

TRANSCRIPT OF PROCEEDINGS

LEGAL SERVICES CORPORATION

SPECIAL COMMITTEE ON PRESIDENTIAL SEARCH

(Open Portion)

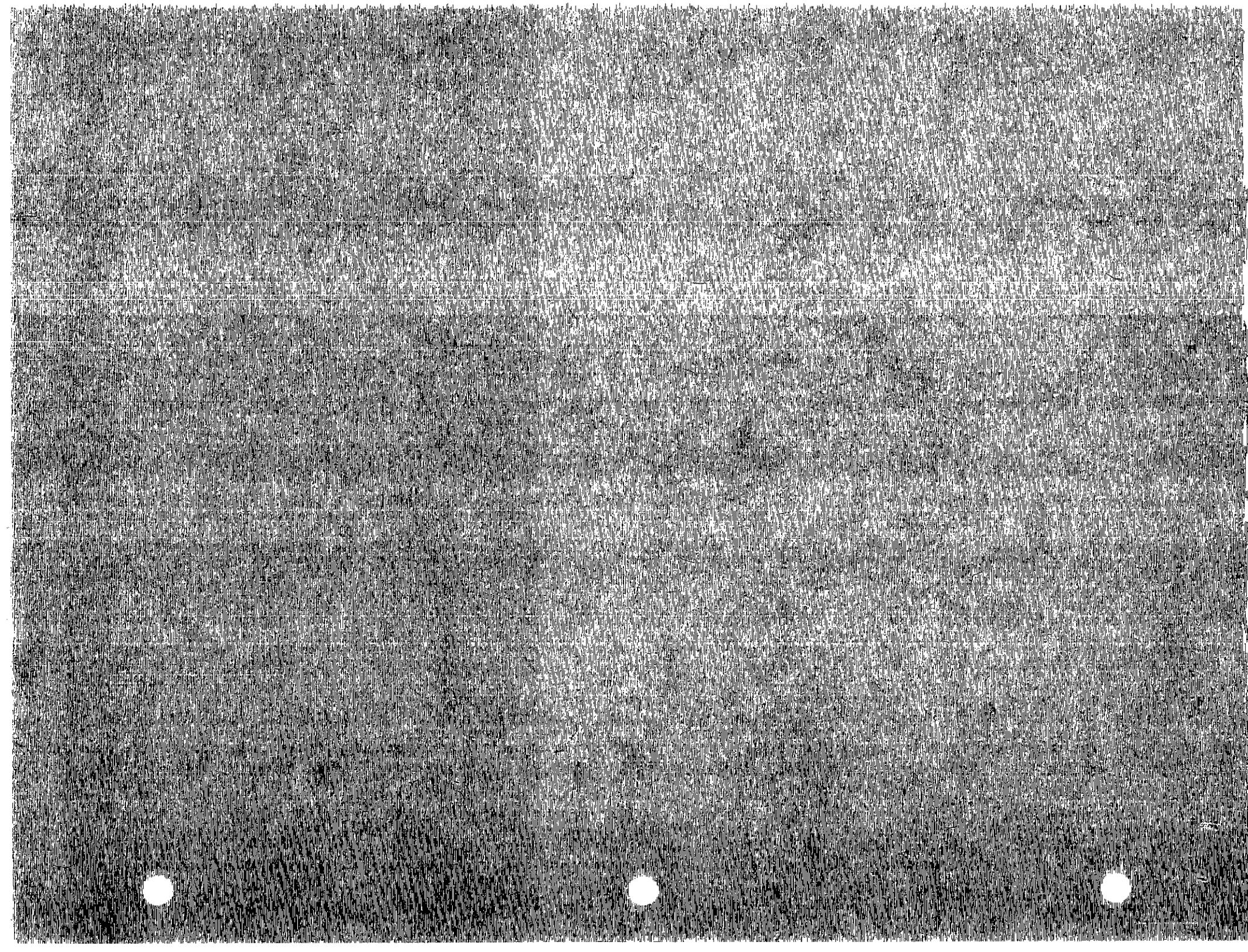
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LEGAL SERVICES CORPORATION

SPECIAL COMMITTEE ON PRESIDENTIAL SEARCH (Open Portion)

Washington Room
Hotel Washington
515 15th Street, NW
Washington, D.C.

Friday,
February 22, 1985

COMMITTEE MEMBERS PRESENT:

CLAUDE G. SWAFFORD, Chairman
W. CLARK DURANT, III
LEA ANNE BERNSTEIN
PAUL EAGLIN
LORAIN MILLER
THOMAS F. SMEGAL
ROBERT A. VALOIS
MICHAEL B. WALLACE

OTHER BOARD MEMBERS PRESENT:

HORTENCIA BENAVIDEZ

ALSO PRESENT:

TIMOTHY H. BAKER, Special Counsel
Members of the LSC Staff
Members of the Public

P R O C E E D I N G S

(8:45 a.m.)

1
2
3 CHAIRMAN SWAFFORD: I would like to call this
4 meeting to order, and the first order of business is that
5 I have asked Board Member LeaAnne Bernstein who, today is
6 her birthday and we wish her Happy Birthday, and ask if she
7 would open our meeting with prayer.

8 MS. BERNSTEIN: Lord, let us abide by your Word.
9 It is written in the scripture that there is nothing to harm
10 us if we are zealous for what is right. You have guided
11 us with your command to keep our consciences clear. You
12 commanded us to hold unfailing our love for one another,
13 to practice hospitality ungrudgingly to one another, and
14 as each of us has received your gifts, to employ those gifts
15 for one another as good stewards of your grace, and to render
16 service as one who renders it by the strength which you supply
17 in order that in everything You may be glorified. Lord,
18 let us abide by your Word in everything we do. In Jesus
19 name we pray. Amen.

20 CHAIRMAN SWAFFORD: This is the second meeting
21 of the Presidential Search Committee of the Board of the
22 Legal Services Corporation. This meeting has been previously
23 noticed. It is being held at Hotel Washington in Washington,
24 D.C., on February 22nd.

25 Incidentally, it is the birthday of George

1 Washington, and we are in his city, and I am grateful to
2 be an American and grateful to come to this beautiful city.

3 The meeting was scheduled for 8:30. We're a
4 little bit late. I now have ten minutes until 9:00.

5 The Committee Members present are: Our Chairman,
6 Clark Durant, Board Members: LeaAnne Bernstein, Paul Eaglin,
7 Lorain Miller, Tom Smegal, Robert Valois, Claude Swafford,
8 and we also have present Hortencia Benavidez who is a Board
9 Member, and we're pleased to have her. We also have members
10 of the staff of the Legal Services Corporation and in particu-
11 lar we have Tim Baker who is Counsel to this Committee.

12 At this time, Mr. Durant, do you have anything
13 you would like to say as Chairman?

14 MR. DURANT: First, simply to congratulate you.
15 I understand you had an excellent meeting in Memphis. I'm
16 sorry I wasn't able to be there. At some point I would like
17 it if you would talk to the members of your Committee, either
18 now or over, before our next meeting, to see if there are
19 any specific people that anybody would like to have invited
20 to address us on any of the suggestions regarding particular
21 candidates or the general kinds of characteristics or criteria
22 that we ought to be considering for our next President so
23 that we can assure that we are trying to get a broad-based
24 input both from the field and those who are interested in
25 our program. I don't think you have to do that now, but

1 if you would talk to the members of your Committee and solicit
2 from them the names of people that they would either like,
3 either in writing or by their physical presence, to give
4 their input so that we do have a broad base.

5 CHAIRMAN SWAFFORD: Could I ask you to make
6 a note of that, Mr. Baker?

7 MR. BAKER: Yes.

8 CHAIRMAN SWAFFORD: And in respect to that sugges-
9 tion, we do have a time set aside on our agenda today to
10 hear from members of the audience and the public generally
11 with regard to recommendations from public on criteria for
12 selection of President. So we are in that process, but we
13 will refine it to go with your suggestion.

14 MR. DURANT: Excellent. Thank you very much.

15 CHAIRMAN SWAFFORD: The agenda which was published
16 in the Federal Register, you have before you, I assume you
17 have before you. Does everybody have the agenda? It's a
18 little blue book.

19 (Pause)

20 CHAIRMAN SWAFFORD: Do members of the audience
21 have this? We'll furnish you a copy if you do not.

22 We will now proceed to the second item on the
23 agenda which is a report on the closed session of February
24 13th which I will give, just briefly.

25 On February 13, 1985, the Presidential Search

1 Committee met in Memphis, Tennessee, at the Skyport Sheraton
2 at 2:00 p.m. at a closed meeting which was duly authorized
3 and properly noticed.

4 The Committee invited Mr. Thorns Craven and Ms.
5 Ons Tu into the meeting to present their recommendations
6 and comments concerning the presidential search process.
7 Mr. Craven, Director of the Legal Aid Society of the Northwest,
8 North Carolina, spoke for the project advisory group. Ms.
9 Tu, Staff Member of the project advisory group was also present
10 as an observer.

11 By the way, did I pronounce your name correctly?

12 MS. TU: Yes.

13 CHAIRMAN SWAFFORD: Included in Mr. Craven's presenta-
14 tion was a recommendation that the public be invited to serve
15 on the Presidential Search Committee. After the invitees
16 had left the Committee discussed the recommendation made
17 by MR. Craven. The following motion was introduced, seconded
18 and passed by unanimous vote of the Committee. Resolved,
19 that this Committee recommend to the Board that public input
20 into the process of selecting a PResident be solicited, but
21 that at this time members of the public should not be invited
22 to serve on the Committee or to form a separate advisory
23 committee working in coordination with the Committee.

24 Following the vote, the Chairman expressed her
25 views on the task that was before the Committee. Comments

1 from each of the Committee members were solicited and discus-
2 sion followed. When discussion terminated the Committee
3 reviewed the resumes of applicants.

4 MS. MILLER: I'd accept the minutes as being read.

5 CHAIRMAN SWAFFORD: Well, I'm glad you brought
6 that up, Ms. Miller. These are not minutes. We don't have
7 a copy of the minutes because they were court reported, and
8 so I think unless I am in error here, let me just enter this
9 into the record as a statement, and at a future date we will
10 have. Can you --

11 MR. BAKER: We'll have a report on the full session.
12 We'll have minutes of any open session of the Presidential
13 Search Committee.

14 CHAIRMAN SWAFFORD: I would like to say that the
15 statement of Mr. Craven will be made available to anyone
16 who would desire that and if you would like that, let Tim
17 Baker know and he'll see that you get a copy of Mr. Craven's
18 statement.

19 And in response to Mr. Craven's comments, it was
20 decided by the Committee to invite recipients of the
21 corporation and any other groups with interest in the selec-
22 tion of the President, to submit questions for the Committee
23 to incorporate in the selection process.

24 Now the process of how we go about doing this is
25 I believe, let me make this suggestion and if there are

1 suggestions from the members, please say so. Send a
2 communique to the various groups and establish a date for
3 which the questions should be submitted.

4 What date? Let me hear from the Board as to what
5 date? What would be a good deadline for those questions
6 to be received from the public, from recipients generally?

7 MS. BERNSTEIN: Couldn't we use the same date as
8 the date that the resumes are due, March 15th, and that way
9 that will give them as much time as the, then we'd be ready
10 whenever we're ready to begin any sort of a narrowing process.

11 MR. EAGLIN: Actually it could be later than that,
12 Madame Chairman, because we are submitting questions, I believe,
13 and that would be the closing date for receipt of resumes,
14 but I think we could even get their questions even later
15 in March and would still have a chance to get --

16 CHAIRMAN SWAFFORD: All right, make a recommendation
17 and let us decide by concensus that that is the, I don't
18 think it's an extremely, something that we need to spend
19 a great deal of time on. What would be your suggestion, Mr.
20 Eaglin?

21 MR. EAGLIN: The end of March.

22 CHAIRMAN SWAFFORD: Is that satisfactory? March
23 31st?

24 Let the record show that a member of the Search
25 Committee, Mr. Michael Wallace, has joined us.

1 MR. WALLACE: Thank you, Madame Chairman.

2 CHAIRMAN SWAFFORD: Mr. Wallace, we are on item
3 three of the agenda.

4 We will now at this time hear recommendations from
5 the public, those of you who are present today, and I might
6 say that we are delighted that you are here and we welcome
7 your input and we will take your recommendations at this
8 time with regard to the criteria for the selection of a
9 President of the corporation, and Eleanor, I see you first
10 back there. If you'd like to go first, we'd be pleased to
11 hear from you and those of you who are here.

12 We will at this point not put any time limit on
13 you. If you get to taking so much time that we're not going
14 to have any time to do the rest of our business we'll have
15 to ask you to --

16 MS. EISENBERG: I don't think that will be a problem.

17 CHAIRMAN SWAFFORD: Thank you, Ms. Eisenberg.

18 MS. EISENBERG: Eleanor Eisenberg, Region 8
19 Project Director's Association. We would like to join with
20 PAG in urging you in the first instance to make this process
21 as open as possible and appreciate your soliciting recommenda-
22 tions and your inviting the public to address you on the
23 subject.

24 The primary criteria which was not stated, although
25 I'm sure is implicit in the posting that you sent out in

1 advertising this position is a commitment to federally funded
2 legal services of the highest quality, and that is really
3 at this point all that we would add. In terms of experience,
4 I think there would be a preference for somebody who has
5 had active field experience in the legal services program
6 since that obviously would give somebody the greatest apprecia-
7 tion of the needs of the field and the needs of our clients,
8 and the difficulties under which we are working and possibly
9 some insight into what some of the solutions to those problems
10 might be.

11 Thank you.

12 CHAIRMAN SWAFFORD: Thank you, Mrs. Eisenberg.
13 And as I have talked to people since this Committee came
14 into being, that has been my number one criteria, that there
15 would be a commitment to legal services for the delivery
16 of quality legal services to the poor.

17 MS. EISENBERG: Thank you.

18 CHAIRMAN SWAFFORD: Now then, who would be next?

19 And if you would, state your name and who you represent.

20 MR. DORSEY: Mrs. Swafford, Members of the
21 Committee, my name is Charles Dorsey. I am the Director
22 of the Legal Services Program in Maryland. I've been practic-
23 ing law 24 years, 15 of them with the Legal Aid Bureau.
24 I'm also a member of the Executive Committee of the
25 Project Advisory Group. I did serve at one time as Chair

1 of that organization and I'm here speaking on behalf, speaking
2 for myself, but also speaking on behalf of the Project Advisory
3 Group about the presidential search process.

4 I'm aware that at the committee meeting on
5 February 13th there was a resolution that members of the
6 field not be involved in the presidential process at this
7 time. I would like to say that this is my first opportunity
8 to address this Board. I've seen a lot of Boards in Legal
9 Services come and go. I'm certainly aware of the difficulty
10 in relationships between the corporation and the field over
11 the past few years.

12 I believe that this Board has an opportunity to
13 perform a hearing function between the Board, the staff,
14 and LEgal Services field programs. I believe that this is
15 the only way that the corporation can ensure quality legal
16 services to poor people in this country.

17 I believe that you have an opportunity to start
18 this hearing process by involving the field in the presidential
19 search process, selection of the Chief Executive Officer
20 of this corporation.

21 I'm aware of what happened in 1975. I'm sure that
22 Thorns Craven told you what happened there. I was on the
23 periphery of that process, but I was involved in the
24 process in 1979 which resulted in the selection of the
25 President. That process in my opinion was an excellent

1 process. There was an advisory committee which met with
2 the Board committee from beginning to end. I think it's
3 necessary that there be the involvement of the field in the
4 screening of candidates. I think it is very clear that people
5 who might not appear to be the best selection for
6 President could be screened out in the screening process,
7 and by so doing the Board does not have some people that
8 they should consider for this position.

9 The advisory committee was involved in the inter-
10 viewing of all candidates. This committee met with the Board
11 on every occasion and participated in the interviewing process.
12 The benefit was that, well let me tell you about the committee.
13 The committee was composed of a member of the American Bar
14 Association, a client member, a representative from the National
15 Legal Aid Defender Association, a field representative which
16 happened to be then the current PAG Chairperson, that was
17 me, and a law professor from the University of New Mexico.
18 And this sort of reflected the act which talked about how
19 the Board of Directors of LEgal Services Corporation should
20 be composed.

21 But we participated at every step, and we partici-
22 pated in the discussion about the final applicants and as
23 it happened, the whole Board was at that last committee meet-
24 ing and there was certainly consensus on the selection.

25 This was a very good process. One concern was

1 about confidentiality. There were no problems with confi-
2 dentiality in the working of that committee.

3 I understand that this committee has been concerned
4 with confidentiality in regard to the operation of the last
5 presidential search. I followed that very closely, even
6 though I was not part of that search, I am aware of the events
7 that happened. There was a controversy between the Chairman
8 of the Board and one of the members of the Board about a
9 certain candidate which became public. This came as a result
10 of some misunderstanding between the two Board members.
11 Certainly not a breach which came from any of the members
12 from the field who participated in that search.

13 I spoke to the person from the field, well the
14 person from NLAVA who served on that committee, and he and
15 the client member did address the Board at the end of the
16 process. Their position was that none of the candidates
17 they felt met the qualifications and therefore the process
18 should go on. This address was given to the full Board.
19 There was no breach of confidentiality on the part of the
20 field.

21 I'll say this, that I've been a lawyer for awhile
22 and I can suggest to you that anyone who would serve on a
23 search committee certainly recognizes the confidential rela-
24 tionship that lawyers have with their clients and certainly
25 that confidentiality would be adhered to in any process in

1 which a field person was involved.

2 So I would urge you to reconsider your action and
3 involve the field at the earliest date possible.

4 I guess I would like to go on to talk about criteria.
5 There were criterion developed, but there were also some
6 other considerations. I would urge this Board in your search
7 for President to consider good character. Certainly at the
8 beginning process of a lawyer's career there is an inquiry
9 into character. It is my opinion, and I served as Chair
10 of the Board of Law Examiners in the State of Maryland and
11 am involved in examinations of character, that character
12 is something that is extremely important. That character
13 requires that a person with skill use that skill. I don't
14 believe I have to talk to you very much about character.
15 I think all of you are committed to that proposition. Good
16 reputation I think also is important because the Chief Execu-
17 tive Officer of this corporation is going to have to be able
18 to exercise influence over a number of people. This person
19 is going to have to have influence with the American Bar
20 Association, all of the special Bar Associations. This person
21 will have to have credibility with Judges, with clients,
22 with the legal community generally, and certainly with Congress.
23 Commitment to quality legal services for the poor I think
24 is a sine qua non. Sometimes people feel that poor people
25 need a lesser level of legal services than other people.

1 After 15 years of legal practice I can tell you that poor
2 people need the highest quality legal services if we are
3 going to make real the concept of equality under the law.

4 I think further, that the Chief Executive Officer
5 has to be a good administrator. Maybe I should say a good
6 leader. Administrator gives the connotation of somebody
7 shuffling papers. I don't think you want that. I think
8 you want somebody who is going to be able to inspire. I
9 think that you want somebody who is going to be able to lead
10 people. I think that clearly there has to be an ability
11 to work with this Board and to a great extent be a bridge
12 between this Board and the field to the extent that that
13 might be necessary.

14 In the past we have found that where there is good
15 communication between the staff and the field, this Board
16 operates in a way which it should, setting policy and resolv-
17 ing problems which cannot be resolved at the staff level.
18 In the past we have had the benefit of working very closely
19 with staff people and I've been amazed at the way that we
20 have been able to resolve problems and not end up in a big
21 debate or confrontation before the Board.

22 I think that the Chief Executive Officer is going
23 to have to be able to deal with special problems in legal
24 services programs. Unfortunately, given the salary levels
25 which exist in legal services, we do have a high turnover

1 of staff. This is undesirable in my opinion.

2 In the state of Maryland what I am trying to do
3 is to establish the best law firm in the state. And you
4 can't do that with people coming in and out through a revolv-
5 ing door, so this problem will have to be dealt with.

6 Recruitment of minorities. Unfortunately, minorities
7 well, I don't know whether it's unfortunate or not, but minori-
8 ties still are in some demand in the legal profession, given
9 the small number of minorities available. We in legal services
10 like to have a diversified staff, women and minorities for
11 a number of different reasons. I don't suggest to you that
12 only minorities can represent minorities. But I do think
13 that minorities are able to provide role modeling for young
14 people who are served by the program. It also gives us an
15 opportunity to get into the schools and give young people
16 an idea of what can be accomplished by doing their work in
17 school and I think it's important that women and minorities
18 remain in legal services and be able to make a career in
19 legal services. The high staff turnover results in inexperi-
20 enced attorneys. I know that there have been discussions
21 about support before certain committees of this Board.
22 National support and State support are important in providing
23 high quality legal services, especially given the turnover
24 problem and the inexperience of some of the lawyers.

25 High case loads, low salaries, I think the President

1 will have to be able to deal with confrontation.

2 To me this means this person must have good communi-
3 cation skills. It means that this person should not be so
4 much engaged in rhetoric which divides people, but is able
5 to bring a healing influence. The ability to listen. The
6 ability to speak in a manner of which will permit other people
7 to listen, even though the person is saying something that
8 is very difficult to accept.

9 We think that a person should be innovative, not
10 hide-bound in tradition. Legal services is a dynamic process.
11 In 15 years I've seen great changes in legal services. We
12 feel that the Chief Executive Officer should know so much
13 about legal services and have such an open mind that those
14 changes which are necessary can be brought about.

15 Good judgment, diligence, public presence, the
16 ability to speak, the ability to write, and general intelli-
17 gence.

18 It would also be nice to have a person with some
19 national visibility. And I think it's important that it
20 be a person with experience. Experience I think is important
21 in the whole process, being able to be innovative, that type
22 of thing. I think that these are the type of things that
23 you should look for in the person who will lead this very
24 important national program over the next years.

25 Thank you for listening to me.

1 CHAIRMAN SWAFFORD: Before you leave, Mr. Dorsey,
2 and I neglected to say this about Ms. Eisenberg, so if you
3 do have questions of the persons who are speaking to us,
4 the Board, please feel free to ask them questions.

5 MR. WALLACE: I have a question, or it may amount
6 to more of a comment. I would think that one of the best
7 things the field could do for us right now would be to solicit
8 some applicants for us because we have resumes coming in
9 as a result of the advertisement put out there. We've got
10 a few recommendation letters, unsolicited, coming from people
11 on behalf of those folks. If there are groups in the field
12 that know candidates that meet the criteria you set, we would
13 appreciate it if you could persuade them to give us their
14 resumes, and if anybody in the field wants to write and say
15 this is a good guy, you ought to look at him real hard, we
16 would like to know about that because the biggest need we
17 have right now, I think, is the recruitment of good candidates.

18 MR. DORSEY: Mr. Wallace, I appreciate your saying
19 that. We had a similar problem in 1979. There was some
20 skepticism in 1979 as to whether the then existing Board
21 would really be interested in anyone who comes from the field.
22 Given the field's experience with the Board over the past
23 few years, I must say that the field does approach this pro-
24 cess with some skepticism. I believe that by involving the
25 field in the process you would then reach a level of

1 credibility which would encourage people to send their resumes
2 in. So I don't think that we can look at pieces separately.
3 I think it's part of a whole and unfortunately there is a
4 history that we have to deal with, and I believe that we
5 can deal with it successfully.

6 CHAIRMAN SWAFFORD: I believe Mr. Smegal was next.

7 MR. SMEGAL: Mr. Dorsey, there's a lot of qualifica-
8 tions in what you said. One of the concerns I have is maturity.
9 Do you feel there are actually people who could apply to
10 us with as little as five years of legal experience that
11 would be qualified?

12 MR. DORSEY: I think that that is possible. My
13 experience has been that some people come to the law with
14 other life experiences. I have known women to come to the
15 bar, one I can think of had 11 children before she came to
16 the bar. She certainly brought with her experiences which
17 would be very helpful in every respect. I would think that
18 it would be more desirable to have more experience. My judg-
19 ment tells me that it takes time for a person to become
20 comfortable with the role of a lawyer to really understand
21 the process. I would not say that a person who had only
22 five years experience would be not qualified, but I think
23 you give up something when you select, if you select a person
24 with that limited experience.

25 MR. SMEGAL: Thank you.

1 CHAIRMAN SWAFFORD: Mr. Durant.

2 MR. DURANT: I think it should be very, first of
3 all, I very much appreciate your comments. I also
4 appreciated being with you on that panel with the ABA last
5 Friday. I think it should be evident that this Board has
6 been very open to input from the field, from the bar, from
7 a whole series of different sources in terms of all the particu-
8 lar kinds of actions and whatever. I know members of the
9 Board have been active also in trying to get out into the
10 field to meet and to talk with people. Myself, I've been
11 doing that and planned a rather extensive series of trips
12 to do that over the next couple of months. I think in all
13 of the deliberations that this Board has had on a variety
14 of things that is has clearly demonstrated, in my judgment
15 anyway, that it is a very receptive Board, that it is operat-
16 ing I think in good faith. I think it is, while we are uncon-
17 firmed, I think in all of the questions that were raised
18 during the confirmation hearings that we all went through,
19 there was no serious objections raised regarding the fact
20 that this Board was representative of a number of the differ-
21 ent groups which you talked about and was also -- to con-
22 cerns fo the field, concerns of the organize bar and concerned
23 with the delivery of legal services federally supported.
24 And I think as I say in reading our testimony, or more impor-
25 tantly in judging by our actions, I think the commitment

1 is evident.

2 In constituting the search committee it was impor-
3 tant to me as chairman that it be reflective of all that.
4 In fact, after talking to Mrs. Swafford regarding the
5 committee's composition, that I am going to make it in effect
6 a committee of the whole so that everyone on the Board is
7 a participant.

8 But I think it is not conducive to the healing
9 process, which I agree with you by the way is not -- I think
10 it is taking place. I don't think it is conducive to that
11 to, and I'm thinking more not so much in terms of your particu-
12 lar comments but ones that I continually hear all the time
13 of throwing out the fact that if we don't do this that clearly
14 shows that we don't have good faith. If we don't do this
15 that shows, in other words, rather than going to the merits
16 of the question of are we getting the kind of input that
17 is necessary or is it coming in, I think that, and then I
18 think as I say, our deliberations have shown that when we
19 receive that input in the proper way we do take it seriously.
20 We do debate about it amongst ourselves, and move forward.

21 As I say, I think it is clear that when Mr. Wallace
22 makes the suggestion that he did, that we are, that it's
23 reflective of all of us in our desire to want to hear in
24 the proper way from the field and we will take those sugges-
25 tions in terms of candidates, suggestions in terms of

1 questions that might want to be asked during the course of
2 the process, and suggestions regarding characteristics, and
3 we'll take them seriously.

4 And I think that in any healing relationship as
5 I think we know, begins with a sort of unconditional love
6 rather than a conditional love, and that I think that getting
7 past that point in the discussion is what is most helpful.

8 As you pointed out to me on Friday, we're not talking
9 about debates, we're talking about discussions.

10 MR. DORSEY: I have not seen this Board or its
11 committees in operation. However I have had reports from
12 people in the field who have seen it and I am very optimistic
13 about the ability of this Board to work with the field.
14 However, that unconditional love that you talk about is very
15 difficult for human beings.

16 I believe that the field is willing to give this
17 Board the presumption that it is interested in open dialogue.
18 It is, however, a rebuttable presumption.

19 Frankly, in regard to the presidential search,
20 as you know a couple of unfortunate things happened. Joe
21 Bardolak, the Chair of the Project Advisory Group, didn't
22 understand after the last Board meeting that he would have
23 an opportunity to meet with you and he invited me to come
24 along, and Bill McGowan from the American Bar Association
25 in Detroit. During the period, well, because of that

1 understanding, he did not address the Board at the Board
2 meeting. And unfortunately, fortunately for you, you were
3 in Florida and we were in Detroit, and that meeting did not
4 come about.

5 It's possible for things like that to give signals
6 which might not be meant. But I think if the Board is very
7 serious about the goal of doing the healing, I think that
8 it should take the chance of involving people from the field
9 in this discussion about the President.

10 What happened during that process was that we got
11 to know the Board, the Board got to know us. And being en-
12 gaged in that process, I think, led to that.

13 I think that the healing process is a worthy goal
14 and I would urge this Board to gamble a little bit and involve
15 people from the field in this process. If you would involve
16 us in that there is a clear signal that you would involve
17 us in every discussion which is appropriate for us to be
18 involved in.

19 CHAIRMAN SWAFFORD: Mr. Dorsey, we are pleased
20 to have you here. I wonder if it would not be appropriate
21 if we could get some idea of how many people plan to address
22 us at this time, because I think we are probably going to
23 need to put a time limit on this so that we won't leave some
24 people out to the disadvantage, hear from some people to
25 the disadvantage of others. Let's just get your names.

1 MR. BRAUDE: I'm Jim Braude. I'm going to be about
2 two minutes.

3 CHAIRMAN SWAFFORD: Who else will be talking to
4 us?

5 That's it?

6 We thank you then, and Mr. Braude, we'll hear from
7 you at this time. If you'd like to remain up here we'd be
8 happy for you to. We'd be happy for you to come back Mrs.
9 Eisenberg, just in the event that there are any questions
10 that would be addressed to you spokesmen as a whole.

11 Mr. Braude, we'll hear from you now.

12 MR. DORSEY: I apologize for being long-winded.

13 CHAIRMAN SWAFFORD: Well it was our fault. We
14 asked the questions. It was Mr. Durant's fault.

15 (Laughter)

16 MR. BRAUDE: Thank you, Mrs. Swafford. My name
17 is Jim Braude from the National Organization of Legal
18 Service Workers. My comments will be very brief. I don't
19 have comments that will speak to the question of criteria
20 for selection. If people have questions I'd be more than
21 happy to answer them, but my sense is that there is not a
22 wide divergence of opinion as to what the basic qualities
23 of a capable committed person should be.

24 I think the only comment I'd make about that is
25 that I think it's terribly important in job announcements

1 and anything else that goes out from the search committee
2 and the Board to the world at large, that it be clear that
3 probably the most important criteria is the commitment to
4 legal services. All the other criteria, whether they be
5 a very experienced lawyer or a very capable administrator,
6 or whatever else may be part of that person's makeup, I think
7 it's terribly important, but nothing as deeply important
8 to those of us who work in the program or work around the
9 program as that.

10 I want to speak very briefly to the process question,
11 and my apologies if I repeat something that Ms. Eisenberg
12 or Mr. Dorsey said because I wasn't here on time, my plane
13 was late.

14 It was sort of ironic sitting here listening to
15 the discussion about the openness or lack of openness of
16 the process and the almost formal level in which the discussion
17 was proceeding. One of the ironies which I think you can
18 probably appreciate as much as when prior to you all making
19 public pronouncements either individually or collectively,
20 meet amongst yourselves and consider I assume the ramifications
21 of certain actions. I'm sure it's no surprise to you that
22 those of us in the legal services community do the same thing.
23 I can say in my organization, to repeat the word again, the
24 irony is that when we were discussing what our position should
25 be in terms of involvement in the process, a number of the

1 leaders of the union were very concerned that if we requested
2 meaningful full involvement of the process, and I of course
3 don't mean voting on the ultimate choices, that the greatest
4 danger is you probably grant it. I was not one that shared
5 that opinion. The reason why there was some fear very candidly
6 on the part of some of my colleagues is and was that one,
7 frankly it makes it much much easier for those of us in the
8 field and the legal services community to be critical of
9 a process that we're not part of. That's just the real world.
10 Number two, the converse of that is unfortunately equally
11 true. It's a hell of a lot harder when a member or representa-
12 tive of your organization is meaningfully participating in
13 a process for the people in your organization, whether it
14 be mine or anybody else's, to be saying how undemocratic
15 it is, how unfair it is, how you're not considering seriously
16 people who really care about legal services. Obviously while
17 free speech rights of people would never be infringed upon,
18 that is a real world reality, and my sense is from your perspec-
19 tive, not from the perspective of healing or the other questions
20 that have been discussed in the last few minutes, I frankly
21 think you're missing a terrific opportunity. I'll use a
22 word that is much stronger than I intend to say but I'll
23 say it anyway, you're missing a terrific opportunity to coopt
24 a significant percentage of the people who I'm sure you're
25 very concerned make a living out of criticizing actions of

1 the Legal Services Board.

2 I don't have that opinion of those of us out here
3 at all, but I know that prior Boards, and I'm sure some of
4 you have -- that already with us. That's one.

5 Two, I don't believe the involvement question is
6 only relevant to the question of healing. I think healing
7 is a real concern, not only of yours but of ours out here.
8 Frankly, had there been no wounds to heal and had we had
9 a history of a wonderful relationship, not only with you
10 but with prior Boards, would the question still be alive
11 that we believe we should be more deeply involved in the
12 process? My unequivocal answer is an absolute yes. I believe
13 that deeper involvement would lead to healing, as I believe
14 I mentioned in my letter to you, at the same time were there
15 wonderful relations, I believe that an open process with
16 us deeply involved would be the advisable course to take
17 because it's the correct course to take.

18 I was a legal services lawyer in the South Bronx
19 for seven years. In the seven years I was there we had four
20 or five different project directors. I can tell you that
21 while the situation is not perfectly analogous, it's pretty
22 analogous. Every time we were told exactly what you were
23 telling the field today, scour the community, find capable
24 people, give us their names, tell us what the criteria are,
25 and the selection was made, at least the beginning stage

1 of the relationship with that director, despite his or her,
2 I think his qualifications without exception, there were
3 no women, was rocky. And it wasn't necessarily the candidate
4 or project director's fault, but the process bred bad feeling
5 and feeling that if the doors were closed there was a reason
6 for it.

7 The opposite of that was also instructive. A couple
8 of years before I left Bronx legal services to come to work
9 for the union we were asked into the process and exactly
10 what I described in the beginning of my comments happened.
11 We were deeply involved in the process, not cosmetically
12 involved in the process. We were not allowed to stand back
13 and just criticize. We were allowed to criticize, of course,
14 but if we criticized we had to come up with something
15 constructive to move the process. We were deeply
16 involved. We picked someone who from the day that he started
17 had the deep confidence of the client community which was
18 involved in the process, the people who worked in the program
19 who were involved in the process, advisory groups in the
20 community and essentially Bronx Legal Services which has
21 I think a fairly sad history of being a fairly turbulent
22 program, began to turn around, and I think it was a pivotal
23 moment, that selection process.

24 So for all those reasons plus the reason that I'm
25 sure makes some of you, I'm sure Mr. Durant in light of our

1 comments, most upset to continue to hear that you have to
2 do more, and as you suggest, I don't think anyone is saying
3 if you don't do anything in one particular way we're going
4 to continue to say you operate in bad faith. I haven't heard
5 anybody say that. I don't think there's rigidity on this
6 question nor on any other question where there's serious
7 dialogue. I should just say that the people out there who
8 don't come to these meetings, and I think one of the reasons
9 frankly why the meeting today is not spectacularly well
10 attended, is because people don't believe that there is a
11 terrific opportunity to meaningfully participate. I can't
12 guarantee that I believe that's true.

13 While we come here are representatives, there are
14 thousands and thousands and thousands of people who don't.
15 And I am firmly convinced, and I tell you after much serious
16 thought about this, that the best and most meaningful way
17 to convey to those people that they have a voice in this
18 process is to give them a voice in this process through
19 representatives. And it seems quite clear what your decision
20 is going to be today. I hope it's not endorsement of the
21 resolution that I saw in the Board book, but if you go that
22 route and you move into executive session today and have
23 a little bit of time to think about it before you get together
24 again, I hope you'll reconsider what I believe is truly an
25 unnecessary mistake on your part.

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1 Thank you.

2 MR. WALLACE: Can I ask a question?

3 MR. BRAUDE: Sure.

4 MR. WALLACE: I'm having trouble in my capacity
5 as Chairman of the Regulations committee to get hold of what
6 kind of a strange beast this organization is anyway.

7 MR. BRAUDE: Yours or mine?

8 MR. WALLACE: The Legal Services Corporation, in
9 between private corporation and government agency. But I
10 guess I'm trying to get the philosophical underpanning behind
11 this involvement of the field idea in a formal sort of way.

12 A government agency, the President appoints the
13 head of the Veterans Administration for instance. He doesn't
14 have a Search Committee. He doesn't have a Coordinating
15 Search Committee made up of the VFW and the American Legion
16 and the Union that represents the workers in the VA. It
17 just doesn't happen that way. He appoints somebody and if
18 the guy doesn't do a good job the President takes the heat
19 for it.

20 You represent a union. I don't do a lot of corporate
21 practice, but I don't think that a lot of unions have, that
22 a lot of corporations when they're selecting a President,
23 have a coordinate committee made up of representatives of
24 their unions and of their customers and their suppliers and
25 whoever else they do business with to sit alongside them

1 and advise them every step of the way. So I don't see what
2 you're asking for either on the government side of our ledger
3 or on the private corporation side, I'm just not sure why
4 we are such a different beast from every organization in
5 the world that we ought to do it exactly this way. I know
6 it's been done that way in the past. I'm not sure why.
7 We're the ones that are going to have to answer to Congress
8 and to the President and to everybody in the field. It is
9 our necks on the line and for some reason we all seem to
10 be comfortable there.

11 If you can tell me why we're that different from
12 every other organization in the world, I'd like to hear it.
13 I'm just not sure I have.

14 MR. BRAUDE: Okay, I think it's a very valid question.
15 I should say that the reason for lack of the kind of participa-
16 tion that we're speaking about in a number of forums that
17 you're discussing, I don't think that there is, that's always
18 been the case, but clearly, overwhelmingly, that's been the
19 case.

20 I think for two reasons. One because we are differ-
21 ent and I'll explain how we're different in a second. That
22 comes from the Board side. And the second reality is the
23 one that I spoke to first, is the people who hear are demand-
24 ing, requesting involvement in the process, are taking a
25 risk as I said, up front. It is a lot easier to sit back

1 and let the process run its course . If you're happy with
2 the selection, wonderful. If you're not happy with the selec-
3 tion it's a lot easier to be freer to criticize and do whatever
4 you believe is appropriate to change that decision.

5 I think that's a mistake, incidentally, on the
6 part of lots of organizations.

7 Getting back to the first one, why are we different
8 so that you should come to a different conclusion, I'm afraid
9 I can't answer that as neatly as you might like. One of
10 the things that I think that you have not had the benefit
11 of, and I don't mean this as a criticism, I mean it as it's
12 an unfortunate thing that you haven't had, is the honor to
13 have worked in the legal services program. I can't describe
14 it as eloquently as people like Charlie do. I didn't hear
15 if he did it this morning, but I've heard him do it other
16 times. But I can tell you that there is a feeling that comes
17 from working closely with poor people and your co-workers
18 and trying to make something meaningful happen in the communi-
19 ties that is almost indescribable. As a result of that,
20 I believe that the Legal Services Corporation really its
21 predecessor or particularly since '74, is this strange sort
22 of animal.

23 We're not trying to tamper with formal corporate
24 responsibility. I haven't heard anybody, and if there was
25 someone my apologies, but I haven't heard anybody saying

1 that we're suggesting that you cede your formal responsibility.
2 You're appointed by the President and you're in power to
3 pick the President of this corporation, you should do it.
4 And frankly, if an advisory group came to a totally different
5 conclusion than you did, while I would hope that you would
6 listen seriously to it, you obviously have the power to ignore
7 it. There's no one that says you don't.

8 However, there is really a closeness that has been
9 bred here in the last I'd say ten years, and I started work
10 in the legal services the same year as Legal Services
11 Corporation was created, that does make it very very
12 different. Frankly, prior to '81 and the coming on of Boards
13 where there was some, let's say poor feeling from time to
14 time which I guess is a euphemism, there were very deep rela-
15 tions on lots of fronts. Not just presidential selection,
16 but decision-making across the board. And I think the reason
17 why it matters most is not so much because of the buy-in
18 notion but because of the question that really it creates
19 a feeling of responsibility and involvement in the whole,
20 I'll call it the legal services movement or Legal Service's
21 Corporation's work. It's mission that I don't think exists
22 in other agencies.

23 You mentioned the Veterans Administration, I'm
24 sure we could mention very many more. I think we are
25 absolutely different because of the kind of work we do,

1 because of the fact that there is a dual constituency here.
2 It's a very unusual dual constituency, not only people that
3 work here but clients who not only are dependent upon the
4 program but who have helped shape the program which I don't
5 think has happened in any other areas. And I think for all
6 those reasons plus the one I mentioned before, whether you're
7 legally or technically different is important but not the
8 most relevant consideration.

9 Sorry it's not neater, but it's not.

10 MR. WALLACE: It's not a very neat subject.

11 CHAIRMAN SWAFFORD: Not to, just stay still, but
12 Mr. Dorsey had his hand up. Did you have something that you
13 wanted to add to this particular discussion, Mr. Dorsey?

14 MR. DORSEY: At the expense of overstaying my welcome,
15 I think that there's a philosophical basis.

16 I believe the practice of law is an old profession.
17 I think it's noble because we who have some knowledge, some
18 skill, are willing to be servants to people. That to me
19 is the real nobility of the practice of law. I think you,
20 I would suggest, serve the field. We serve the clients.
21 And I believe that if you follow through with that philosophy
22 it is right and appropriate that the people who are served,
23 the real masters, have some say in that process. And to
24 the extent that all of our clients, we can't get clients
25 from all over the country to come in and participate in

1 the process. We who do speak for them, I think, should be
2 heard. So to me there's a philosophical basis for this type
3 of involvement.

4 MR. BRAUDE: I told you he could say it better
5 than I could.

6 CHAIRMAN SWAFFORD: I have a question of you, Mr.
7 Braude.

8 You referred to the dual constituency. Would you
9 elaborate on that?

10 MR. BRAUDE: All I meant was that this is a
11 corporation program where I think it's staff are not just
12 line players but people who have to be and are very involved
13 in the development of what the program really is and at the
14 same time the second constituency, really the first constituency,
15 but one that I think doesn't exist in the same fashion that
16 any other federal agency or corporation are the clients and
17 the client community, and that's what I meant by dual
18 constituency of yours. Not just clients, not just the people
19 who work in the neighborhood programs and the support centers,
20 but both groups of people that are really what make this
21 program go and make it as meaningful as it is to this country.

22 CHAIRMAN SWAFFORD: Thank you.

23 Any other questions, Mr. Smegal?

24 MR. SMEGAL: Is one of the field concerns that
25 we will get a resume from someone who won't be fully

1 considered and will be rejected --

2 MR. BRAUDE: I'm sorry, I couldn't hear.

3 MR. SMEGAL: I say is one of the concerns that
4 you're expressing that we'll get a resume from someone and
5 because of our perspective that person will not be considered
6 fully?

7 MR. BRAUDE: Speaking for my organization that's
8 one of the concerns. Absolutely.

9 I should say, I'm sorry.

10 MR. SMEGAL: I can tell you what's happening right
11 now in the sense of we're seeing a lot of resumes and a lot
12 of people are clearly unqualified. They aren't even lawyers.
13 People can't even read the ad. But there's a lot of others
14 who clearly in my view at least are not qualified and I put
15 them in a reject pile.

16 If you were confident that we weren't putting into
17 that reject pile someone that was qualified and should be
18 considered, is that one of the concerns you have?

19 MR. BRAUDE: That's one of the concerns, but I'm
20 afraid to give the answer that I know you're all expecting,
21 that that isn't enough. The dynamic of decision-making,
22 at least in the world in which I now operate. For example
23 labor-management negotiations, often your members say to
24 you, report to us every detail even though we're not sitting
25 in the room, and what we generally say is unless you are

1 part of the give and take and understand how you got to where
2 you are through an honest, flexible process, you really can't
3 report in that sort of fashion. So it's not just the whos
4 and who's rejected and who's included, even though I think
5 that experience that we believe happened when there was a
6 presidential candidate who was rejected from the first pile
7 and all of a sudden reappeared not only in the pile, but
8 reappeared at the top of the pile for two years, even were
9 we convinced that that judgment was being made properly,
10 it's really one piece of the process.

11 I should say to you that while I have very strong
12 feelings about the kind of person that should be the Presi-
13 dent of the corporation, I'll say to you that I feel if I
14 were involved in ongoing discussions with you and had a much
15 greater sense about what your vision is for the Legal Services
16 Corporation, my sense is I'd be pretty flexible myself.
17 Obviously I would hope you would be.

18 The problem is sitting outside when all you hear
19 are reports or finalists or what the public criteria is,
20 that sort of thing. I just don't think it's enough. So
21 the answer to your question is I think it's part of the concern
22 but it surely is not the whole concern.

23 MR. SMEGAL: Well some of this Board's concern
24 and you weren't at the last meeting but I think it's probably
25 clear to all of you is the confidentiality. Mr. Dorsey spoke

1 to it. I have a transcript and all of us have a transcript
2 of some proceedings in 1982 which are not consistnet with
3 what he said. It appeared on their surface that some confi-
4 dentialiyird were violated by one of the members, the public
5 members of the search committee. I mean we're concerned
6 about that.

7 MR. BRAUDE: I think you should be.

8 MR. SMEGAL: We're also concerned about the logistics
9 of it. We'd like to move this along. We'd like to have
10 a President in place at an early date. And the more cooks
11 you get into the process, the longer that process is going
12 to take. So in a sense just getting this Board to agree
13 to a convenient time to meet is a difficulty. If you magnify
14 that by adding five or six other persons to the process and
15 the process involves a lot of meetings because there are
16 lots of these resumes, it just makes the process much more
17 complicated in that sense. So there's a logistics problem
18 in addition to a confidentiality problem.

19 In addition to that, a lot of the process, I was
20 sitting last night going through about 50 resumes, I was
21 staying with some friends, and my host asked me what I was
22 doing. And I explained to him I was going through these
23 resumes. And he said why isn't a paralegal doing that? And
24 the sense of what I was doing last night was a paralegal
25 activity. I was going through and making two piles. The

1 people who were not lawyers shouldn't have been in the pile.

2 The point being, there's a lot of stuff here that
3 isn't in the decision that we're making at the moment. We're
4 just trying to get through the wheat and the chaff so to
5 speak. And do you really want to be in that process? Do
6 you really think that's important to the field?

7 MR. BRAUDE: Not only do I think it's important
8 to the field, but I should say that we're not suggesting
9 that you do the work in the pits and we'll come in for the
10 glory. I think if people want to participate in the process
11 they've got to go through the same garbage from time to time
12 that you do.

13 The two things that you mentioned, I could say
14 one in terms of involvement and the too many cooks notion,
15 if the decision was to involve people and people can't be
16 involved in the kind of way in terms of speed and scheduling
17 that you're suggesting, then I think frankly as long as those
18 standards are reasonable that disqualifies them. That's
19 one.

20 Two, on the confidentiality question, we believe
21 very deeply, we my organization, believe very deeply in the
22 confidentiality of the process and while I can't speak to
23 what was said before I came here, I should say that I tried
24 like hell a couple of years ago to find out what was going
25 on from the so-called public members and I couldn't find

1 out anything. So despite the fact that there may be a concern
2 that people were violating confidences, I think people took
3 that commitment unbelievably seriously and I can assure you
4 that people would take it equally seriously in 1985. And
5 if they don't and you set reasonable terms for participation
6 and people can't live with those terms, they don't deserve
7 to participate in the process and they won't participate
8 in the process if you set criteria that any of us find to
9 be unacceptable. That's really all there is to it.

10 I'm ready for one to start -- these meetings over
11 and I'm sure there are a lot of people here that feel exactly
12 the same way. It's a very serious business and if we don't
13 take it at least as seriously as you do then I think we forfeit
14 the right to participate.

15 MR. SMEGAL: You don't see a chilling process for
16 applicants in the sense if the process is more open, the
17 process involves more people, not who have taken the oath
18 that this Board has taken at this point, that we won't lose
19 people out there in the field who would otherwise send in
20 their application?

21 MR. BRAUDE: Well I've got to be candid again.
22 Will there be some people who probably won't apply? I'm
23 sure the answer is yes. But I would say at the same time
24 that I think the loss will be so small in terms of numbers
25 and the gain, frankly if I were applying for the presidency

1 of this corporation, and I really didn't mention this before.
2 I meant to and I couldn't read my writing. If I were applying
3 for the presidency of this corporation considering the recent
4 history and whether the blame so to speak be on that side,
5 this side, whatever doesn't really matter. I think I'd look
6 forward to an open process to know that I wasn't going to
7 be deposited upon the legal services community at the end
8 of even a wonderful process, but rather was going to get
9 to be part of a process, to be selected by a process in which
10 the leadership of the primary constituent organizations were
11 going to have a part.

12 So while I think you may lose some people, I think
13 you may in fact gain more who are concerned about not coming
14 into a program that has had some problems in the last few
15 years.

16 CHAIRMAN SWAFFORD: Do you have other questions
17 of Mr. Braude?

18 Comments? Is there anyone in the audience?

19 MR. BRAUDE: Thank you.

20 CHAIRMAN SWAFFORD: We thank you.

21 At this time I think I'm going to ask for a motion
22 to adjourn this portion of the meeting for matters relating
23 to personnel which come under item four of our agenda. Matters
24 relating to presidential search. And we're going to close
25 the meeting for that purpose.

1 Now then Tim, do you have anything at this time?

2 MR. BAKER: No, I do not.

3 CHAIRMAN SWAFFORD: I do need a motion for that.

4 MS. BERNSTEIN: I move that we adjourn to the closed
5 session.

6 CHAIRMAN SWAFFORD: I need a second.

7 MS. BENAVIDEZ: I second.

8 CHAIRMAN SWAFFORD: All right, we need also another
9 second.

10 MR. WALLACE: Second.

11 CHAIRMAN SWAFFORD: All right, thank you.

12 Do we need to take a vote on that?

13 All in favor let it be known by saying aye.

14 (Vote taken)

15 (Unanimous chorus of Ayes)

16 CHAIRMAN SWAFFORD: Thank you for your motion and
17 thank you for your seconds.

18 (Whereupon, at 9:50 a.m. the open session was
19 adjourned.)

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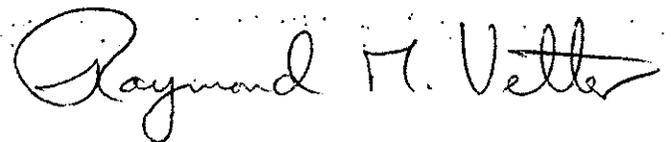
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8 I hereby certify that the proceedings and evidence
9 herein are contained fully and accurately on the tapes and
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12 and that this is a true and correct transcript of the same.
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