the Corporation  
20 ought to be directed towards supporting the new organization  
21 or whether there should be the reinvigoration or the  
22 reinstatement of a national clients council under the

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1 guidance of the Corporation?

2 CHAIRMAN HALL: Mr. Saunders?

3 MR. SAUNDERS: Well, not having spoken with NOCA on  
4 that point, I would certainly assume that they would welcome  
5 support of LSC in what they are trying to do. I would  
6 imagine they would also feel that it would be duplicative to  
7 create a separate, an individual organization.

8 That doesn't mean that there wouldn't obviously be  
9 some involvement, if LSC were to support it, an oversight  
10 from that perspective. But I'm certain that they would be  
11 very interested in discussing a closer involvement, more  
12 client participation with this Board.

13 CHAIRMAN HALL: Ms. Love?

14 MS. LOVE: They are just renaming it? They will be  
15 doing basically the same thing; right?

16 MR. SAUNDERS: That's right.

17 MS. LOVE: They are just renaming it?

18 MR. SAUNDERS: Their basic goal is to not only  
19 provide a resource for local client Board members and some  
20 access at that level but also to have some involvement before  
21 this Board as well.

22 MS. LOVE: Thank you.

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1 CHAIRMAN HALL: Mr. Dana?

2 MR. DANA: Mr. Chairman, I think we have, as a  
3 Corporation, dropped the ball in the last five years having  
4 dropped the national clients council. I think our response  
5 has been, I guess, an ombudsman -- and I have trouble  
6 pronouncing that too -- who apparently waits for telephone  
7 calls and gets some, and a video which is -- every time I  
8 look at the budget I get reminded that we still haven't spent  
9 -- we've spent \$4,000. We still have \$46,000 to go.

10 So I hope that -- I do think that, at least my  
11 experience as a Board member in the early 1980s was that I  
12 learned more from client advocates about the real problems of  
13 the poor than I did from their lawyers. I think it was  
14 helpful to Board members at the local level.

15 I know it was helpful to Board members at the  
16 national level, one of whom you'll get to meet tomorrow  
17 night. Annie Slaughter, with whom I served in the early  
18 1980s, will be here tomorrow night. Mr. Chairman, I would  
19 think that if this committee agreed that it would be  
20 appropriate to ask management or ask to solicit a proposal  
21 for funding from this new entity that the Corporation could  
22 then consider funding.

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1           CHAIRMAN HALL: We certainly and I think the  
2 Corporation would invite any of the -- we would solicit any  
3 unsolicited grants, I suppose is a way to put it.

4           MR. DANA: It would seem to me that if your  
5 committee and/or if the Board thought that this was a good  
6 idea to explore, that it would solicit as opposed to not  
7 solicit an extensive grant application from anyone but  
8 presumably this new organization to perform the kinds of  
9 functions that we've heard about today that the Corporation  
10 thinks is a good idea, but acknowledges is not being provided  
11 today.

12           MR. WITTGRAF: Mr. Chairman?

13           CHAIRMAN HALL: Mr. Wittgraf?

14           MR. WITTGRAF: I was curious from Ms. deBettancourt  
15 or someone what the level of funding was when defunding  
16 occurred in 1983 or 1984. What kind of financial commitment  
17 had been made previously?

18           MR. FORTUNO: It was somewhere in the range of half  
19 a million to \$800,000.

20           MS. deBETTANCOURT: One thing that I wanted to say  
21 in comparison to a Reggie Program or a loan forgiveness  
22 program, any money we spent in this area we feel is somewhat

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1 less. We're talking about funding training. I mean, it's  
2 not going to cost \$5 million. It would be a very cost  
3 effective use of money.

4 MR. DANA: Mr. Chairman?

5 MR. WITTGRAF: You're thinking approximately half a  
6 million to three-quarters of a million was being spent?

7 MR. FORTUNO: Somewhere in that range.

8 MR. WITTGRAF: That's fine. I had no idea whether  
9 it was half, two, five, ten.

10 MR. FORTUNO: It's probably close to half.

11 MR. WITTGRAF: Thank you.

12 CHAIRMAN HALL: Ms. Wolbeck?

13 MS. WOLBECK: Well, whatever has been done in the  
14 past and didn't work I would obviously think that that would  
15 be taken into consideration and design something different  
16 from what was done in the past and avoid those mistakes or  
17 whatever it was, whatever problem there was with it. Maybe  
18 it was just administration. Just watch to see that it's not  
19 designed in exactly the same way.

20 What I wanted to make a point of mainly is that  
21 I've attended two Board trainings in Minnesota that were put  
22 on by client council, Minnesota client council. They were

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1 excellent. I mean they were really excellent. I learned  
2 more in those two trainings than I think I learned in a year  
3 on the Board.

4 I mean it's different when you can hear it from the  
5 clients and hear what their perspective is. It's a whole  
6 different perspective. That helped me immensely. I could  
7 use lots more of those. But I think this is very important  
8 for these trainings. If they don't have the funds for the  
9 trainings, I think this is very critical.

10 MS. deBETTANCOURT: I think it's something the  
11 Corporation could do. We just have to decide what is the  
12 right structure.

13 CHAIRMAN HALL: Mr. President?

14 MR. O'HARA: Mr. Chairman, I'm going back to Mr.  
15 Dana's request. I think what you're suggesting is that we  
16 prepare an RFP, request for proposal, to be submitted to the  
17 entire universe, anybody who is out there who wishes to come  
18 in to make a proposal to the Corporation.

19 I wish to point out that we do not have funding for  
20 this at this time. We may need, and I would defer to Charlie  
21 and Ellen on this, we probably would need an additional staff  
22 person just to handle this particular part.

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1 MR. MOSES: I'd like to see what it's going to  
2 take.

3 MR. O'HARA: Yes. I think there are a lot of  
4 unknowns with it at this point.

5 MR. WITTGRAF: Mr. Chairman, it seems to me, much  
6 as with our discussion of innovative grant proposals and  
7 reinstitution of a Reggie Program or a loan repayment program  
8 that this concept is something that we need to include in our  
9 deliberations of the Audit and Appropriations Committee and,  
10 in turn, the Board in recommendations to the Congress for the  
11 fiscal year 1993 budget.

12 I think, as I was saying earlier in response to Mr.  
13 Tietelman's comments that for political purposes in the  
14 appropriations process we're better off drawing specific  
15 attention to this need and asking for specific funding for  
16 this need so that perhaps we can get that, while at the same  
17 time bolstering the funding for the basic field programs.

18 I hope that your committee can suggest that, I  
19 guess, both to the Audit and Appropriations Committee and  
20 then to the Board as a whole that you've got three or four  
21 areas where the specific budget recommendations should be  
22 made to the Congress as part of our 1993 fiscal year

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1 recommendation.

2 Thank you, Mr. Chairman.

3 CHAIRMAN HALL: Thank you, Mr. Wittgraf. I guess  
4 I'm really not certain how to go about it. I'm certainly not  
5 opposed to exploring, Mr. Saunders, your program, your  
6 proposal. I assume that you will send us something on that  
7 and let us look at it.

8 George?

9 MR. WITTGRAF: I think as suggested by the  
10 president, if there is an amount of money there, then the  
11 availability of that money is published. It may be that the  
12 national organization of client advocates would be the only  
13 grantee proposing receipt of those funds, or it could be that  
14 two or three or four groups would come forward.

15 It might be that some state groups, such as the  
16 Minnesota clients council to which Ms. Wolbeck has referred,  
17 would seek a small amount of those funds, as perhaps would  
18 other state councils. Then a number of people would receive  
19 those funds.

20 I don't contemplate in my mind necessarily that all  
21 the funds would go to NOCA, if that's the pronunciation of  
22 that acronym, but would be available to be utilized just as

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1 we have perhaps innovative fund monies that will be available  
2 for people who have got things they want to try to do with  
3 them. If the president and the staff are convinced that the  
4 efforts are well founded and worthy, then they will enter  
5 into a contract accordingly.

6 At some point I think our committees and then we as  
7 a Board are probably going to have to pick a figure as we  
8 look at a recommendation for fiscal year 1993. The president  
9 posed that question to Mr. Moses, perhaps unfairly without  
10 any warning. But we're going to have to come up with a  
11 figure.

12 That's why I was asking Ms. deBettancourt and Mr.  
13 Fortuno about what had been spent prior to defunding and look  
14 to that at least as one form of guidance.

15 MR. FORTUNO: I'm sure the only information we have  
16 on hand is from the District Court decision where it's  
17 reported that LSC had given them approximately \$4 million for  
18 the period from 1976 through 1983. That would be through  
19 1983, although the notice informing them they were being  
20 denied refunding went out in January of 1983.

21 They received interim funding at the same level  
22 they'd been receiving it through 1983. So it was through

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1 1983. For that period of time, in any event, 1976 through  
2 1983, they were ordered approximately \$4 million.

3 MR. WITTGRAF: So about seven years and \$4 million,  
4 maybe eight years, and it comes out as you suggested to about  
5 a half million dollars.

6 CHAIRMAN HALL: I guess what I'm inclined to do is  
7 probably meet once or twice more and follow up on some of the  
8 issues that we've started today, the Reggie Program. I don't  
9 feel like we're really in a position to know everything we  
10 should know as well as we haven't received the proposal from  
11 NOCA.

12 I'd like to see that and then perhaps at that time  
13 take some other testimony on it, and then put it into the  
14 form of a motion that would basically be that we recommend  
15 that when we seek our funding from Congress that whichever of  
16 these programs or projects that we think have merit, that we  
17 seek some special type of funding for it. Isn't that  
18 basically what you have in mind, Mr. Wittgraf? That's how I  
19 would like to approach it.

20 MR. WITTGRAF: I think that would work fine because  
21 I think the Audit and Appropriations Committee is still doing  
22 its work too. It may well be that the Operations and

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1 Regulations Committee will have some more specific thoughts  
2 on what level of funding they think would be appropriate in  
3 connection with competitive funding experimentation for the  
4 next year as well. So yes, I think as a Board we probably  
5 wouldn't be acting until January or perhaps even February. I  
6 think our actions will be the most responsible and in turn  
7 will be in the best position to try to convince the Congress  
8 if we have the soundest reasoning and the most specificity  
9 that we can develop over the next couple of months. That's a  
10 long way of saying yes.

11 MR. MOSES: If I can ask a point of clarification  
12 to make sure I understand what you would like for us to do,  
13 Mr. Hall, I think you said you would like to receive a  
14 proposal from NOCA and all these other entities to be able to  
15 look at it in order to decide how much money you want to --  
16 is that right?

17 CHAIRMAN HALL: Well, I'm not really firm on what I  
18 was saying. That's probably why you didn't understand it. I  
19 guess I would like to receive a proposal from them, but if  
20 there's any other ideas on the clients council that we  
21 haven't heard today, I think those matters should be explored  
22 as well.

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1 MR. MOSES: The one thing I think that the Board  
2 should probably be aware of, generally speaking, when we put  
3 together a request for proposals, which NOCA would be  
4 responding to, in order to give you a proposal, we generally  
5 like to have some idea of the amount of money involved prior  
6 to putting out the RFP. That makes a big difference in who  
7 might respond to you.

8 We can put out a general request and say we might  
9 or might not have dollars and you might or might not want  
10 to -- you might be wasting your time to even send something  
11 in. That's going to affect the number and type of proposal  
12 you get. It's just something we found that it's usually a  
13 lot better to have some type of dollar commitment before you  
14 have an RFP.

15 CHAIRMAN HALL: Mr. Dana, please?

16 MR. DANA: I think I'm happy to say I agree. It  
17 seems to me that what would be most helpful to the Board, and  
18 perhaps this committee, would be at its next meeting to have  
19 a formal concept proposal to the committee from NOCA or from  
20 anyone else. In other words, I'm frankly somewhat  
21 surprised -- maybe we've been working the staff and the field  
22 so hard that they are not paying any attention.

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1           But for years here we've been hearing that the  
2 field cares about Reggie Programs. They care about clients  
3 council, they care about more funding. They care about other  
4 things, but nobody is here to talk to the Provisions  
5 Committee about why they haven't been requesting it for  
6 years, what they have in mind.

7           Are you hearing me? It does seem to me that some  
8 support for these ideas from the people who have been keeping  
9 these ideas alive for these many years would be appropriate.  
10 I think this committee and certainly this director would  
11 welcome some flesh on the PAG budget line, annual budget  
12 line.

13           They dutifully stick in a Reggie. They dutifully  
14 stick in something to help clients to be better. I think  
15 it's time to help a Board that is grappling with this and  
16 doesn't remember what it was like in the days of when those  
17 organizations existed.

18           MR. SAUNDERS: Mr. Chairman, if I can maybe have 30  
19 seconds because I did hear Mr. Dana very clearly. I was  
20 particularly interested in responding to Ms. Wolbeck's  
21 question just as information. I do not want to indicate to  
22 the Board that the client organization that we've been

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1 working with has sat down and considered whether or not they  
2 want to come to you with a formal proposal.

3 I'm certainly speaking ahead of that group. I  
4 think they'll certainly be interested that your committee is  
5 considering this issue. I will certainly make them aware of  
6 that. But I feel that I may have gotten a little bit out in  
7 front of where they are by indicating to you that they are  
8 ready to come to this Board with any sort of request.

9 But we can certainly provide you with information  
10 about the organization and its genesis and certainly put them  
11 in touch with you. I would certainly not want to be saying  
12 to you that they are ready to come seeking funds from LSC.

13 CHAIRMAN HALL: Thank you.

14 MR. WITTGRAF: One other thing occurs to me, Mr.  
15 Hall, Mr. Chairman. We have periodically had presentations  
16 made to our Board by people who are wanting to experiment  
17 with or have more funding for the self-help efforts that  
18 they've undertaken.

19 I think that's probably a somewhat different  
20 concept from what we're talking about here. I would  
21 encourage your committee to be looking at any funding need,  
22 if there is one, in the self-help area at the same time that

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1 you are working on support for client advocacy efforts as  
2 well.

3 I do think, if I'm recalling correctly, that last  
4 March you and your committee members and then our Board as a  
5 whole did have a presentation by at least one individual who  
6 was seeking some funding for a self-help effort. I'm sure  
7 there are some other ones as well.

8 So my suggestion is you broaden your thinking in  
9 that area, client advocacy, to include self help as well.

10 CHAIRMAN HALL: So noted. Are there other  
11 questions?

12 (No response.)

13 CHAIRMAN HALL: We have a little bit of time left  
14 to move on to what I think is now our last topic,  
15 consideration of matters related to the continued annual  
16 funding of law school clinics. Mr. Moses?

17 CONSIDERATION OF MATTERS RELATED TO THE CONTINUED  
18 ANNUAL FUNDING OF LAW SCHOOL CLINICS

19 MR. MOSES: It looks like I'm the proverbial bad  
20 penny today. I keep showing up.

21 Basically, the question had come up about the law  
22 school clinical grants and what the Corporation does with

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1 this money, what the grants do. I thought that it would be  
2 appropriate to give the members of this committee some  
3 background information into what the clinical education  
4 program is and who is funded and helped with it.

5 By way of background, the Corporation first made  
6 law school clinical grants on an experimental basis in 1984.  
7 They were two years worth of grants made to 14 universities  
8 throughout the country. As a result of those grants, there  
9 was an internal Corporation study as to whether or not  
10 clinical education was something that the Corporation should  
11 support.

12 Clinical education basically is a concept where you  
13 have law students who learn by doing. They actually, while  
14 they are in law school, provide assistance to students under  
15 direct supervision of faculty members called clinicians that  
16 are hired specifically for that purpose.

17 It is, frankly, one of the newer types of  
18 education, legal education. At that time, our Corporation  
19 was convinced that clinical education, even though it is  
20 education and has a goal, a primary goal of education, that  
21 it can at the same time have an equal goal of providing  
22 service to individual clients.

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1           As a result of that study in 1987, the Board voted  
2 to annualize the clinical education grants with expenditures  
3 from its budget. After that point, Congress has since taken  
4 up the clinical education grants and continues to fund it as  
5 a separate line item in the budget of the Corporation.

6           Over the years, since 1984, the Corporation has  
7 never spent -- it has not spent huge amounts of money in any  
8 one year, although they might sound large. The largest  
9 funding that we've had has been this year. It's been raised  
10 by Congress ever since Congress put it in the budget. That  
11 was a little over \$1.2 million.

12           With that each year, the Corporation conducts a  
13 competition among the 178-odd ABA accredited law schools as  
14 well as among all those law schools which are accredited by  
15 state bar associations; the reason being there are several  
16 states in the union that have almost as many state bar  
17 accredited law schools as they have ABA accredited law  
18 schools. Those schools just don't see the need for American  
19 Bar Association accreditation.

20           Over time, we have basically been able to make  
21 grants in approximately 44 separate states plus the District  
22 of Columbia and Puerto Rico. So we try quite successfully, I

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1 think, to spread each of these grants around. No one grant  
2 is for a large sum of money. In fact, there is a cap of no  
3 more than \$75,000 at the current time on any law school  
4 clinical education grant.

5           Interestingly enough, however, one of the  
6 requirements for the program that we instituted is basically  
7 a matching requirement. So in order to qualify for a grant  
8 from the Corporation, the university must provide as much as  
9 a 50 percent match, meaning doubling the money, at a minimum,  
10 in order to qualify for any law school funding.

11           This has been seen as another way to not only  
12 leverage Corporation resources but to basically force the  
13 hand of universities and force universities into spending  
14 their own money at the same time that they are spending ours.  
15 The feeling had always been if they feel that it's an  
16 educational component, they need to put in money to it too.

17           Each year approximately 500 to 600 students will go  
18 through the clinics that the Corporation funds. Obviously,  
19 it varies each year the number of grants that we make.

20           CHAIRMAN HALL: Charlie, let me ask a question,  
21 maybe a dumb question. Do the students that go through these  
22 -- I mean, I remember when I was in law school, we had the

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1 clinic that I never had time to do. But the ones that go  
2 through there, they pay tuition to go through those hours?

3 MR. MOSES: My understanding is that in most places  
4 they do.

5 CHAIRMAN HALL: The college makes money?

6 MR. MOSES: Well, the law school gets tuition  
7 money. However, it depends on the number of credit hours.  
8 Each university has a different number of credit hours that  
9 it attributes to its clinical program. I've seen them as low  
10 as two credit hours requiring possibly 10 to 18 hours of work  
11 a week up to as many as 7 credit hours a semester which  
12 probably would be almost an entire full-time job or close to  
13 it.

14 You don't have as many of those. In fact, they do  
15 get some funding for it. Frequently, what happens is that  
16 the tuition money is used, I think, as part of the match that  
17 the universities put in as their portion in order to secure  
18 other additional funding too.

19 CHAIRMAN HALL: Would you tell us how these clinics  
20 are geared toward helping the poor?

21 MR. MOSES: In order to be eligible for legal  
22 services funding, a clinic basically has to assure that any

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1 person or any service that they provide would meet legal  
2 services regulations. The one distinction that we have made  
3 has been that we will fund a certain section of a clinic.

4 For example, particularly in large law schools, you  
5 might have as many as 10 different clinical programs  
6 operating simultaneously. The easy example is you frequently  
7 always have a criminal clinic operating in conjunction with  
8 either the U.S. Attorney's Office or with local law  
9 enforcement officials or with a public defender's office.

10 The Corporation has taken the position, I think  
11 rightly, that merely because a university has a criminal  
12 clinic, that does not necessarily eliminate it from the  
13 possibility of securing funds. Rather, what we do is we  
14 focus on the specific clinic that is funded.

15 So each application is for very, very specific  
16 activity and a very specific separate clinic. To the extent  
17 that that clinic is funded, every client coming through that  
18 clinic has to be LSC eligible and the problems have to be LSC  
19 eligible.

20 CHAIRMAN HALL: This is a recruitment-type of idea.  
21 I mean, this came on after the Reggie Program went out.

22 MR. MOSES: Well, it basically had three or four

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1 different goals. Recruitment was one of them.

2 CHAIRMAN HALL: Has that ever been measured?

3 MR. MOSES: Well, it was measured initially. In  
4 fact, what we found initially with the 1984 to 1986 study was  
5 by looking at student surveys from students, when taken  
6 before the student went into the clinic and after the student  
7 left the clinic, there was approximately a 35 percent  
8 increase in the numbers of students who were saying they  
9 would be willing to do legal services work as a career.

10 In addition to that, there was approximately a 75  
11 percent increase in the numbers of students who were saying  
12 they would be more willing, having done a clinic, to provide  
13 pro bono services through a Corporation-sponsored private  
14 attorney involvement program or through another local private  
15 attorney involvement program.

16 The Corporation, after the 1987 study, had planned  
17 originally five or six years after that study to do a  
18 longitudinal study, what we called at that time a  
19 longitudinal study, on students who had gone through the  
20 clinic, a similar number of students who had not gone through  
21 the clinic, at the same time period, in the same locations to  
22 see if there had indeed been a lasting effect on their

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1 opportunity to provide private attorney involvement and/or  
2 whether or not you had larger numbers in legal services  
3 offices.

4 We are getting to the point now where we are about  
5 at that time period to start looking at the longitudinal  
6 study. In fact, I think we pulled out the files on that a  
7 week or two ago to start compiling the lists. So that's the  
8 only measurement that we've had. There has been measurement  
9 at the time or simultaneously to when the clinic involvement  
10 is over.

11 In addition to that, though, we do have, I guess  
12 you might say, anecdotal information that comes from  
13 virtually every single clinic director that I've ever been  
14 involved with at each of these schools. There must have been  
15 as many as 120 to 130 grants made in total so far.

16 If you talk to any one of those directors, they  
17 will tell you that they have noticed changes in students.  
18 They have noticed the fact that students that they never  
19 thought would be interested in legal services work had in  
20 fact then gone into legal services work.

21 Frequently, what they will tell you is that  
22 particularly now that law schools are so expensive, and

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1 particularly now that you have gone through the 1980s and  
2 everyone has been more so into the "me" decade than into the  
3 "we" decade, they felt that there was a need to try and  
4 sensitize students at the law school level when they are  
5 still learning.

6 They feel that you need to be able to get to  
7 somebody early on to teach them that this is the type of  
8 thing that they can very easily fit into their own practice  
9 either as a private attorney or that they might be interested  
10 in in getting more involved in as a legal services attorney.

11 I think that that is a very important aspect which  
12 is an offshoot of the recruitment aspect. At the same time,  
13 though, I think you have to understand that we are getting  
14 very good service delivery from these clinics at the same  
15 time that we get other benefits.

16 In any one given year, in the last statistics that  
17 are available right now that are at least released, I believe  
18 from 1989 academic year, I believe there are a little over  
19 5500 clients that receive services through LSC-funded law  
20 school clinics.

21 That represented approximately 61,000 hours of work  
22 that had been put in. Since the law school program is

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1 essentially a grant program, the Corporation has continued to  
2 maintain very rigorous reporting requirements, including not  
3 only case reporting requirements but hourly time reporting  
4 requirements to make sure that not only are we getting work  
5 for the money that we give, but that we're getting a lot of  
6 client contact by these students. That's why we're able to  
7 tell you that 61,000 hours in 1989 alone were spent in  
8 working with these clients.

9 I think that if you look at the program in those  
10 terms, you can see the types of results that it's been  
11 achieving. You can see the broad-based nature of it. We  
12 make every effort to distribute the grants geographically.  
13 There is, in fact in the selection procedure, discussions  
14 about how there needs to be geographic distribution.

15 We make every effort to bring at least one field  
16 representative, generally it's a program director that works  
17 with a law school, into the selection process. We bring in,  
18 as well, members from law schools into the selection process.  
19 This is done once a year.

20 Generally, we have been --

21 CHAIRMAN HALL: Howard has a question that may  
22 pertain to what you just said, if it's okay.

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1 MR. DANA: Thank you, Mr. Chairman. If you were  
2 just about to conclude, I was going to ask a question. Were  
3 you?

4 MR. MOSES: Yes.

5 MR. DANA: Let me say that I probably should be  
6 asking questions rather than stating where I'm coming from,  
7 but I think legal aid clinics are wonderful. As far as I'm  
8 concerned, I think they've been around for years. I went to  
9 the legal aid clinic when I was in law school before Jo Betts  
10 was born.

11 Am I not correct that most law schools in this  
12 country have legal aid clinical programs of one kind or  
13 another?

14 MR. MOSES: Well, yes and no. You're correct that  
15 they might have a clinical program. Now saying that it's a  
16 legal aid clinical program is a different step. Generally,  
17 what you'll find is --

18 CHAIRMAN HALL: It's not for poor folks?

19 MR. MOSES: Well, you have a lot of programs that  
20 will have a lot of criminal clinics. You have a lot of  
21 programs that will develop because of particular interests of  
22 a faculty member. So I've seen tax clinics. I've seen --

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1 MR. DANA: So it's your position that there aren't  
2 a lot of law clinics.

3 MR. MOSES: No, I'm not saying that there aren't a  
4 lot.

5 MR. DANA: Of the programs that we fund, Charlie,  
6 how many had legal aid clinics before we funded them?

7 MR. MOSES: Usually in any given year, we have one  
8 or two schools that actually originate one.

9 MR. DANA: So the vast majority have had programs  
10 before we funded them?

11 MR. MOSES: Well, what we fund, though, Mr. Dana,  
12 is we fund an expansion, meaning that you have a university  
13 that might even have decided that clinical education is a  
14 good thing. But they have certain commitments as a  
15 university. They will fund enough positions for 12 students  
16 to go through a semester.

17 At that point, what we fund is instead of those 12  
18 students going, we will fund for 24 or for 30 to go through.  
19 So, essentially what we do is we -- and this is part of why  
20 we encourage the matching -- we try to work with university  
21 resources to leverage so that they can then increase the  
22 numbers of students that have the opportunity, cognizant that

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1 generally speaking you're talking about third year law  
2 students that are in clinics.

3 There are some that are second year. But generally  
4 it's third year, which means that generally you will have two  
5 semesters of an opportunity. If you miss that opportunity  
6 because there are too many people that want to get into it,  
7 it's gone forever.

8 MR. DANA: So the vast majority of the programs  
9 have them, but what we try and do with our monies is increase  
10 the number of students that go through the program that  
11 exists?

12 MR. MOSES: That's correct.

13 MR. DANA: When we pull out of these programs, does  
14 it go back to where it was or does it sometimes continue on  
15 at the high level, or don't we know?

16 MR. MOSES: Frequently, we ask each of the programs  
17 to address that. We do maintain contact with them generally.  
18 What we find happens is that as the program continues to use  
19 students, they basically expand their basic support within  
20 the community. By using more students, by helping more  
21 clients, by having more access to more attorneys, they expand  
22 their base of support within their local community.

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1           They also expand their basic support within the law  
2 school community at the individual law school because more  
3 faculty members are exposed, more students are exposed.

4           MR. DANA: So the answer to my question is?

5           MR. MOSES: The answer is probably in about 50  
6 percent of the cases that I've seen, when we pull out they  
7 are then able to find expanded funding to keep it going. I  
8 can name you specific cases off the top of my head. The  
9 first one that jumps to my mind is the University of Virginia  
10 which, even though it was known as --

11           MR. DANA: My concern, frankly, is that we're  
12 spending, if the math is right, about \$2,000 per student.

13           MR. MOSES: That might be.

14           MR. DANA: Five hundred students per million  
15 dollars is \$2,000 a student. They apparently see 11 clients,  
16 producing 5500 clients a year, and spend 12 hours per client.  
17 So we've got about \$15 an hour.

18           MR. MOSES: Actually, the last figure I saw was \$11  
19 an hour.

20           MR. DANA: I'm just wondering if we regard this as  
21 cost effective use of resources, whether this is an effective  
22 use of scarce resources.

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1 MR. MOSES: Well, I think that it might not be the  
2 easy response or it might not even respond to your question,  
3 but I think that if you were to take that same 5500 clients  
4 and try, say, to put them into a private attorney involvement  
5 program or a judicare program, particularly in a judicare  
6 program, your costs are running \$25 to \$35 an hour.

7 If you were in a private attorney involvement  
8 program, I think that by the time you factor in the  
9 administrative costs of such a program, you'd see that the  
10 cost for that would be up there too. That's a little more  
11 difficult, again because the Corporation does not get any  
12 type of hourly data from any of our regular grantees, so it's  
13 much more difficult for us to get down to that specific  
14 level.

15 The one thing we are able to do is get it with the  
16 law schools because we can impose that requirement with no  
17 problem. Again, if you compare it to a judicare program, a  
18 client gets more than satisfactory service for \$11 an hour as  
19 opposed to the \$25 to \$35 an hour in a judicare program.

20 CHAIRMAN HALL: Ms. Wolbeck, you had a question?

21 MS. WOLBECK: I may have missed something. I've  
22 been up since 4:00 o'clock this morning. Monetarily, why do

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1 these students do this?

2 MR. MOSES: They don't do it monetarily. They are ~~NOT~~  
3 paid.

4 MS. WOLBECK: They're paying their tuition and they  
5 are getting this training.

6 MR. MOSES: They are paying the tuition and they  
7 receive credits toward their graduation for doing this. In  
8 fact, I think if you go to virtually any law school in the  
9 country, you'll find it's a very sought after class to get  
10 into. Generally, they have to turn people away because they  
11 just don't have enough teaching faculty.

12 MS. WOLBECK: They just want this experience that  
13 much?

14 MR. MOSES: Exactly.

15 CHAIRMAN HALL: It looks good on your resume.

16 MR. MOSES: It looks good on your resume. It's  
17 excellent training for any type of lawyering. Then it's also  
18 a very big commitment towards your hours to a graduation.

19 MS. WOLBECK: More than normal? More credits than  
20 normal?

21 MR. MOSES: Well, some programs can give as much as  
22 two or three times what a normal class would be. Of course,

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1 you have a time commitment that they have to put in to get  
2 that. It just depends on the school.

3 CHAIRMAN HALL: Mr. Wittgraf?

4 MR. WITTGRAF: I was going to say, Ms. Wolbeck, it  
5 always strikes me as being something like student teaching or  
6 social work practicum. It's kind of getting the real thing a  
7 little bit earlier than when you finish law school and try to  
8 pass a bar exam in the state. You get to do the real thing  
9 while you're still a student. It would be like on TV or the  
10 movies.

11 May I ask a question, Mr. Chairman, to Mr. Moses?

12 CHAIRMAN HALL: Please do.

13 MR. WITTGRAF: When did we begin the law clinic  
14 funding as a part of the Corporation's activities? What's  
15 the history?

16 MR. MOSES: The first activity was -- well,  
17 actually, if you really want to go way back to the history,  
18 it's included in the legislative history under one of the  
19 sections that the Corporation should be funding, under  
20 Section 1006 of the Act. Nothing had ever been done other  
21 than there was some funding for what was called the Legal  
22 Services Institute at Harvard. But that never moved beyond

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1 Harvard and Northeastern University.

2 That funding was stopped, I believe, back in the  
3 early 1980s or late 1970s. There was a comptroller general's  
4 report in the early 1980s concerning the legal services which  
5 suggested specifically that the Corporation consider trying  
6 to foster a better relationship with law school clinics as  
7 one resource.

8 In large part, in 1984, as a result of both the  
9 legislative history and the comptroller general's report,  
10 that's when the Corporation funded out of private attorney  
11 involvement funds, a special fund again that Congress I think  
12 had given them that had not been used.

13 The Corporation funded a two-year study in 14  
14 schools around the country. That ran from 1984 to 1986. In  
15 1985, in the meantime while that two year study was still  
16 going on, Congress appropriated money for what they called  
17 the Elder Law Program, which was designed to be used as  
18 grants to law schools with all of the focuses being toward  
19 elderly clients.

20 So, once again in 1985, the Corporation  
21 administered that \$2 million worth of grants that was voted  
22 directly by Congress. In 1986, there was a very much reduced

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1 amount of funding by the Corporation in large part because we  
2 still had the experimental projects continuing.

3 Then, in 1987, when the results of the projects  
4 came out, the Corporation voted to annualize law school  
5 clinics as a portion of the budgets. I believe at that time  
6 it was a little less than a million dollars, but I might be  
7 wrong about that. It might have been a million from the  
8 beginning.

9 MR. WITTGRAF: Excuse me just a second. By that  
10 you mean that the Board, in making a budget recommendation to  
11 the Congress, set out a specific line item for law clinics.

12 MR. MOSES: That's correct.

13 MR. WITTGRAF: The Congress picked up on that  
14 apparently.

15 MR. MOSES: Well, I believe the first year what  
16 ended up happening was the Board voted it out of accumulation  
17 of these funds such as we talked about today. However, they  
18 did make, I think, a recommendation to Congress. In the  
19 second year of annualization, what I call annualization, I  
20 believe it showed up as a line item in the Corporation  
21 budget. I might be wrong on that.

22 Do you have a recollection on that, Dave?

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1 MR. RICHARDSON: There was one year that I think  
2 was appropriated for program development. Then, after that  
3 it was a separate issue in the budget.

4 MR. WITTGRAF: Did you say earlier, and forgive me  
5 if you did and I missed it, the number of law clinic grants  
6 either for calendar 1991 or fiscal year 1991?

7 MR. MOSES: The number of grants that we have this  
8 year is 20. In any one year, depending upon the amounts of  
9 money that any school asks for, they usually run between 20  
10 and 24, I think. We were able to give 20 this year.

11 MR. WITTGRAF: Do you recall offhand how many  
12 requests or applications there were for the 20 grants,  
13 approximately?

14 MR. MOSES: We were able to fund probably about one  
15 of every three proposals. That might be a little off. I  
16 think it might be a fraction in their somewhere, but it's  
17 about that, about 50 to 60 proposals.

18 MR. WITTGRAF: Thank you, Mr. Chairman.

19 CHAIRMAN HALL: Do you have a question, Jeanine?

20 MS. WOLBECK: No.

21 CHAIRMAN HALL: Jo?

22 MS. LOVE: No.

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1           CHAIRMAN HALL: Charlie, I think you just said, did  
2 you not, that don't we have a specific line item for this  
3 that comes from Congress?

4           MR. MOSES: Congress has voted it, yes.

5           CHAIRMAN HALL: It seems to me that we shouldn't  
6 give up that type of line item when that's the type of line  
7 item we're trying to get back possibly on Reggie and these  
8 other things. The money maybe could be spent better  
9 elsewhere, but we may not get it if we were to X this out.  
10 That would be my thoughts.

11           MR. DANA: Mr. Chairman, one thing to be said for  
12 this is A, it's a good thing; B, it's \$11 an hour which is a  
13 relatively inexpensive cost. I am reassured that in fact we  
14 are not funding a service that was provided previously. We  
15 are, in fact, increasing the service each time which I think  
16 is healthy.

17           I'm also reassured by the fact that it appears that  
18 once having been increased and our money moves on to another  
19 law school, there is some evidence that it stays up. So we  
20 get a continuing uncompensated benefit. I misspoke.

21           MR. TIETELMAN: No. I think everything Charles  
22 said -- we had a grant at St. Louis University Law School,

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1 the poor law school in St. Louis. Everything he said is  
2 absolutely correct. It occurred with the law school grant in  
3 St. Louis, including the interest, the adding of a new staff  
4 person they did not have before.

5 Everything he said was absolutely correct. We have  
6 100 applicants for jobs; we have no jobs. Most of those  
7 people are from the clinic program. Three hundred of 1,000  
8 lawyers involved in the lawyer program have all been through  
9 the clinic programs over a period of time before they  
10 started. What he says is, I think, correct at a local level.  
11 I'm not speaking nationally.

12 MR. DANA: Well, from my point of view, I think  
13 your presentation has been reassuring. It does seem that we  
14 are getting our money's worth. That was my concern.

15 CHAIRMAN HALL: Are there any other questions?

16 MR. WITTGRAF: Mr. Chairman?

17 CHAIRMAN HALL: Mr. Wittgraf?

18 MR. WITTGRAF: I just wanted to follow up on the  
19 points Mr. Tietelman made. Would it be generally true, Mr.  
20 Moses, that law students with clinic experience are much more  
21 apt to apply for legal services program positions?

22 MR. MOSES: I think that that's what we've seen

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1 from our surveys of students. We do do student surveys every  
2 year. We continue to do student surveys. As I said earlier,  
3 it looks as if -- I'm not sure you can really put a number on  
4 this, but if you do, the initial estimate is that you have  
5 about a 35 percent increase in the students that would be  
6 willing to apply for legal services jobs.

7 MR. WITTGRAF: Second, perhaps more importantly,  
8 would it be broadly true, going on from Mr. Tietelman's  
9 experience, with St. Louis University that PAI attorneys or  
10 pro bono attorneys are given some education through these  
11 clinics as well?

12 MR. MOSES: Well, I think that that generally is  
13 true in large part because what our student surveys have  
14 indicated is that there is somewhere between a 75 percent and  
15 an 80 percent increase in the numbers of students who will  
16 tell you that they are going to participate in PAI.

17 Now what we are going to plan to do, we have not  
18 done yet because we planned on waiting five or six years or  
19 so, is this longitudinal study which should help verify that  
20 over a time period not just right after.

21 MR. WITTGRAF: It would appear that this experience  
22 has been a commendable experience, salutary experience. I

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1 was just wondering if it was typical or atypical.

2 MR. TIETELMAN: We want the law school clinic  
3 students with the PAI attorneys directly so they act in  
4 support, especially for small law firms not the large firms  
5 where they don't have students to run around in research or  
6 lexis.

7 They also link it to lexis that no one else can  
8 link into. The law schools links us into lexis. They link  
9 directly to the law school program, to the PAI attorneys not  
10 necessarily in the future but right now.

11 MR. MOSES: Frequently that is a type of variation  
12 that the St. Louis clinic does. Unfortunately, not every  
13 clinic does that variation because each clinic is different.  
14 However, I can say this. The vast majority of almost all of  
15 the clinics have a very good close working relationship with  
16 their local funded field program.

17 In fact, I might take this time period to say that  
18 the program here, the housing program at St. Louis was in  
19 fact very successful.

20 CHAIRMAN HALL: Further questions?

21 (No response.)

22 CHAIRMAN HALL: Before I'd entertain a motion to

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1 adjourn, I'd want to say that Mr. Tietelman has something  
2 else to say.

3 MR. TIETELMAN: Just one last thing. I'm just a  
4 local director and I have some thoughts. I just want to say  
5 if you have any questions about St. Louis, let me know. I  
6 was asked to give you restaurants for Sunday and Monday. I  
7 didn't know you were going to be here Saturday.

8 I can give you whatever you need to know. If you  
9 have any needs whatsoever, let me know. Also, if you need  
10 reservations, I'll be able to get you reservations if you  
11 need them for dinner tonight. Anything you need, let me  
12 know.

13 MR. DANA: May we infer that if a restaurant is  
14 open on Sunday and Monday it's also open on Saturday?

15 MR. TIETELMAN: You may not be able to get a  
16 reservation. You may not be able to get in.

17 MR. WITTGRAF: This isn't Portland, Maine, or  
18 Cherokee, Iowa.

19 MR. TIETELMAN: There are 50 more restaurants that  
20 are open that aren't open on Sunday and Monday which might be  
21 better than the ones that are open on Sunday and Monday.

22 CHAIRMAN HALL: We certainly appreciate you having

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1 us here. We'll try your restaurants.

2 I was going to say this before I entertain a  
3 motion. A lot of things that we've discussed here today have  
4 to do with recruitment and keeping legal services lawyers. I  
5 think you see one good reason why we should do that. These  
6 guys that have spoke today, they've been in legal services a  
7 long time. In fact, most of them were the players in a lot  
8 of the things that we discussed today. That was very  
9 impressive to me and probably helped them quite a bit in  
10 putting together the things they did so quickly. I noticed  
11 Charlie, while he may have some notes there, this last go  
12 round I think he spoke from memory.

13 He was there and he did it. I think that makes a  
14 quality person. I've been very impressed with what they've  
15 done. So that should be all the more reason to follow up on  
16 these things that we've discussed today.

17 With that --

18 MR. WITTGRAF: Mr. Chairman, before you ask for a  
19 motion --

20 CHAIRMAN HALL: Mr. Wittgraf?

21 MR. WITTGRAF: In light of the commendation you've  
22 just given Mr. Moses, I can ask him another question.

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1 CHAIRMAN HALL: That applies to --

2 MR. WITTGRAF: He's the one I'm going to put on the  
3 spot, though.

4 CHAIRMAN HALL: Put him on the spot.

5 MR. WITTGRAF: It's kind of agenda item 7 which  
6 merged in part to agenda item 2 earlier this afternoon. Just  
7 as I guess we all have our pet interests, one of mine has  
8 been perhaps innovation in the area of consolidation of basic  
9 field programs in a geographical sense across the Board.

10 Do you recall any efforts either with the carrot of  
11 funds or otherwise that have been made to date to stimulate  
12 or to facilitate consolidation of existing legal services  
13 programs in the interest of greater efficiency or greater  
14 bang for the buck?

15 MR. MOSES: There has been at least one recent  
16 consolidation. When I say recent, it's probably within the  
17 last three years. Other than that, I think you would have to  
18 go back to the early 1980s for consolidations. We are  
19 working with two potential programs right now that are  
20 interested in consolidating. In fact, they are in Missouri.

21 MR. WITTGRAF: Fine. That's, to me, encouraging  
22 because I think 325 more or less is too many, in my judgment.

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1 Do you have an opinion as to whether or not the carrot of  
2 some funds, and I guess I'm thinking probably of one-time  
3 funds, would be a stimulant in that direction?

4 MR. MOSES: The current consolidation that I am  
5 working on, we have discussed that possibility. In fact, we  
6 had discussed that possibility as long ago as this past  
7 summer. At that point, we were discussing it under the  
8 rubric of an unsolicited grant proposal coming in for this.

9 Depending upon exactly what happens with the  
10 unsolicited grant proposals, we might have to think about it  
11 in a different type of term because I'm not sure we can  
12 really delay consolidation for the time period that it might  
13 take in order to get the new guidelines, which we discussed  
14 earlier, not only through the Corporation staff but adopted  
15 by the Board and then published.

16 That does concern me a little bit because we really  
17 are trying to do this a little more quickly than that. But  
18 at the same time, we are definitely working on it.

19 MR. WITTGRAF: My thinking, and it's just mine, I  
20 believe, is that as we have gotten some so-called Board  
21 initiative money for experimentation in the competitive  
22 funding area and have given the preliminary responsibility to

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1 the Operations and Regulations Committee of the Board because  
2 we're concerned that it may eventually require some changes  
3 in regulations, I'm looking, for what it's worth, at the  
4 possibility of additional Board initiative monies for the  
5 next fiscal year for consolidation funding as distinct from  
6 competitive or competition funding again, perhaps, under the  
7 guidance of our Operations and Regulations Committee to try  
8 to stimulate consolidation.

9           You think that there is potential, if not a need,  
10 for that kind of funding?

11           MR. MOSES: Well, actually I think that there might  
12 be a very good need. I'm going to correct myself. We're now  
13 working on two not just one. One is a little more iffy than  
14 the other one. There might be a need for some money either  
15 for the additional expenses for the program that takes over  
16 or for payment of unpaid bills.

17           Frequently, whenever we've had consolidations in  
18 the past, not necessarily in this case, but frequently when  
19 we've had them in the past, there has been some financial  
20 problem. We have recognized that you cannot get another  
21 program to take over a financially weak program and then  
22 assume outrageous debts, because they simply have no impetus

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1 to do it at that point.

2 MR. WITTGRAF: Would you or Ms. DiSanto have any  
3 guesstimate as to how many, I'll say, weak brothers or  
4 sisters there might be needing to be picked up by stronger  
5 brothers or sisters?

6 MS. DiSANTO: I guess that's mine.

7 CHAIRMAN HALL: Ms. DiSanto?

8 MS. DiSANTO: Speaking more generally, something  
9 that we've noted over the last few years is that there are  
10 some programs that are simply too small. There are some  
11 programs that at \$150 or \$200 and sometimes \$300 thousand  
12 dollars, it's simply an insufficient amount of funds to run  
13 an efficient program in light of the administration and the  
14 various needs that you would have in that kind of  
15 circumstance.

16 Speaking more generally, we, in MAC, have  
17 approached several programs about perhaps joining up with  
18 other programs. We were successful in that with one  
19 particular program that we approached who was again in severe  
20 financial difficulties. Mr. Salzman, who was the executive  
21 director of the other program, was very helpful to us in that  
22 he more or less expanded his service area, took over the

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1 adjoining service area.

2           The funds were then redirected toward his program  
3 so that more efficient service would be given. We recently  
4 conducted a monitoring and found that that was indeed the  
5 case. However, we also learned in doing that that several  
6 other issues came up which ran anywhere from dissolving a  
7 corporation and putting out notices to creditors for a six or  
8 eight month period and other kind of corporate issues that  
9 come up in the particular statement when you're dissolving a  
10 corporation that did come up.

11           We've even approached another program which again  
12 is a very small, very, very small program who's spending  
13 close to 60 to 70 percent of their funds on administration  
14 and only 30 percent on the delivery of service in perhaps  
15 joining up with another program.

16           In response to your question, there are probably  
17 about 25 or 30 programs that could probably benefit from some  
18 type of consolidation in putting two programs together,  
19 recognizing that too small has its problems, but also keeping  
20 in mind that too big also has similar problems. So it's kind  
21 of identifying that balance in between that you have to reach  
22 to have the most efficient program you can without getting

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1 too big or too small.

2 MR. WITTGRAF: Mr. Moses talked about one  
3 legitimate financial need which would be sort of some  
4 cleaning up money. Are there other financial needs that  
5 would have to be met to facilitate consolidation or to  
6 encourage consolidation?

7 MS. DiSANTO: Absolutely. I mean, what we're  
8 seeing --

9 MR. WITTGRAF: Just give me some examples to help  
10 in my understanding.

11 MS. DiSANTO: Okay. What we're seeing is that with  
12 the funding the way it has been with some programs, we're  
13 seeing, for instance, an increase in the amount of fund  
14 deficits that are occurring in programs which is basically  
15 the amount of money that's spent that they don't have to  
16 spend.

17 In some programs, there are all kinds of costs that  
18 come up. One program I can think of right now had financial  
19 difficulties for a period of time to the point that it was  
20 really unaware of how much outstanding debt there was with  
21 regard to PAI attorneys, and then conducted a survey.

22 When the survey was concluded, they suddenly

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1 realized that there was \$45 or \$50 thousand worth of  
2 outstanding debt that it hadn't anticipated. Those, in my  
3 mind, are all the costs that need to be incurred by some  
4 entity other than the programs because in order for another  
5 program to -- for it to be palatable to take over the service  
6 area of another organization, surely they'd like it clean and  
7 free of all debt, of all problems that might be involved in  
8 that particular organization.

9 MR. WITTGRAF: That's a form of cleaning up. I'm  
10 wondering if there's anything of a more constructive nature  
11 that needs to be funded, a more positive nature that needs to  
12 be funded in transition of consolidation. Perhaps not.

13 MR. MOSES: Now, there are always going to be a  
14 variety of costs, for example, one of the current issues  
15 we're dealing with with one of the current people. As you  
16 consolidate, the purpose for consolidation is to possibly  
17 help eliminate some administrative bloat. If you eliminate  
18 administrative bloat, occasionally that might entail  
19 eliminating some staff to the extent that you might have to  
20 eliminate staff sometimes under different personnel manuals.

21 You'll have things such as severance pay. You'll  
22 have other associated costs like that. Frequently, you might

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1 also have to have opening of a new office in a different area  
2 if there is an area that has not been served. One final area  
3 that has been a problem, not so much in consolidation, I  
4 don't think, but in a closure, is it might take some funding  
5 to ensure that all the case files are closed.

6           There had been a problem probably about eight years  
7 ago with a program that closed that had a million files at  
8 the time. Three or four years later it became apparent that  
9 some of the cases had not been closed. When they closed the  
10 office, they simply chucked the file and didn't bother  
11 closing the case.

12           I think that there were some expenses involved in  
13 going back to determine, to make sure that each of those  
14 cases had been closed.

15           MR. WITTGRAF: Ms. DiSanto?

16           MS. DISANTO: In response to your question,  
17 something that I think also could be helpful is going off  
18 something Charlie just said with regard to personnel. We  
19 tried in some of these circumstances that personnel can be  
20 picked up. Sometimes that's not possible because of the  
21 circumstances surrounding this consolidation.

22           Perhaps funds that help take care of the

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1     unfortunate staff attorney who happened to be in the wrong  
2     place at the wrong time to kind of be picked up because  
3     they've got the experience and they want to work in legal  
4     services.  Sometimes it doesn't work out to try and ensure  
5     them some type of either -- actually being picked up by  
6     another program or even some type of transition outside of  
7     the program would be very helpful.

8             MR. WITTGRAF:  Your comments from both of you are  
9     very helpful.  My general reaction is to encourage, I guess,  
10    the Audit and Appropriations Committee to have a Board  
11    initiative subline item of more or less a million dollars for  
12    consolidation efforts as separate from the competition  
13    efforts that we've already undertaken and will continue with.

14            I guess I'd say to the president if he and the  
15    staff think that my thinking needs the support of more staff  
16    work, I'd be happy to have it.  I think what Mr. Moses and  
17    Ms. DiSanto have said helps me with my thinking at least.  
18    Thank you, Mr. Chairman.

19            CHAIRMAN HALL:  Can I have a motion to adjourn?

20                           M O T I O N

21            MS. WOLBECK:  I move we adjourn.

22            CHAIRMAN HALL:  Can I have a second?

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