

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS MEETING
July 14, 1992
9:10 a.m.

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OPEN SESSION

BOARD MEMBERS PRESENT:

George W. Wittgraf, Chairman
J. Blakeley Hall
William L. Kirk, Jr
Jo Betts Love
Thomas D. Rath
Norman D. Shumway
Basile J. Uddo
Jeanine E. Wolbeck

STAFF PRESENT:

John P. O'Hara, President
Patricia Batie, Secretary
Victor Fortuno, General Counsel
David Richardson, Treasurer-Comptroller
Edouard Quatrevaux, Inspector General
Kenneth Boehm
Ellen Smead

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C O N T E N T S

	PAGE
Approval of Agenda	4
Approval of Minutes of May 18, 1992, Meeting	5
Report on the June 23, 1992, Senate Reauthorization Hearing	7
Legislative Report	22
Comments by A Representative of the Polk County Bar Association Regarding The Private Attorney Involvement in the State of Iowa	47
Consideration of Motion to Conduct Board Meetings on Weekdays	66
Presentation by the Honorable Terry E. Branstad Governor of the State of Iowa	91
Report on Proteus/Pioneer Proposal	105
Report on Board Travel Policies	107
President's Report	129
Report on Staff Compensation Schedule	135
Inspector General's Report	150
Operations and Regulations Committee Report	154
Provision for the Delivery of Legal Services Committee Report	155
Audit and Appropriations Committee Report	160
Office of the Inspector General Oversight Committee Report	174

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C O N T E N T S (Continued)

	PAGE
Consideration of and Action on Proposed Motions Indemnifying Certain Corporation Officials in the Matters of Singh vs The Legal Services Corporation, et al., and Williams vs The Legal Services Corporation, et al.	175
Consideration of Other Business	181
MOTIONS: Pages 4, 5, 152, 163, 176, 180, 185.	

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P R O C E E D I N G S

1
2 CHAIRMAN WITTGRAF: This regularly scheduled
3 meeting of the board of directors of the Legal Services
4 Corporation will be in order. Good morning.

5 We are here in a very nice but relatively small
6 room. During the course of the day we may close the door.
7 For anybody who is coming and going, don't take that as an
8 inhibition or prohibition but rather as an indication that we
9 are trying to keep some noise out. The only time that it is
10 a prohibition will be if the corporate secretary, Ms. Batie,
11 puts a sign up on the door that says "Executive Session", and
12 we will do that at least once during the day.

A P P R O V A L O F A G E N D A

13
14 CHAIRMAN WITTGRAF: At this time we have before us
15 the agenda. It has been revised with the deletion of what
16 was originally Agenda Item 5, I believe, and all of the other
17 agenda items were moved up. We are open for discussion or a
18 motion for approval of the agenda as presented, as amended.

M O T I O N

19
20 MR. SHUMWAY: I will so move.

21 MR. RATH: Seconded.

22 CHAIRMAN WITTGRAF: It has been moved by Mr.

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1 Shumway, seconded by Mr. Rath. Discussion?

2 (No response.)

3 CHAIRMAN WITTGRAF: Hearing none, those who are in
4 favor of adoption of the amended agenda will signify by
5 saying aye.

6 (A chorus of aye.)

7 CHAIRMAN WITTGRAF: Those opposed, nay.

8 (No response.)

9 CHAIRMAN WITTGRAF: The ayes appear to have it.
10 The ayes do have it. The agenda is adopted.

11 APPROVAL OF MINUTES OF MAY 18, 1992, MEETING

12 CHAIRMAN WITTGRAF: Next we have the draft minutes
13 of our last board meeting, that of May 18, 1992, in
14 Alexandria, Virginia. That draft is presented as a part of
15 the beige or brown-covered board book. The Chair is prepared
16 to receive a motion for the approval of the minutes as
17 drafted and presented.

18 M O T I O N

19 MS. WOLBECK: I so move.

20 CHAIRMAN WITTGRAF: It has been moved by Ms.
21 Wolbeck.

22 MR. SHUMWAY: Seconded.

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1 CHAIRMAN WITTGRAF: Seconded by Mr. Shumway.

2 Discussion?

3 (No response.)

4 CHAIRMAN WITTGRAF: Hearing none, those who are in
5 favor of adoption of the minutes as drafted and presented
6 will signify by saying aye.

7 (A chorus of aye.)

8 CHAIRMAN WITTGRAF: Those who are opposed, nay.

9 (No response.)

10 CHAIRMAN WITTGRAF: The ayes appear to have it.
11 The ayes do have it. The minutes are approved.

12 The third agenda item pertains to a presentation
13 that one or two representatives of the Polk County Bar
14 Association would like to share with us regarding their
15 private attorney involvement experience, and that's an
16 experience that they have had with the Legal Aid Society of
17 Polk County, which is the grantee in the Polk County or Des
18 Moines area, as distinguished from the Legal Services
19 Corporation of Iowa, which is the grantee that serves Iowa's
20 99 other counties surrounding Polk County.

21 They are not ready at this time, so we will skip
22 over Agenda Item 3 and move to Agenda Item 4, reports,

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1 comments, both by the Chair, by members of the board, and
2 after that we'll go to the President's Report.

3 CONSIDERATION OF REPORT ON THE JUNE 23, 1992

4 SENATE REAUTHORIZATION HEARING

5 CHAIRMAN WITTGRAF: I did have the opportunity on
6 June 23rd to appear before the Senate Labor and Human
7 Resources Committee, chaired by Senator Kennedy, with Senator
8 Hatch as the ranking member, for a hearing they had regarding
9 the reauthorization bill that had been introduced by Senator
10 Rudman and others in the Senate. I made remarks, and the
11 remarks that I made are essentially the same as the statement
12 that you all have received a copy of.

13 I was questioned at some length by Senator Kennedy,
14 Senator Hatch, to a lesser extent Senator Wellstone of
15 Minnesota, regarding some issues. I had indicated in my
16 statement that on the political issues involved in
17 reauthorization, such as use of private funds or any
18 prohibitions or limitations, abortion-related litigation,
19 redistricting, and so forth, that we did have board
20 resolutions which had been sent to the committee.

21 And I think, as Ken will indicate when he gives his
22 report as part of the President's Report, that's been done,

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1 but notwithstanding that caveat from me, Senator Kennedy and
2 Senator Hatch did ask, I guess, what my feelings were in many
3 of those areas.

4 I hope that Mr. Uddo, in particular, will have the
5 opportunity to see a transcript, if not the whole video, some
6 time of my response to those questions when I took the
7 position for myself that I thought that it was best off in
8 the interests of the corporation and its mission and
9 increased funding for the corporation and its grantees that
10 we stay out of politically charged, highly controversial
11 areas such as abortion-related litigation, redistricting, and
12 others.

13 I think I said that no fewer than four or five or
14 six times, and thought of you almost each one of those times.

15 MR. RATH: Do you think this video might be
16 available for broader distribution?

17 CHAIRMAN WITTGRAF: It's a little bit like the
18 Supreme Court Justices who each wanted a copy of Deep Throat
19 so they could decide for themselves whether it was
20 pornographic or not. I guess if we're going to have copies,
21 everybody can have a copy, yes.

22 But in addition to my testimony, Senator Rudman

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1 himself testified and was the first witness to testify. Then
2 there was a panel of witnesses who testified, and then
3 Congressman McCollum testified finally. It was about a two,
4 two-and-a-half hour hearing, as I recall.

5 And then, as Ken will report later, it was just a
6 week after that, on June 30th, I think, that the Senate Labor
7 and Human Resources Committee on voice vote approved the
8 reauthorization bill and sent it to the floor of the Senate.

9 I think probably after Ken and Jack make their
10 remarks, we may want to get into some more discussion. I did
11 take the opportunity, as you know, from a copy that you've
12 got, to send a letter to Senator Kennedy, Senator Rudman, and
13 a copy to Senator Hatch thanking them for the fact that they
14 had allowed our staff to spend some time with their staffs
15 making suggestions regarding so-called Section 6 of the bill,
16 the monitoring section of the bill.

17 And while maybe not all the recommendations of our
18 staff were accepted, there was a committee substitute that
19 became part of the bill when it came out of the full
20 committee on June 30th, and I think that was due in large
21 part to the willingness of Senator Kennedy and his staff,
22 particularly a man named Jeff Blattner, to hear from us.

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1 And I thanked them for giving us that opportunity
2 in the hope that it will still be possible in the future for
3 us to work with the committee staffs and the individual
4 Senators' staffs if we've got some other concerns, and it may
5 be that after our August meeting in San Francisco and the
6 meeting beforehand of our Reauthorization Committee, that we
7 will have some additional concerns to share.

8 But, unlike the House and the Judiciary Committee
9 staff, the Administrative Law Subcommittee staff there, who
10 really weren't much interested in anything that we or our
11 president or our staff members had to say, the Senate staff
12 was very receptive, both the majority and the minority Senate
13 staff members.

14 Before we talk about our meeting schedule for the
15 next couple of months, does anybody have any other comments
16 they want to make about activities or interests? Mr. Kirk.

17 MR. KIRK: Mr. Chairman, to confirm what I have
18 said to you orally, your statement that there are hot
19 political issues and you wanted to stay out of it, I am
20 reminded of last year during our reauthorization debates. I
21 made that same suggestion, that perhaps it would be in the
22 interests of the board not to get involved in the hot

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1 political issues, that we leave that to Congress.

2 I was soundly defeated in that suggestion, and it
3 was determined that we needed to take a position on these
4 issues, and at that point I joined the debate, or fray, as it
5 may be.

6 As a result of that, the corporation came through
7 with and passed in regular session resolutions which I think,
8 in fact, did what the majority of the board wanted, which was
9 to take positions on some difficult issues, and, when you
10 really think about it, the only way this corporation has
11 spoken is in those resolutions, and has not spoken in any
12 other way.

13 They reiterated two resolutions recently, but that
14 is the only way that we have spoken, yet in your remarks to
15 the Senate Committee, I thought that you downplayed the issue
16 itself, and merely said whether Legal Services attorneys
17 should be involved in redistricting cases, whether they
18 should be involved in abortion-related cases, and whether
19 non-LSC funds should be relegated are just a few issues.

20 "Our board wrestled with these and other issues
21 last summer and again this past April. The resolutions we
22 adopted, often with split decisions, are being provided to

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1 you under separate cover.

2 "Our purpose today is not to weigh in on one side
3 or the other of these difficult and sometimes emotional
4 issues." And it goes on to say, "Rather, my purpose today is
5 simply to urge you to act on reauthorization."

6 I have a concern with the position that you took,
7 because I really think that reauthorization at all costs is
8 not something that we have decided we want to support. In
9 fact, I believe that the determination was made early on that
10 we want to take our positions, and I think that was the way
11 we spoke to Congress, was through our resolutions, and they
12 were merely given to them under separate cover.

13 You know, when you say, "Only reauthorization can
14 lend clarity. Only reauthorization can provide
15 predictability. What could be more appropriate than to
16 reauthorize Legal Services Corporation? I urge you and your
17 colleagues to approve reauthorization this year," and I
18 understand those are your views, and I do respect them, but I
19 think that the greater emphasis should have been placed upon
20 the resolutions that were, in fact, passed, and
21 reauthorization at all costs certainly is not my view.

22 I think that the way that the monitoring audit

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1 compliance is treated in the Senate bill as it now stands,
2 without any amendments on it, is something that the
3 corporation really could not and should not take that
4 position on, and I also had a problem with the June 30th
5 letter when you said, "It is imperative, as I stated in my
6 testimony Tuesday, for this legislation to be approved by you
7 and your colleagues and by your counterparts in the House."

8 And just publicly I wanted to take the issue with
9 it. Let the record reflect that was not the view of at least
10 myself and, I suspect, others, and I do respect you, and I
11 thank you for the time you spent in appearing at the hearing,
12 you know. That thing popped up on a Friday, and if I could
13 have been there, I would have, but I just didn't have any
14 advance notice of it.

15 I appreciate you going, and I hope I am not taking
16 too much issue, but I did need to clarify my position on
17 those.

18 CHAIRMAN WITTGRAF: Thank you, Mr. Kirk. Those are
19 remarks I drafted. I won't pass the buck to anybody else.
20 And that letter, as I indicated a few minutes ago, I drafted
21 hastily Tuesday afternoon, the 29th, to thank the Senators
22 and their staffs for letting us be part of the process. I

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1 guess if anybody takes exception to either my statement or my
2 letter, the best thing is to take exception in writing if you
3 feel that strongly.

4 I guess I don't delude myself to think that either
5 my prepared remarks or my letter are going to be particularly
6 compelling or binding or particularly influential on the
7 deliberations that occur in the Senate from now on or later
8 between the Senate and the House or ultimately in negotiation
9 with the White House, but if you feel that that has done a
10 disservice to your views, I am sure that the Senate staff,
11 majority and minority staff, would be happy to receive any
12 materials from you or from anybody.

13 MR. KIRK: My concern is that coming from me as an
14 individual doesn't mean as much as coming from the -- when
15 you spoke on behalf of Legal Services Corporation, and I have
16 prepared letters, and I will do that.

17 CHAIRMAN WITTGRAF: Mr. Uddo?

18 MR. UDDO: I am not exactly sure what it is, Bud,
19 that you're concerned about, but as the chairman of the
20 Reauthorization Committee, I do think that the
21 Reauthorization Committee has taken a position that we
22 strongly support reauthorization. I don't know if we ever

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1 said at any cost. I doubt that anybody would say
2 reauthorization at any cost.

3 But I think that the committee from the beginning
4 took the position that reauthorization was important, and
5 that it was long overdue, and that the work of the committee
6 was to try to give some input into the process, so I don't
7 think George would be incorrect to say that the position of
8 the board as I understand it is that we support
9 reauthorization.

10 With respect to the specifics that you're talking
11 about, I confess I didn't read the transcript of your
12 comments. I am waiting for the video.

13 CHAIRMAN WITTGRAF: Nor, probably, anybody else
14 involved in the process except Mr. Kirk.

15 MR. UDDO: I am waiting for the video. But, I
16 mean, again, I think the board's position was, if the
17 chairman stated what he said accurately, that there are
18 certain intense areas that the board feels it better for
19 Legal Services grantees to steer clear of because it tends to
20 undermine general support for the Legal Services program and
21 funding and all the other things that we are interested in
22 supporting.

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1 So, I think that is probably an accurate statement.
2 I do know, and I am sure Ken can confirm, that the
3 communication of our resolutions was not just by the chairman
4 passing them over the table as he may have done that day, but
5 the resolutions have been sent to the appropriate committee,
6 committee staff, everyone involved in it, with some
7 regularity. Am I right about that, Ken?

8 MR. BOEHM: Last year it was sent, the complete
9 set, to all four committees.

10 MR. KIRK: Last year?

11 MR. BOEHM: The main body of the resolutions was
12 passed into law.

13 MR. UDDO: Ken, do you mind if I just ask you to
14 come up for the court reporter's convenience? Why don't you
15 just come up? I mean, in my conversations with Ken, I have
16 understood that the board resolutions have been transmitted
17 and made known to all the appropriate actors in the process.

18 MR. BOEHM: Yes, last year most of them were passed
19 in July, and at that point we sent not just the resolutions
20 but the full transcript of the Reauthorization Committee
21 hearings to the representatives for committees, and then we
22 passed two other -- two or three other resolutions earlier

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1 this year. Several of them were reiterations of the earlier
2 resolutions, and those were sent over.

3 MR. UDDO: That was after the House action and
4 before anything happened in the Senate?

5 MR. BOEHM: Yeah, I believe.

6 CHAIRMAN WITTGRAF: It was before the House action.

7 MR. UDDO: It was before the House action?

8 CHAIRMAN WITTGRAF: Yes.

9 MR. BOEHM: No, that's correct. Mr. Wittgraf is
10 correct. It was before the House action.

11 MR. UDDO: So we have communicated the board
12 resolutions to the appropriate actors in the process?

13 MR. BOEHM: Well, they did receive copies of the
14 resolutions, yes. We didn't receive any response letter
15 back.

16 MR. UDDO: Well, that doesn't surprise me. My only
17 point is that, you know, I think that George was, as you say,
18 on the spur of the moment trying to communicate as best he
19 could the board's general support for reauthorization.

20 And I think it is quite clear to the members of the
21 committee what the position of the board is on these various
22 topics, because of the resolution and the transcript going

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1 across, and because during most of the hearings I think we
2 had from time to time observers from various House and Senate
3 offices.

4 So, I don't think George's statement in any way
5 undermines what the fairly clear position of the board is.

6 CHAIRMAN WITTGRAF: Mr. Kirk?

7 MR. KIRK: The initial resolutions were sent last
8 July?

9 MR. BOEHM: They were passed July 18th, I believe,
10 and sent shortly thereafter. Then, at the end of the summer,
11 when we had completed the hearing transcripts for all of the
12 Reauthorization Committee, we sent a big binder over. Having
13 worked on the Hill, I am really under no illusions that that
14 was carefully read or anything, but I mean it was sent over,
15 saying that these were passed by the board and represent
16 their positions on reauthorization.

17 MR. KIRK: What about the April resolution?

18 MR. BOEHM: The April resolutions were also sent
19 over to -- I believe it was the same four committees that we
20 are talking, House and Senate Appropriations, House and
21 Senate Oversight or Authorization Committees. So, they have
22 them. Again, we didn't receive a response or any indication

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1 they were going to have one, but --

2 MR. UDDO: Well, there is not much more we could
3 do. You can't camp out in the office and make them read
4 them.

5 MR. BOEHM: No, exactly. You can take a horse to
6 water.

7 MR. UDDO: I mean, there is not much more we could
8 do.

9 MR. KIRK: So the statement that "the resolutions
10 we adopted then often with split decisions are being provided
11 to you under separate cover" was a "were provided to you a
12 year ago under separate cover"?

13 MR. BOEHM: Well, we also gave the short for just
14 the resolution, no other background, at the time that the
15 statement was submitted. It just was sent under separate
16 cover. I forget the exact logistics of it. I think the one
17 thing had been -- I think you may have faxed a copy of yours
18 first, and we sent a second, and then we saw the thing about
19 "under separate cover," so then we took that and delivered
20 that to the committee as well.

21 MR. KIRK: Just for the record, my recollection and
22 Mr. Uddo's is different, because I do not recall any such

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1 feeling from the committee that any reauthorization is better
2 than none.

3 And I think that we were not faced with severe
4 restrictions on the monitoring aspect, and the gutting of the
5 corporation's authority as was done in the Senate bill, and
6 that's the part that really bothers me very deeply, as to the
7 political.

8 The political things, I think, are part of it,
9 because we determined that we were not going to sit back and
10 do nothing. We were going to take these positions, and they
11 were going to be a part of us as opposed to my suggestion
12 that we do sit back, and then the monitoring aspect was of
13 real concern.

14 MR. BOEHM: Now, that's correct in this sense, that
15 most of those resolutions were passed July of last year. We
16 didn't know what the legislation would look like, because it
17 hadn't been marked up in the House yet, and we hadn't seen a
18 Senate bill at that point, and the Administration had not yet
19 spoken.

20 And in the meantime they sent both a statement of
21 Administration policy, a SAP, in May of this year, over to
22 the House, and then, in conjunction with the Senate

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1 consideration, they followed up with an opinion letter from
2 the Department of Justice that made a lot of the same points
3 that you are making about corporate authority and so forth.

4 CHAIRMAN WITTGRAF: Mr. Uddo?

5 MR. UDDO: Bud, let me just make sure the record is
6 clear about what I said. I didn't say reauthorization is
7 better than nothing. I said that the committee supported
8 reauthorization, I think, strongly supported reauthorization,
9 and the board supported reauthorization. I don't think the
10 question ever came up, did we support reauthorization at all
11 costs.

12 We expressed our views as to what we thought should
13 be done to the bill to make it better from the perspective of
14 the corporation and that we supported reauthorization. With
15 respect to the monitoring provisions, there have been
16 problems with monitoring provisions all the way back to the
17 first bill that we saw, and we have from time to time
18 expressed concern about it.

19 I don't think, frankly, we have done enough to be
20 specific about what our concerns are. You recall that we
21 invited input from Amelia and she gave us some comments about
22 what she thought the effect of the Frank bill would be on

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1 MAC, and we made some general comments about wanting to
2 improve on that.

3 I know Howard has consistently from the beginning
4 of this process said that he had real concerns about
5 strictures on the authority of the corporation if that bill
6 passed the way it was.

7 The Senate version gives us maybe some additional
8 problems, but I think in San Francisco we are probably going
9 to look more carefully at the monitoring provisions and maybe
10 try to be a little bit more specific about our concerns with
11 those provisions.

12 CHAIRMAN WITTGRAF: Let me suggest, as long as
13 we've gotten as deeply as we have into the issue of
14 reauthorization under Agenda Item 4-A, that we really go
15 ahead for a few minutes to Agenda Item 6-A with the President
16 and with Mr. Boehm, and let's complete the legislative
17 report. We are dancing around, but let's talk about the
18 whole -- let's have the whole report.

19 Mr. Boehm, why don't you identify yourself both for
20 the record and for the benefit of our guests?

21 LEGISLATIVE REPORT BY KENNETH BOEHM

22 MR. BOEHM: Sure. For the record, I am Ken Boehm.

1 I am assistant to the president and counsel to the board, and
2 we have a more substantive legislative report than we have
3 had over many months when things were kind of awaiting
4 action. Let me just very quickly run through appropriations,
5 because there have been some developments there as well.

6 In the House, they have not completed yet the
7 markup of Legal Service Corporation appropriation for FY93.
8 There is a meeting to be scheduled probably next week by
9 House Appropriations to consider Legal Services.

10 There are really two questions that will come up,
11 and even though they have met privately and there are rumor
12 and speculation about several of these things, there is
13 nothing official yet.

14 But the two items are, of course, the budget mark
15 itself, and we are currently this year receiving \$350 million
16 in federal outlays to Legal Services, the figure that has
17 been discussed as possibly coming out of appropriations next
18 week, and it is by no means final, and this is just what
19 generally is being talked about, is \$364 million, which would
20 be a 4 percent increase over the \$350 million we currently
21 receive.

22 The other item that could be an issue, will be an

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1 issue next week if they take it up at that point, is the
2 rider language. The rider language that is being discussed
3 is incorporating H.R. 2039, which is the Frank bill that
4 passed the House, by reference as the new riders on Legal
5 Services' money.

6 The effect of that would be, if it passed in that
7 form, and there's a lot of steps yet before that would
8 happen, but if it passed in that form, then come October 1st
9 of this year, with the new fiscal year, the old riders would
10 be no longer operational and the new riders would be the
11 Frank bill.

12 There's a lot of legislative hurdles that have to
13 be passed, not the least of which is, the Senate, of course,
14 hasn't said anything yet. The Senate Appropriations
15 Committee hasn't taken it up. The White House would probably
16 veto it in its present form because of the issues outlined in
17 the SAP.

18 And, at the same time, it could be subject to
19 various parliamentary challenges in the House. Last year, as
20 you know, they did put some figures on in the House, and that
21 was challenged on a point of order, because we are
22 unauthorized, and the House rules have precluded that sort of

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1 thing when it is objected to on a point of order.

2 In previous years before that, for a period of at
3 least three or four years, probably more, Neal Smith didn't
4 put numbers on. When it went from the House Appropriations
5 Committee over to the Senate, it went over blank, and his
6 rationale is, we are an unauthorized agency, therefore, under
7 House rules, he wasn't going to put dollar figures or riders
8 in.

9 The Senate would, however, do it. Their rules are
10 a little different, and when it reached the conference to
11 work out their differences, that's where our rider language
12 that we've been living under in recent years comes about. So
13 a lot can still happen. We will know next week, if they
14 meet, what exactly they are going to do about riders.

15 The incorporation of H.R. 2039 would be a major
16 change, because it is basically a reauthorization bill, and
17 there is a certain amount of feeling that that may be a
18 little too much to just tack on as a rider. It would have
19 some real substantive changes in the way the corporation does
20 business. It would probably, as I say, not only be
21 challenged by a veto, but probably would change quite a bit
22 when it went to conference to work out differences with the

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1 Senate.

2 H.R. 2039 and S. 2870, the Kennedy-Rudman bill, are
3 very similar, but they are not identical. There are enough
4 changes to make for a lot of give and take at conference.
5 So, that's what happening there. The Senate has not yet
6 taken up our appropriations bill, and that will probably
7 happen later. They haven't set a date for it.

8 And Senator Rudman is ranking minority there, and
9 if the tack is, the reauthorization probably would not go
10 through, or if they want to use it as a backstop, then you
11 could have S. 2870 added as a rider at the Senate, and the
12 differences would be resolved in committee, with the White
13 House being an unseen presence in the room because of the
14 veto threat.

15 This is a pretty big appropriation, one of the Big
16 13, and the White House, however, has vetoed big
17 appropriations when they have had substantive disagreements,
18 and the feeling here is that that would again be the case.

19 So, what would happen then, and this is
20 speculation, but reasonable speculation, I think, is that
21 they would try to see what changes they can make in
22 conference so that the overall appropriation, Commerce,

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1 Justice, State, the judiciary, and related agencies, wouldn't
2 be vetoed, and that is where a fair amount of horse trading
3 may take place.

4 And so that is the appropriations, but it is
5 integrally linked to reauthorization. Under reauthorization,
6 Mr. Wittgraf gave an account of what had happened at the
7 hearings on the 23rd. Things move very fast. We had a
8 couple days' notice. There was a panel there.

9 Both Senator Kennedy and Senator Hatch from the
10 committee both requested the corporation to give input on
11 those areas which specifically affected the corporation's
12 authority and operations with respect to oversight and
13 accountability.

14 We prepared an analysis, the corporation. It was
15 sent over, and I believe everyone on the board received a
16 copy of it on Friday, the 26th. That was analysis mainly
17 focusing on Section 6, which is the section that deals with
18 monitoring, sanctions, oversight. And that was followed up.
19 That was sent over on Friday. It was followed up with
20 meetings.

21 Mr. O'Hara had requested meetings with the same
22 team from the corporation, meetings with the principal

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1 staffers for Senator Kennedy and also principal staffers for
2 Senator Rudman. That was the first meeting. The next day we
3 had a meeting with the principal staffers for Senator Hatch.

4 We gave them both the same set of materials, had
5 the same discussions with each. The discussion on Monday was
6 searching for common ground. Were there issues of
7 accountability and corporate authority where the
8 corporation's viewpoint really should be incorporated.

9 CHAIRMAN WITTGRAF: This is Monday, June 28th,
10 prior to the markup by the full committee?

11 MR. BOEHM: Twenty-ninth, Monday, the 29th, and it
12 was a meeting with Jeff Blattner, Santal Manos. For the
13 corporation it was Jack O'Hara, Susan Sparks, and myself. We
14 had a lengthy session, went over it point by point.

15 Mr. Blattner made a number of notes, said he would
16 get back to us very shortly. He was attempting to see if
17 they could find some common ground and do a committee
18 substitute, in effect, a committee amendment where the
19 sponsors of the legislation would agree to amend their
20 legislation.

21 Later that night, when he asked for follow-up
22 research from us, which we had sent over to him, a whole

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1 series of analysis of different specific issues, later that
2 night, I believe it was, he had checked with Senators Kennedy
3 and Rudman, got approval for a number of changes. There were
4 actually 12 change, but when you boiled down the technical
5 ends of it, it was maybe six or seven changes.

6 He sent that over to the corporation for comment,
7 and I think we would have gotten that the next day, Tuesday.
8 We provided further comment, and the reason they wanted
9 further comment was, this process is ongoing. In fact, it's
10 going to take place a little bit more this week.

11 There were no amendments. Senator Hatch did not
12 have amendments. He would have. He disagrees with a lot of
13 sections of this bill. But because the speed with which this
14 was done, he didn't have amendments prepared. Instead, the
15 process is this.

16 They incorporated a number of those changes, and
17 then, when the full committee met on Wednesday, July 1st,
18 they voted for the bill as amended with the following caveat,
19 that Hatch would continue to negotiate with Senator Kennedy,
20 and the reason he has a little bit -- it's a little different
21 from the House is, the Senate doesn't have a lot of rules
22 restricting amendments. There's no Rules Committee that says

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1 you can or can't introduce certain amendments.

2 In the House that was a big issue. Mr. McCollum
3 had a major amendment on Section 6, monitoring and IG issues,
4 and so forth, and that was not permitted by the Rules
5 Committee, and so he was shut out from offering that
6 amendment. In the Senate, because it is much more open,
7 Senator Hatch does have a lot of play.

8 He and Kennedy are going to sit down later this
9 week. I believe they're going to have a report out tomorrow,
10 or at least completed at the committee level, on this
11 legislation. They are going to sit down and further discuss
12 these issues, including Section 6, and see if there is
13 further common ground that can be achieved.

14 If there is, there will be further possible
15 committee amendments or an amendment that would, in effect,
16 have the support of Senator Kennedy and presumably Senator
17 Rudman, and what they are seeking to do is avoid a veto, that
18 is, the sponsors of this legislation. They know there's a
19 veto threat, and they know that it's been not only enunciated
20 twice through SAPs, but it's gotten stronger each time.

21 In the course of the discussion at the Senate
22 level, the White House sent a Department of Justice analysis.

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1 It got stronger yet. And it addressed issues that had not
2 previously been discussed. It follows the SAP, but it's in a
3 little more detail. We have received copies of that, and I'd
4 be happy to pass that out to everybody.

5 So, what they are trying to do is avoid a veto.
6 What will happen after this week is hard to say. It could be
7 on the Senate floor as early as next week, technically. The
8 Senate has a very busy schedule. They've got recesses,
9 because you had a July 4th recess, you have the conventions,
10 you have a longer than average summer recess.

11 The summer recess won't bring them back in town
12 until after Labor Day, and it's a late Labor Day, and then
13 you're under the gun with the appropriations bills, which all
14 have to be passed before the new fiscal year starts on
15 October 1st, so they get back with only three weeks in
16 September, and there's a lot of business that has to be
17 accomplished in both the House and the Senate.

18 The real question at this point is what will happen
19 next week or the week after with the Senate bill. It could
20 be on the Senate floor that early. It could be we will meet
21 in August and there will be something having passed the
22 Senate.

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1 The issue won't be done with. There will still be
2 conference committee vetoes. There will still be
3 appropriations jockeying, and so forth. But there will be a
4 key decision fairly soon, and maybe even this week, as to
5 whether they will take it to the floor.

6 Senator Hatch's position is going to be that he
7 wants to support this. He wants reauthorization. Again
8 -- I think I mentioned before -- devils in the details. He
9 is not going to accept -- he pointed out a number of issues,
10 lobbying, abortion, and restrictions on the corporate
11 authority to conduct oversight, and he wants to see if he can
12 work out further compromise.

13 It was in that spirit that both Senator Hatch and
14 Kenned want us to give further analysis as to what additional
15 problems remain, so that when they sit down on Thursday and
16 Friday of this week they can work it out.

17 The only other development that is happening with
18 respect to reauthorization is going to be, once it passes the
19 Senate, whether the White House will, at that point, through
20 negotiations with Senator Hatch or otherwise, in any way
21 adjust their views, and the whole process, appropriations
22 with the riders, reauthorization, both House and Senate, is

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1 all a process in which they are trying to reach
2 accommodation.

3 It seems like what will happen is, if there can be
4 an authorization that will pass muster with the White House,
5 then it would be signed. All possibility of appropriations
6 rider would go out the window. It's not a favored way to do
7 business. You don't authorize an appropriations rider.
8 There's a lot of procedural hurdles to that.

9 So, if they can reach an accommodation under that
10 scenario, the White House would sign it, and we would be
11 reauthorized, and it would probably be for five years,
12 because that's what both the House and Senate bill talk
13 about.

14 If they can't, and that may be the smart bet at
15 this point, because there are certain irreconcilable
16 differences, the question is how far the White House would go
17 in its veto threat, and that is hard to -- that is difficult
18 to predict at this point.

19 If the reauthorization is stopped with a veto, that
20 still leaves the appropriations process, which may be subject
21 to a veto as well, and after that it is a -- we are really
22 just dealing in speculation at that point as to what would

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1 happen, but those are the scenarios as they are being played
2 out.

3 I have a copy of the DOJ letter. I believe
4 everyone on the board would have received a copy of Mr.
5 Wittgraf's statement, a copy of the letter of June 26th that
6 was sent over stating our position, our comments on Section
7 6. We also, I think, have distributed other materials back
8 and forth on this. We are getting additional copies of the
9 bill, although we are hesitant to send it out, because if
10 it's further amended tomorrow or later this week it will be
11 changed yet. It's a real moving target.

12 Just on the substance, for one moment, the Frank
13 bill and the Kennedy bill are very similar. They tend to
14 track as you go through the sections. There are a number of
15 differences, things that the House actually -- incorporation
16 of some of the references to the Privacy Act the House
17 rejected 410 to 2, fairly even with Mr. Frank, saying that
18 that shouldn't be applied in this legislation, yet it was put
19 into the Senate legislation.

20 Other things that were in the House legislation
21 were dropped from the Senate legislation. There were, for
22 example, restrictions in certain ways of corporate authority,

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1 a major one, monitoring. Under the Frank bill, and
2 originally the Kennedy bill, all monitoring must be done by
3 regulation passed by this board.

4 If it passed in its form that it was originally
5 written in both House and Senate bills, that means the date
6 it was enacted, if there is not a regulation in place, all
7 monitoring would have to cease. There is no provision for
8 either a phase-in or delayed -- date after the enactment for
9 it to take effect. That was the way it passed the House.

10 When we sat down with Jeffrey Blattner and Santal
11 Manos, we explained our biggest component is monitoring. If
12 we have to have a regulation in place and we don't have one
13 now, and regulation is notice, and comment, and there's a
14 whole process involved there, then all monitoring would
15 cease. Is that really what you want to do with this
16 legislation? It could take six months. Who knows? It's a
17 process.

18 And Blattner agreed that that wasn't really what
19 they were intending, so he put a one-year delay, one year
20 from the date of enactment.

21 At that point, the regulation requirement that all
22 monitoring must be done pursuant to regulation would kick in,

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1 and, therefore, you have a year to pass a regulation, and
2 it's far more reasonable, and he had no trouble acceding to
3 that, and that is one of the changes that were made and
4 passed in the Senate version.

5 And there is still room for further, and in some
6 cases he was doing clarifying. In some cases -- we haven't
7 seen the report language; that may be out tomorrow -- they
8 are going to clarify certain things that were unclear by
9 putting their intent, discussion of their intent in the
10 report language. It's not as strong as being in the
11 legislation, but it is helpful.

12 And so, that is where we find ourselves.

13 CHAIRMAN WITTGRAF: Thank you, Mr. Boehm. Mr.
14 O'Hara, you wanted to add a few comments?

15 MR. O'HARA: Thank you, Mr. Chairman. Ken makes
16 for an excellent presentation. What Ken did not tell you,
17 and what I will tell you, is, the performance of Ken and
18 Susan Sparks was brilliant. I sat with them through the
19 sessions with both Senator Kennedy and Senator Rudman's staff
20 and with Senator Hatch, and I think they have opened a door
21 which might have been shut.

22 I think it was very clear that what Ken and Susan

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1 told them about monitoring was a revelation. They were not
2 as informed as they might have been. I think Ken and Susan
3 dispelled some of the myths that have been spread, and I
4 think the board would have been proud of the performance that
5 they did there, explaining the position of the corporation as
6 regards monitoring.

7 And the fact that they came back with the changes
8 within 24 hours is evidence of the reception of their
9 comments to the staff of all the Senators involved in that,
10 and I just wanted to add that for the record.

11 MR. BOEHM: I should say for the record it was
12 Jack's idea to meet with Jeff Blattner to set this up, and we
13 did, and it worked -- it worked beautifully for all
14 concerned, because there was some compromise.

15 CHAIRMAN WITTGRAF: And we were never asked for any
16 input on the House side, and with Jack's initiative and your
17 and Ms. Sparks' work, then, this is the first time we have
18 actually had direct input into the drafting process.

19 MR. BOEHM: Yes.

20 CHAIRMAN WITTGRAF: Mr. Kirk.

21 MR. KIRK: And that's some of the response that you
22 were thanking in your June 30th letter.

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1 CHAIRMAN WITTGRAF: Exactly.

2 MR. KIRK: I have three points. One, I do want to
3 have a copy of that Justice Department report. Number Two,
4 would it be worthwhile at this point to talk about the non-
5 common grounds still remaining in Section 6?

6 And my third one, so I can get it out before I lose
7 the floor on the board, is this something that happens
8 frequently, that this legislation would just pop forth on a
9 Friday, and not a soul in the corporation, I presume, nobody
10 on the board knew a thing about it?

11 MR. BOEHM: I was on vacation. That tells you
12 where -- I was visiting my mother in Pennsylvania when Jack
13 called me. So it took me by surprise. And it is a little
14 unusual in the sense that we were last authorized -- their
15 last authorization hearing was held in the Senate in 1977,
16 and this is 1992.

17 And there was a lot of speculation, including by
18 myself, and I think I may have told this board, you know, we
19 were not even sure whether they were going to do it or not.
20 So we did not get much advance notice. We literally found
21 out the week before, less than a week.

22 MR. KIRK: Why would they do it secretly and not

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1 tell a board member or anybody?

2 MR. BOEHM: Yes, Senator Hatch was a little
3 disconcerted by the whole thing, too, because -- in fact, one
4 of the things that came under discussion was, they looked
5 down the list. They didn't see a representative. This is
6 for the hearing on the 26th, I guess it was, 23rd. They
7 looked down the list, and they didn't see on the list of
8 speakers a representative of the corporation.

9 And that's when I believe Chad Westover of the
10 committee staff working for Hatch contacted us and said,
11 yeah, you know, "If we can get Mr. Wittgraf or somebody to
12 represent the corporation, they really should be there." It
13 is our reauthorization, after all.

14 And so, yeah, it was faster than is usually the
15 norm, especially something that is this long in the process.
16 We knew an awful, awful long time ago that this was coming
17 down the pike in the sense that the Senate had to act, but
18 the actual scheduling of it was much shorter than you usually
19 get.

20 CHAIRMAN WITTGRAF: Mr. Kirk?

21 MR. KIRK: I think Mr. O'Hara was going to comment.

22 CHAIRMAN WITTGRAF: Mr. President?

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1 MR. O'HARA: In response to your question, Mr.
2 Kirk, I spent 25 years, as you know, on the Hill, and
3 although this was an unusual occurrence, it is not the first
4 time that something like this has happened. The first notice
5 we had was on Thursday evening. I received a call from a
6 board member who said, "Are you aware that there's a piece of
7 legislation going to be dropped either tonight or tomorrow?"

8 MR. KIRK: Who said that?

9 MR. O'HARA: That was Mr. Dana, who apparently had
10 received information that a bill was going to be dropped.
11 And I said no. And about a half an hour later we got the
12 call from Chad Westover, who is Senator Hatch's staff person,
13 who wanted to discuss the matter, asked us if we were aware
14 of it, and I said no.

15 I since have been contacted by some of the House
16 leadership who said, "were you involved in any of this?", and
17 I advised them, "No, I was not." So there is interest on the
18 Hill, too, as to how and why we were not involved.

19 CHAIRMAN WITTGRAF: Mr. Boehm?

20 MR. BOEHM: I think he had a second point that -- I
21 forget --

22 MR. KIRK: I said them all at the beginning so I

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1 could always come back to them. Is it going to serve any
2 purpose to go through, and maybe the Chairman has some
3 comments on this, the non-common grounds still remaining in
4 Section 6?

5 MR. BOEHM: Well, yes, we can get into it. I'll
6 tell you where it's found, and I believe everyone on the
7 board received a copy of the memo. I think it's the -- I
8 want to say July 2nd memo to the board, the one that
9 contained the back and forth on our discussions with the
10 Senate with respect to Section 6.

11 In that, I have the committee substitute, which
12 -- yes, it should look like this, LSC Reauthorization
13 Activities in the Senate. A backup to this or appendage to
14 this is the committee substitute. Now, that was the changes
15 made by the Senate in response to our initial memo. And then
16 there's an enclosure, an attachment that says, response to
17 those changes.

18 And in the response to, that would be what you're
19 looking for as to what still remains. What still remains,
20 generally speaking, and the technicality will easily -- I've
21 spent a lot of sleepless evenings trying to work through some
22 of the technicalities, and Susan and others of the

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1 corporation as well. There are still a lot of changes in
2 Section 6 and elsewhere.

3 The net effect -- and there are a number of changes
4 that limit this board, too, in terms of what you can and
5 can't do, passing of regulations. Things that previously
6 could be done without board action now require board action.
7 With respect to monitoring, there is still a requirement that
8 it be done by regulation, and they lay out what should be
9 taken into consideration in that. There's restrictions on a
10 whole variety of normal oversight activities in there.

11 The board's official position as per the resolution
12 process is stated very generally, and I believe, and Basile
13 maybe can correct me on this, but I believe the board's
14 position with respect to monitoring is that the corporation
15 be given a fair amount of discretion in undertaking its
16 monitoring responsibilities. I don't think it goes further.
17 It's not verify specific, but it generally says that that's
18 the case.

19 What remains is -- I probably do have an additional
20 copy here if you don't have it.

21 MR. HALL: It's attached to the back of this.

22 MR. BOEHM: Blakely, do you have a copy you can

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1 share with them?

2 MR. HALL: Yes.

3 MR. BOEHM: Yes, there are a number of problems.
4 Here is where I see opportunities, if people are so inclined
5 to become involved. When Senator Hatch and Senator Kennedy
6 speak on Thursday and Friday, that is one of the areas they
7 are going to be looking at, because Senator Hatch was very
8 concerned. That was one of the three issues he mentioned
9 during the committee consideration.

10 MR. O'HARA: Ken, excuse me. Would you ask Susan
11 to join you? She was involved.

12 MR. BOEHM: Oh, sure.

13 CHAIRMAN WITTGRAF: Ms. Sparks, why don't you
14 identify yourself?

15 MS. SPARKS: I am Susan Sparks, the acting director
16 of the Office of Monitoring, Auditing, and Compliance.

17 CHAIRMAN WITTGRAF: Why don't you say that again
18 now?

19 MS. SPARKS: Susan Sparks.

20 CHAIRMAN WITTGRAF: With your title as well, Ms.
21 Sparks, for those of our guests who don't know you.

22 MS. SPARKS; Acting director, Office of Monitoring,

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1 Auditing, and Compliance.

2 CHAIRMAN WITTGRAF: Thank you.

3 MS. SPARKS: I think, just to make it a little
4 simpler, on some of the common ground we are seeking, it is
5 just through clarifying the exceptions we need to the
6 language in the Senate bill. The access to records is our
7 primary concern remaining, both by the restrictions placed
8 upon monitoring by applying the state privacy protections and
9 the local rules of professional responsibility.

10 And while we certainly have no concerns about the
11 requirement that we take those items into account in
12 monitoring, the Senate staff did provide some exception
13 language, and Ken and I have been spending a lot of time
14 explaining the exceptions in those areas that we would need.

15 So, I think the common ground is out there, and as
16 we clarify, for example, that we need access to fiscal
17 records, we would like access to original fiscal records, and
18 if we can get that type of clarification as to what we are
19 seeking, I think that the common ground is possible, as
20 opposed to dealing with the more global issues.

21 CHAIRMAN WITTGRAF: Further discussion? Mr. Kirk.

22 MR. KIRK: I have found -- for some reason it

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1 wasn't attached to my July 2nd, but I did find the response
2 to substitute language and other concerns that need to be
3 addressed, and I trust that you will be pushing for these at
4 every opportunity you get.

5 I want to offer any help that I can give in being
6 anywhere at any time or what have you, because I think that
7 the gutting of the corporation's monitoring, audit, and
8 compliance ability is the single most significant aspect of
9 this, and I think that we need to get back some authority so
10 we can do our jobs.

11 CHAIRMAN WITTGRAF: Thank you, Mr. Kirk. Further
12 discussion, questions, comments?

13 (No response.)

14 CHAIRMAN WITTGRAF: Thank you, Mr. Boehm, Ms.
15 Sparks.

16 Having taken a global look at the Legal Services
17 Corporation, its grantees, and their activities, we will now
18 go back to Agenda Item 3 and take a very specific look on a
19 very local level at the activities of the corporation, its
20 grantees, and some of the private attorneys who are involved
21 with one of its grantees.

22 It is my pleasure at this time to ask two

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1 representatives of the Cook County Bar Association, William
2 Scherle and Tom Zurek, to come forward, if they will, and to
3 join us at the so-called witness table.

4 Mr. Scherle, in the pink shirt, is a practicing
5 private practitioner in Des Moines, a member of the board of
6 governors of the Iowa State Bar Association, one of our hosts
7 last evening, a former president of Polk County Bar
8 Association.

9 Mr. Zurek, in the more traditional white shirt, is
10 one of the officers of the Polk County Bar Association, and
11 wears, as well, the hat of being a member of the board of
12 directors of the Legal Aid Society of Polk County, the
13 corporation's grantee that serves the clientele in Polk
14 County, in the greater Des Moines area.

15 They have some thoughts, some concerns that they
16 wanted to share with us this morning, and obviously, one of
17 the reasons we travel to places other than Washington, D.C.,
18 to hold our meetings is so that we have an opportunity to
19 receive the comments of people across the country, people in
20 the field who are affected by what is decided and what comes
21 from Washington.

22 At this point it is my pleasure to recognize either

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1 or both of you, as you prefer.

2 COMMENTS BY A REPRESENTATIVE OF THE POLK COUNTY
3 BAR ASSOCIATION REGARDING THE PRIVATE ATTORNEY
4 INVOLVEMENT IN THE STATE OF IOWA

5 MR. ZUREK: I will begin. Once again, my name is
6 Thomas Zurek, and I am a director of the Polk County Bar
7 Association. The initial comment that I have is that we
8 believe that we are attempting and working very hard at
9 providing the types of services which are necessary for our
10 population.

11 We are doing this through the LSC recipient, the
12 Legal Aid Society of Polk County, which I have had the
13 pleasure and the honor to be on the board of for the past
14 approximate year.

15 We have been utilizing all of the available
16 resources that we have, and we are here today to talk about
17 some different perspectives and some appropriate, what we
18 believe to be some appropriate ways to deal with the day-to-
19 day problems that we would be facing essentially on a grass
20 roots level.

21 I would like to speak about this in terms of
22 alternatives. Under Subsection 1614(1)(a) of the LSC rules

1 and regulations, it is our understanding that at least 12 1/2
2 percent of the LSC annualized basic field award should be
3 devoted to the involvement of private attorneys in such
4 activities. That's the crux of what we are here about today.
5 We are talking about private lawyers, and private lawyers in
6 our community, and the involvement of those private lawyers.

7 The Iowa State Bar Association has, along with the
8 Polk County Bar Association, been very active in attempting
9 to work through volunteer lawyer projects. The volunteer
10 lawyer projects are designed solely and specifically for the
11 purposes of utilizing the skill that is developed in the
12 community for the people who need the services.

13 Through the work of the state bar and of the Polk
14 County Bar, we have been able to develop a large pool of
15 lawyers who are more than willing to work in the area, more
16 than willing to provide the types of services that our people
17 need.

18 The focus, however, I think, that we want to talk
19 about today is, how do we continue to establish lawyers who
20 are interested in the projects, lawyers who can be utilized
21 throughout the coming years. Under Subsection 1614.3(a)(1)
22 of the LSC rules and regulations, there is a provision that

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1 the expenditures of funds can be done through organized pro
2 bono reduced fee plans, judicial panels, private attorney
3 contracts, and modified pro bono plans.

4 We believe that it is time for a prioritization to
5 occur with regard to the types of plans and the types of
6 available entities for the 12 1/2 percent of the annualized
7 field or basic field award. We think that the board should
8 consider setting up a prioritization so that we can get the
9 funds, this 12 1/2 percent, available to low fee panels.

10 The importance of using low fee panels in a
11 situation like this is to encourage young lawyers who are
12 starting out in practice to be conscious of their
13 responsibilities.

14 It becomes very difficult, I think, for a young
15 lawyer sometimes to step in and say, "Well, I'm going to
16 volunteer. I'm going to do the things that I believe I
17 should be doing," when they are facing the types of
18 difficulties we all recognize occur in an early practice, to
19 encourage young lawyers to come in and begin the process of
20 providing volunteer performance for the community.

21 You sometimes, I think, have to encourage them.
22 You have to give them an edge, give them the opportunity to

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1 be able to be slightly compensated for the work that they are
2 doing. The 12 1/2 percent, we believe, is a way to activate
3 the bar, the way to activate the population to be able to
4 come in and provide these services.

5 We believe that if we prioritize the expenditure of
6 funds, and we do identify low fee panels, I think that we can
7 avoid certain problems that appear to be systemic with regard
8 to the way in which services otherwise could be provided.

9 I will give you an example. If an LSC recipient is
10 utilizing contracted lawyers, for example, within the
11 offices, as we understand the rules presently, the
12 administrative costs that are appended to those contracted
13 lawyers are considered within the 12 1/2 percent. That
14 particular administrative cost, we believe, can be
15 essentially avoided if low fee panels are utilized, because
16 remember what we are doing in that situation.

17 We are saying to the community, with this 12 1/2
18 percent expenditure of funds, we are going to be utilizing
19 the existing services that are in the community with the
20 practicing lawyers.

21 All of those attendant costs to have somebody up to
22 speed, to have paper, to have pencils, to have typewriters,

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1 word processors, books, are essentially absorbed by that
2 attorney who is participating in the low fee panel by the
3 existing office that is set up.

4 We can, we believe, provide for a better contact
5 with the community, with lawyers who can, in fact, work on
6 projects if we go this route.

7 The second aspect of this is the diversity that
8 this would offer to the community. By utilizing low fee
9 panels as a prioritized item, we believe that we can show
10 that ultimately the population will be served better, because
11 you're going to have a wider variety of attorneys who are
12 available, you're going to have a variety of attorneys with a
13 variety of skills, and as these cases are directed to
14 attorneys to work on, you are going to be getting essentially
15 the best person for the best product.

16 And by utilizing the internal structure of the law
17 firms of this state and of this particular community, I think
18 that we are going to be able to better utilize these funds.

19 As I have said in my earlier remarks, I believe
20 that we have been doing as good a job as is possible in this
21 community. Legal Aid Society of Polk County has stepped
22 forward and done some remarkable things.

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1 We think that the Volunteer Lawyer Project should
2 be stepping up and doing the same types of things, but we
3 feel that the 12 1/2 percent rule should be more focused with
4 regard to providing the funds actually to the practicing
5 lawyers who would be able then to get out into the population
6 and provide the services.

7 It becomes a matter that in these times we have to
8 be very conscious of our dollars. We have to be very
9 conscious of the way we spend our money. And we think that
10 if you utilize the volunteers throughout the communities,
11 then you utilize their expertise, and you also utilize the
12 fact that they've already got a physical plant in place.

13 We are going to get a better bang for the buck, and
14 it is going to result in better overall services, and the
15 most important point of it all is, it will continue to
16 involve on a broad-based basis the bar associations and the
17 local bars.

18 CHAIRMAN WITTGRAF: Mr. Scherle, did you want to
19 add anything?

20 MR. SCHERLE: No, I think Mr. Zurek has summarized
21 it. Mr. Zurek has the unique perspective of being on both
22 the county board and the Legal Aid board. I have served as

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1 an officer and director of the Polk County bar over the past
2 several years and have served that clientele more directly
3 than wearing both hats.

4 I think as we read the regulations and have
5 prepared our comments today, the 12 1/2 percent regulation
6 deals with a clear mandate from this board and Congress that
7 a certain percentage of the money be made available and
8 appropriated are to find their way into the hands of the
9 private bar associations because of the diversity and some of
10 the other reasons that Mr. Zurek has mentioned.

11 Frankly, we feel that since our low fee panels in
12 particular do absorb the overhead items, that if it is
13 handled in-house through contracting lawyers or other means,
14 that that money, if handled through a low fee panel, would
15 become available for more direct services rather than
16 internal overhead.

17 Therefore, we feel that the board and Congress
18 should take some steps to prioritize things in favor of low
19 fee panels where the lawyers are willing to absorb those
20 overhead items should be the recipient's main focus, rather
21 than exploring the other options without any direction.

22 CHAIRMAN WITGRAF: Thank you, Mr. Scherle. Let me

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1 make sure I understand correctly your concern. I think what
2 you're talking about is a difference in emphasis between
3 Legal Aid Society of Polk County and its management, let's
4 say, and what some of the private bar in Polk County views
5 might be a more appropriate approach.

6 The authority is there for the moneys to be
7 utilized in the way you have described, but it gets to be a
8 matter of setting priorities, and I will assume that as you
9 have gone through at least annual budgeting on the board for
10 Legal Aid Society of Polk County, that you have discussed
11 that matter when you talk about either regulatory or
12 statutory authority, you are wanting some outside assistance
13 because it hasn't worked that way within this one program.
14 Am I correct in my understanding?

15 MR. ZUREK: Mr. Wittgraf, if I could address it, I
16 think that the budgeting and the appropriateness of the
17 budgeting has been perfectly acceptable. There is absolutely
18 no indication that there is anything wrong with budgeting.

19 What we are saying, and I am speaking today on
20 behalf of the board of directors of the Polk County Bar
21 Association, really, is that we as a group have talked about
22 how do we best as an association involve our members in the

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1 provision of indigent legal services.

2 And the way we do it is by encouraging our young
3 lawyers to continue to work with the project, and the low fee
4 panel can, in fact, do that, and we think that if there is a
5 prioritization with regard to the legislation with regard to
6 that point, I think that we can solve it.

7 We have people, we have a lot of people who are
8 willing to do this, and people are willing to step up and
9 perform the services that we all think are absolutely
10 necessary in this society, and this would be an encouragement
11 to a lot of lawyers to, I think, step forward.

12 MR. SCHERLE: I think, from our perspective, to add
13 to that, we wanted to bring to you our own local experience
14 in this field, and relay to you the benefits that we feel
15 very strongly go along with the low fee panel concept as one
16 of the alternatives provided by the regulations.

17 And having given this a lot of thought and worked
18 closely with the Legal Aid to try and resolve these budgetary
19 matters, it's the position and the experience of the local
20 bar that more money can be made available to indigent
21 services through low fee panels than any of the other
22 options.

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1 And we wanted to take time today to bring that to
2 your attention and urge you if it was your desire to, if you
3 get similar readings from other bar associations, to maybe
4 consider prioritizing the low fee panel, because we think it
5 is far and away the most cost effective way to put more of
6 that 12 1/2 percent money into the hands that it was, I
7 think, designed to be placed.

8 CHAIRMAN WITTGRAF: Let me ask -- we have a couple
9 of key staff members present, as you may have gathered.
10 Ellen Smead, who is the director of the corporation's Office
11 of Field Services, is here, as is the deputy director,
12 Charlie Moses. Also, Susan Sparks, whom you have met or whom
13 you have heard introduce herself as the acting director of
14 our Division of Monitoring, Audit, and Compliance, is here.
15 Ms. Smead.

16 MS. SMEAD: As indicated earlier, I am Ellen Smead.
17 I am director of the Office of Field Services, and one of the
18 things that we have with our office is PAI, and we look at
19 PAI every year.

20 Programs that receive basic field funding are
21 required to submit their PAI plans, and these plans are
22 developed at the local level, with the bar association and

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1 the program, taking into account the priorities at the local
2 level and allowing the local level to decide what type of
3 things they want to do.

4 And several programs, like you have mentioned, have
5 found that low fee panel is the best. Others have found pro
6 bono is the best. A lot of them combine the two. They may
7 have some contract attorneys, they may have a low fee panel,
8 they may have a pro bono panel as well. And this is very
9 much left to the local people to decide how they want to
10 spend their money. We continue to encourage them, because it
11 does vary from place to place.

12 I have also monitored, and in monitoring I saw
13 places where low fee worked very well, and other places where
14 it didn't, that people would be insulted if they were paid
15 for their pro bono work, but that's just -- that depends on
16 the locality very much.

17 MS. WOLBECK: Mr. Chairman?

18 CHAIRMAN WITTGRAF: Ms. Wolbeck.

19 MS. WOLBECK: Could you explain to me what low fee
20 panel means?

21 MR. SCHERLE: Certainly. Our initial program was
22 done in conjunction with the state bar and Legal Services

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1 Corporation of Iowa and the Legal Aid Society of Polk County,
2 which was purely voluntary to begin with. I wasn't involved
3 in that. I went back a number of years before I was actively
4 involved in the local bar, but as that volunteer project
5 developed, certain things became apparent.

6 Legal Aid, who was the local recipient, might have
7 conflicts with parties they had represented. There may be
8 cases that their contracting attorneys or in-house people
9 were not experienced to handle. There is any number of
10 circumstances that could arise that required specific
11 expertise.

12 In addition, we wanted to encourage the younger
13 lawyers to get involved in pro bono work, but they were under
14 -- a number of them were under pressure because of billable
15 hours and no revenue coming in.

16 Low fee panel, as it is structured in Polk County,
17 is a program whereby the participant attorney agrees to take
18 a case for \$30 an hour up to a maximum of \$360 total, and
19 handles that case. They also agree when they take that one
20 paid case to take an unpaid case absolutely with no
21 remuneration.

22 So, in effect, the indigent services are getting

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1 two cases placed for the price of one. The \$30 per hour up
2 to \$360, of course, does not cover what would normally be the
3 fees.

4 In fact, it probably doesn't cover the overhead.
5 But it does allow the case, a conflict case or a particular
6 area of expertise to be placed with an attorney, and allows
7 the portion of that 12 1/2 percent that Congress has
8 appropriated to flow back into the hands of local bar
9 association members.

10 The research, the statistics that have been
11 developed through the Polk County Volunteer Lawyers Project
12 have indicated that the low fee panel can handle cases as
13 cheap or cheaper than any other indigent service provider
14 because the attorneys are absorbing all the overhead that
15 would be associated with the handling of the case, the
16 secretarial, the rent, the paper, the word processor.

17 All that is being largely absorbed, and the
18 contracting attorneys, I don't doubt, would -- combining the
19 overhead, I doubt seriously are working for less than \$30 per
20 hour. That's how it works here in Polk County. It may work
21 differently in other parts of the country, but that's the way
22 it's structured here.

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1 CHAIRMAN WITTGRAF: Ms. Smead, did you have
2 anything else you wanted to say?

3 MS. SMEAD: No.

4 CHAIRMAN WITTGRAF: While Mr. O'Hara is from
5 Washington, most of the rest of us are from other parts of
6 the country. And this is a form of federal funding where, as
7 Ms. Smead indicated, most of the determinations are based
8 upon local priorities or local decisions by local, private,
9 non-profit corporations with their own boards, as certainly
10 Mr. Zurek understands.

11 And we simply set regulations within the statutes,
12 and then Ms. Sparks and her colleagues come out and make sure
13 that certain t's are crossed, i's are dotted, and then other
14 things are done.

15 I assume there is some difference in emphasis
16 within the operation of Legal Aid Society of Polk County,
17 management board, or maybe even within the board itself. I
18 assume it is something you have talked about in board
19 meetings, and up to now not as much emphasis as you think
20 should be placed on low fee panels in particular has been.
21 Is that a fair assumption?

22 MR. ZUREK: I have a unique perspective, because I

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1 participate in the Volunteer Lawyers Project and I am on both
2 boards. My perception, personally, is that the low fee panel
3 concept creates an involvement with the local bar. That is
4 my emphasis. I think that utilization of contract lawyers to
5 satisfy the 12 1/2 percent has a tendency to isolate the bar
6 and the community, and, you know, you are basically dealing
7 with one or two people, as opposed to spreading this around
8 the community, which I think is the important thing to do.

9 When you energize people with what is available in
10 terms of helping folks in this kind of a situation, I think
11 it's -- I personally think that it's the appropriate way to
12 go. That's why I would encourage a prioritization in the
13 area. You know, we have been successful. We have been
14 successful because we have a lot of volunteers and a lot of
15 lawyers who are willing to step up and do this.

16 We would like to continue that, and utilizing the
17 low fee panel will allow those younger lawyers, we think, to
18 step up, and it will work quite well.

19 CHAIRMAN WITTGRAF: Questions? Mr. Kirk.

20 MR. KIRK: Are you able to spend your 12 1/2
21 percent on pro bono?

22 MR. ZUREK: As I understand the rules, the 12 1/2

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1 percent can be -- the LSC recipient -- in the funding
2 applications there is a section that is identified as the
3 PAI, and in that area there is a designation for the 12 1/2
4 percent, and we are there.

5 I mean, we are -- Polk County Legal Aid is far over
6 the 12 1/2 percent in terms of the private bar involvement.
7 Polk County Legal Aid has utilized a significant amount of
8 funds for private bar involvement, and what we are talking
9 about, though, is the prioritization within the available
10 types of private bar involvement.

11 MR. KIRK: I can just tell you that in my county,
12 if I understand this correctly, we have 80 percent
13 participating in pro bono. I mean, that is what they can
14 get, and they can prioritize it by saying, let's set up low
15 fee panels, I mean --

16 MR. ZUREK: Maybe I misunderstood your question. I
17 would say that the vast majority of the lawyers who
18 participate in the Volunteer Lawyer Project are doing it on
19 an absolute pro bono basis. What we are trying to do is take
20 the 12 1/2 percent, which we understand by reading the
21 legislation is Congress's intent on this matter, to get that
22 to the local bar, get it to the local bar by utilizing the

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1 services of the young lawyers and the ones who can use these
2 funds.

3 It will make better volunteers in the future, and
4 it will allow those people to understand how important this
5 really is.

6 MR. SCHERLE: Certainly the first priority should
7 be the stuff you can get for nothing, the free, the
8 absolutely pro bono, because then all of your costs are
9 absorbed by the lawyers that are doing it, and I think that's
10 whole theory behind the pro bono effort, and certainly that
11 should be Number One, but at some point that runs out, or at
12 some point the people that are being called decide, "I can't
13 do any more." The enthusiasm plateaus. You can't find the
14 specialists that you need.

15 So then you drop down to the next tier of
16 involvement, which is paid services, and that's either
17 contracting lawyers or low fee panels, and our feeling and
18 experience has been that we get much more cost effective
19 results using low fee panels that using contract lawyers in
20 our local environment.

21 There is always going to be a tug of war on the
22 budget between competing interests. We feel low fee panels

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1 is the way to go, and we have met numerous times with the
2 local provider on that, and have made a lot of progress. We
3 are working closely with them on this, but in reviewing the
4 reg, since the reg just says, these are the various ways that
5 you can do it, we wanted to bring to the board our local
6 experiences with regard to what an effective priority is from
7 our experience, but certainly use pro bono efforts first.

8 But if you have a choice of the means that you
9 spend your money, and it has to be spent, our feeling is, the
10 low fee panels provide the most cost effective, less
11 overhead, and most efficient means of providing those
12 services as opposed to the other options which are contained
13 in the rules and regs.

14 CHAIRMAN WITTGRAF: What are the contract attorneys
15 being paid by the Legal Aid Society of Polk County? Does
16 either of you happen to know?

17 MR. ZUREK: I don't have the answer with me. It's
18 in our plan, but I don't know.

19 CHAIRMAN WITTGRAF: I was just trying to compare
20 with the \$30 per hour being paid to the low fee panel
21 participants, and, as you both indicated, those are people
22 who have already built in their own overhead, so it's really,

1 in a sense, a supplement to their having set up a practice
2 already. Mr. Hall.

3 MR. HALL: Thank you, Mr. Chairman. Cost
4 effectiveness aside, have you all had any problems with the
5 quality? It would seem to me that pro bono may bring in the
6 older, sometimes even retired attorney with a little more
7 experience, who could handle themselves perhaps a little bit
8 better in the courtroom, whereas the younger lawyer is using
9 it as a first case, as his training ground. Do you feel like
10 you are losing quality with the low fee panel as opposed to
11 pro bono?

12 MR. ZUREK: I don't think so.

13 MR. SCHERLE: That hasn't been our experience. Our
14 experience has been that the people who have handled cases on
15 a low fee panel basis have done very adequate work. I mean,
16 we haven't had any breakoff, if you will, because someone is
17 getting \$30 an hour for a case.

18 It has been working and we want to encourage it to
19 work more, because working in our community, we believe that
20 activating our bar to cooperate with the Legal Services
21 providers here in this community is vital, and I know that
22 Polk County Legal Aid has been actively involved in bringing

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1 bar members into the office and working on a purely voluntary
2 basis.

3 In addition to that, we have been trying to expand
4 the LP program. We are looking at this as maybe an edge, and
5 that our perspective -- my perspective. I shouldn't speak
6 for everybody. It is my perspective -- is that the low fee
7 panel idea is going to bring in people who in the future are
8 going to be the ones who are going to be the volunteers.

9 CHAIRMAN WITTGRAF: We do appreciate both of you
10 taking the time.

11 MR. ZUREK: We have a letter for all the members
12 from our president.

13 CHAIRMAN WITTGRAF: Okay. Thank you very much.

14 MR. ZUREK: Thank you, Mr. Chairman, board.

15 CONSIDERATION OF MOTION TO CONDUCT

16 BOARD MEETINGS ON WEEKDAYS

17 CHAIRMAN WITTGRAF: We will go on, then, to Agenda
18 Item 4-B, as we hop around a little bit. That is further
19 consideration or discussion of the days on which we meet. We
20 had some schedule conflicts, as I think you all understand,
21 regarding our meeting here in Des Moines. We had originally
22 been going to meet two weeks ago, on the 28th and 29th, a

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1 Sunday and Monday, I guess.

2 As it turned out, it was just as well we did not,
3 so that Mr. O'Hara, Mr. Boehm, Ms. Sparks, and others could
4 be in Washington, working with the staffs of the Senators who
5 are key to the Senate Labor and Human Resources Committee and
6 the reauthorization legislation.

7 Our next meeting, in August, in San Francisco will
8 have committee meetings on Saturday, Sunday, and Monday, and
9 Ms. Batie, to her credit, and sometimes to her frustration,
10 which -- she shouldn't worry about it. We are a frustrating
11 bunch -- has been trying to accommodate everybody's schedule
12 so everybody can be at whatever committee meetings they want
13 on Saturday and Sunday as well as the board meeting on
14 Monday.

15 Going ahead to Minneapolis in September, on Friday
16 we have our annual conference, Friday, September 25. We are
17 locked into that pretty well. Some discussion is probably
18 necessary as to people's schedules for a board meeting and
19 committee meetings on the preceding Thursday, the 24th, and
20 the following Saturday, the 26th, and what everyone's
21 preference is.

22 Does anybody have any particular problems as we

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1 look at 24, 25, and 26 September? Mr. Rath, I think you have
2 indicated you have a problem with the 26th. Ms. Batie, you
3 are making notes here, I hope, so that we can try to reach a
4 consensus. Do we have other conflicts on the 24th, 25th, and
5 26th? Mr. Shumway?

6 MR. SHUMWAY: Were this anyplace but San Francisco,
7 the answer would be yes, but for me, of course, I live there.

8 CHAIRMAN WITTGRAF: I jumped ahead to Minneapolis.
9 I'm sorry.

10 MR. SHUMWAY: I'm sorry.

11 MS. WOLBECK: Good, you will be with us any time in
12 San Francisco.

13 MR. SHUMWAY: That's right. That's right.

14 CHAIRMAN WITTGRAF: Jump ahead to Minneapolis.

15 MR. SHUMWAY: I was thinking about the three-day
16 series of meetings that are scheduled for San Francisco.

17 CHAIRMAN WITTGRAF: Right.

18 MR. SHUMWAY: We have meetings on Saturday and
19 Sunday and Monday.

20 CHAIRMAN WITTGRAF: And Monday. It looks like we
21 may end up with the -- and Ms. Batie, correct me if I'm
22 wrong. We may end up with Audit and Appropriations,

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1 Reauthorization, and Operations and Regulations on Sunday,
2 and Provision for Delivery of Legal Services, so-called
3 Provision, on Saturday. That will allow Mr. Kirk to
4 participate in the meetings he wishes to on Sunday while
5 still giving us enough time to get everything done.

6 I was looking particularly at Minneapolis,
7 September 24, 25, and 26, which are Thursday, Friday, and
8 Saturday, and seeing what conflicts anybody had or
9 preferences anybody had as to the Thursday, the 24th, or the
10 Saturday, the 26th, keeping in mind that the Twins do play
11 the Royals at home on the night of the 25th, as they will be
12 on their way to winning the Western Division of the American
13 League championship at that point, we assume.

14 If we can just get the Minnesota State Bar
15 Association to provide us with tickets for the Metrodome that
16 evening.

17 MR. SHUMWAY: So the committees, then, would meet
18 on Thursday, the 24th?

19 CHAIRMAN WITTGRAF: Well, that's what I'm asking
20 and what Ms. Batie needs to know as she visits with the
21 committee chairs to try to sort that out. Let's look first
22 at a board meeting. Does anybody besides Mr. Rath have

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1 problems with Saturday, September 26th?

2 (No response.)

3 CHAIRMAN WITTGRAF: Good. How do people feel about
4 committee meetings, then on, say, the afternoon of Thursday,
5 September 24? Any conflicts then? Mr. Kirk?

6 MR. KIRK: Why can't we just have them all on one
7 day? Why do we have to do this on two days?

8 CHAIRMAN WITTGRAF: Well, that's a possibility. We
9 could do the committees and the board meeting on Saturday.
10 The 25th is the annual conference, the Friday, so we can't
11 -- well, I guess conceivably we could do a board meeting
12 early that morning.

13 MR. SHUMWAY: Does that conference take the entire
14 day?

15 CHAIRMAN WITTGRAF: It will run from
16 approximately --

17 MS. BATIE: All day.

18 CHAIRMAN WITTGRAF: -- 9:00, 9:30, all day. Let me
19 throw in regarding the conference that -- Ms. Batie is being
20 more adamant than usual at the moment, and I have been
21 working on a draft program which I think by the end of this
22 week she will be able to send to the board members for their

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1 comments regarding the structuring of the program.

2 But let's say it's pretty much all day unless the
3 committee wants to meet at 7:30 that Friday morning, the
4 25th. Ms. Batie? This is a rare pleasure. We don't often
5 have you before us in such a formal way.

6 MS. BATIE: At the moment, we have -- or I have
7 tentatively scheduled, sort of in keeping with what we did
8 last year, a breakfast for meeting participants or conference
9 participants from 7:00 or 7:30 to 8:30 or quarter to 9:00, I
10 am looking at us starting the conference at 9:00, running
11 through 5:30 to 6:00, and a reception and awards ceremony
12 starting at 6:30, so pretty much the 25th is, unless you all
13 change those plans, it is full.

14 CHAIRMAN WITTGRAF: Mr. Kirk, your thinking is, it
15 would be good, if possible, to do committee meetings and the
16 board meeting both on Saturday, the 26th. Is that a fair
17 inference?

18 MR. KIRK: Or Thursday. I mean --

19 CHAIRMAN WITTGRAF: Now, Mr. Rath indicated he does
20 have a conflict on the 26th. Do you have a conflict on the
21 26th?

22 MR. KIRK: No, I have a trial starting that Monday

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1 which will take me out of commission, but --

2 CHAIRMAN WITTGRAF: The following Monday, the 28th?

3 MR. KIRK: Yes, but I would just -- I mean, I think
4 that my goal would be to have them during the week as opposed
5 to on weekends.

6 CHAIRMAN WITTGRAF: In this instance, I've got one
7 of those rare occasions where I've got a jury trial scheduled
8 for Tuesday, the 22nd, which will go into Thursday or Friday.
9 It would be difficult for me to think that I could be at a
10 board meeting on Thursday, the 26th, the way things stand.
11 Excuse me. Thursday, the 24th, the way things stand. Would
12 the 26th work for you, if we had a board meeting on the 26th?

13 MR. KIRK: Well, I can assure you if I have this
14 crazy psychiatrist trial -- no, that's the following week.

15 CHAIRMAN WITTGRAF: I that a pejorative reference,
16 or is that a --

17 MR. KIRK: No, that's --

18 CHAIRMAN WITTGRAF: I hope that's on the record
19 elsewhere as well.

20 MR. KIRK: If it goes, it is likely that I wouldn't
21 be there on the 26th, but --

22 CHAIRMAN WITTGRAF: It starts on Monday, the 28th?

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1 MR. KIRK: It's a three-week trial.

2 CHAIRMAN WITTGRAF: In addition to Mr. Rath's
3 conflict and Mr. Kirk's conflict, any other conflicts?

4 MR. KIRK: Let me just say that, you know, mine are
5 such that I can't tell you that case is going to go for sure,
6 it won't be put off. It's been put off before. And my
7 preference is that we not meet on Saturdays, and that would
8 be the basic reason that we would do it, rather than that
9 it's not convenient -- I mean, that I'm not sure I can be
10 there.

11 CHAIRMAN WITTGRAF: Mr. Uddo, we are talking about
12 September 24, 25, and 26. The annual conference is on the
13 25th. We are talking about any potential conflicts we have
14 on Thursday, the 24th, or Saturday, the 26th. If you have
15 any, please speak now and let Ms. Batie know as she tries to
16 work the impossible in scheduling several things to flow
17 together.

18 MR. UDDO: Twenty-fourth, 25th, and what?

19 CHAIRMAN WITTGRAF: Twenty-sixth.

20 MR. UDDO: No, it's already blocked on my calendar
21 for that.

22 CHAIRMAN WITTGRAF: Let's look to the possibility,

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1 then, of our meetings in October, November, and December. We
2 are less locked into -- we have projected dates, but we are
3 less firmly committed to outside considerations. We are not
4 committed, I don't believe, to any specific hotel
5 accommodations, at least in the financial sense, yet.

6 If we meet in those three months, or any of those
7 three months, what are the preferences of the board as to the
8 days of the week when we meet? I think we're projecting at
9 the moment board meetings on Mondays, committee meetings on
10 Sundays. If we want to revise that, now is the time to do
11 that. Do you want to review the dates we are looking at, Ms.
12 Batie, with the board?

13 It appears from the overview calendar that has been
14 provided previously that we are looking at October -- Monday,
15 the 19th of October for the board meeting, with committee
16 meetings, as we most often have them on Sunday preceding.
17 That would be the 18th. In November, we are looking at a
18 board meeting on the 16th of November, committee meetings on
19 the preceding Sunday, the 15th.

20 December, a board meeting on the 14th, with
21 committee meetings on the preceding Sunday, the 13th.

22 Two questions. Any conflicts, one? Second, is

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1 there a preferable time to meet? Do you want to shift all of
2 those into, say, Monday and Tuesday rather than Sunday and
3 Monday? We have this discussion periodically. Sunday and
4 Monday has been the general consensus. Mr. Kirk?

5 MR. KIRK: I have what appear to be conflicts for
6 all three of those, but again, I don't think that's a reason
7 to schedule around mine. When we voted the first time,
8 that's the only time I can recall.

9 CHAIRMAN WITTGRAF: In January I think we discussed
10 this initially. Yes, sir. And then again some in March.

11 MR. KIRK: I remember last year, we selected --

12 CHAIRMAN WITTGRAF: 1991. Okay.

13 MR. KIRK: We selected a day of the week, and it
14 was going to be Monday, with the thought that -- I mean, we
15 just didn't have many committee meetings back then, and I
16 think that because of schedules and comments with other board
17 members, that we'd be better off to do our planning and
18 traveling on Sunday night, and maybe start promptly on Monday
19 morning if we need to get in all the committee meetings,
20 start as late as we can.

21 I think most people would be willing to go, you
22 know, into the evening if necessary, if we want to start them

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1 at noon and finish them up by 7:00, and then schedule an
2 early meeting for Tuesday and maybe get out of there and get
3 back.

4 CHAIRMAN WITTGRAF: If I understand Mr. Kirk, he is
5 suggesting that rather than the Sundays and Mondays we have
6 been looking at, that we would look at the comparable Mondays
7 and Tuesdays, push everything forward on the calendar one
8 day. Discussion?

9 (No response.)

10 CHAIRMAN WITTGRAF: Is that the preference? Does
11 anybody have an objection? Mr. Shumway?

12 MR. SHUMWAY: My circumstances are somewhat unique
13 but, you know, when you schedule committee meetings on a
14 Sunday afternoon on the east coast, there is no way I can be
15 there in time for that. The early flights would get me there
16 at 5:00 in the afternoon.

17 And so, I really can't participate in committee
18 meetings that meet in the afternoon of the beginning day, but
19 again, I am the only one that is situated quite like that,
20 but all three of the meetings the latter part of this year,
21 Orlando and the two in Washington, I will have to forego any
22 committee participation based on the present schedule.

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1 CHAIRMAN WITTGRAF: Does anybody have a problem
2 with our meeting along the lines described by Mr. Kirk on
3 Mondays and Tuesdays? Hearing none -- Mr. Rath?

4 MR. RATH: Well, I don't, and just a general
5 observation. I guess I'd like to see how compressed we can
6 keep the day, and my preference is, by far, to do it all in
7 one day, whichever day it is, and not to lapse over into the
8 other day.

9 And I guess, you know, I am on one committee, and
10 that committee has had a pretty full plate, but I come in,
11 and there are other committee meetings going on, and we have
12 overlapping membership, and it is hard to always coordinate,
13 but I would prefer to keep it all on one day, facing some
14 degree of economic exigency to get back and do something, you
15 know, for my partners as well.

16 CHAIRMAN WITTGRAF: Ms. Batie has magical powers.
17 But in this instance, for her magic to work, it is going to
18 depend in large part upon what the committee chairs tell her
19 in terms of their wanting to meet, how much time they want to
20 meet, and I, for one, am with you that if we can do it all on
21 a Monday, that is ideal.

22 It is going to depend on the committee meetings.

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1 So, I think the consensus is, if we can do everything on a
2 Monday, that is preferable. If we have to use two days, we
3 would prefer it to be Monday and Tuesday rather than Sunday
4 and Monday. Is that an accurate statement, Mr. Kirk?

5 MR. KIRK: Yes. I mean, I think, to support Mr.
6 Rath, you know, I am willing to start at 8:00 in the morning,
7 and I am willing to go until 6:00 or 7:00 at night, if we do
8 that, and then also if we need to start a board meeting at
9 4:00 o'clock on Monday afternoon and finish it up, starting
10 at 8:00 Tuesday morning so that everybody can catch a 10
11 o'clock flight out of there, I have no problem with that.

12 CHAIRMAN WITTGRAF: I'm with you, Mr. Kirk. I've
13 only got to say that most parts of the country don't fly to
14 Sioux City as often as they fly to Orlando.

15 MR. KIRK: But if you got out by 10:00 in the
16 morning, that would be a whole lot better than 4:00 in the
17 afternoon.

18 CHAIRMAN WITTGRAF: Yes, sir, there's usually one
19 morning flight and one afternoon flight.

20 The president is suggesting one other possibility,
21 and that is that if there are some committee meetings that
22 are causing what might have been a one-day meeting or series

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1 of meetings to perhaps come toward two, that the chairs of
2 those committees can consider committee meetings at other
3 times, perhaps even in other locations such as Chicago or
4 elsewhere, depending on where the committee members happen to
5 reside.

6 And the president and the staff will attempt to
7 accommodate us in that way, and that might make it possible
8 for us to stay as much as possible with the Mondays. Do you
9 think you understand what I think is our consensus, Ms.
10 Batie?

11 MS. BATIE: I think so, but I always have the
12 transcript.

13 CHAIRMAN WITTGRAF: I'm not sure how helpful that
14 proves to be. Mr. Uddo.

15 MR. UDDO: Tom, Fridays are still out for you?

16 MR. RATH: It's a tough day. I'll do whatever I
17 can, obviously, in Minneapolis or those other places to
18 accommodate it, and it is not impossible. I can't do it on a
19 regular basis.

20 CHAIRMAN WITTGRAF: Mr. Kirk.

21 MR. KIRK: On Mr. O'Hara's item, is it legal to do
22 committee meetings by telephone?

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1 CHAIRMAN WITTGRAF: Mr. Fortuno?

2 MR. FORTUNO: You have to have a quorum physically
3 present, a majority of the board. You have to have six
4 present, and then the other five or any portion can
5 participate by phone.

6 CHAIRMAN WITTGRAF: Is it similar for a committee?

7 MR. FORTUNO: Yes.

8 MR. KIRK: Because we do have access. I think
9 we're going to be set up in the new corporation headquarters
10 so that we could have a committee meeting there and it will
11 be very easy to tie a couple of people in by telephone for
12 those meetings where we need to have one at another time.

13 CHAIRMAN WITTGRAF: Mr. Uddo?

14 MR. UDDO: I was going to say, I think that
15 thinking you are going to do this all in one day is
16 unrealistic in my opinion, and, I think, a real burden on the
17 staff to try to arrange something that would actually work
18 smoothly to do all that in one day.

19 So my preference would be to give the staff the
20 sort of a general sense that if there are only going to be
21 one or two committees meeting, and they could be compressed,
22 fine, but don't try to compress what is not compressible,

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1 because then you run into horrendous situations which my
2 previous service on the board occasionally educated me on,
3 where you've got meetings that go until 10:00 or 11 o'clock
4 at night on some odd occasions.

5 That doesn't work very well. It's not very
6 productive, and it tends to be counterproductive, I think.

7 MR. RATH: Mr. Chairman.

8 CHAIRMAN WITTGRAF: Mr. Rath.

9 MR. RATH: One other comment which deals more with
10 the board meetings than it does with committee meetings, but
11 it is in line with the difficulty of traveling. It would be
12 my suggestion to the extent possible when framing the agenda
13 that we keep board action items earlier in the agenda and
14 informational items later in the agenda, because the
15 difficulty with making connections is that people frequently
16 have to leave just as votes are coming up.

17 So if we could keep in the earlier part of the
18 agenda the action items, that's fine. We get good
19 documentation, I think, from the staff, from management. We
20 have the ability to talk to each other and get information
21 where we are simply having, for instance, committee reports
22 which are pretty routine, and especially, you know -- for

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1 instance, today, a lot of us are on all the committees the
2 last day or so. I would rather have the action items where
3 we are voting earlier in the meeting, if possible.

4 CHAIRMAN WITTGRAF: A point well taken. Ms. Batie,
5 hopefully, all of this gives you guidance to get us through
6 the rest of the year, and only time will tell what next year
7 will bring, so we will just try to get through this year. Do
8 you have any lingering questions following this very
9 clearcut, enlightening discussion?

10 MS. BATIE: No I don't.

11 CHAIRMAN WITTGRAF: Ms. Wolbeck?

12 MS. WOLBECK: Is there any reason why the December
13 meetings are that late in the year? I mean, is it possible
14 to move that up a week so it's not so close to Christmas? Is
15 that a problem?

16 CHAIRMAN WITTGRAF: Does anybody see any potential
17 problem with December 7 instead of December 14? Ms. Batie?

18 MS. BATIE: As I recall earlier in the year when
19 the board discussed the meeting dates, there was at least one
20 member, and I don't recall which, that had a problem with
21 either earlier or later meeting dates, and somehow this is
22 the date that the board agreed to at that time.

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1 CHAIRMAN WITTGRAF: Why don't you, when you have
2 the opportunity, check again on the 7th, and that would keep
3 us out of the holiday period more clearly, unless there is a
4 substantial conflict for someone.

5 MS. WOLBECK: It just gets really hectic that time
6 of year.

7 MR. RATH: Mr. Chairman, I was just going to ask a
8 follow-up question on that issue that Ms. Wolbeck raised. We
9 have meetings scheduled, is it the 19th -- the 16th of
10 November, and then again the 14th of December, and if we move
11 it to the 7th, which I have no objection to, you've got two
12 board meetings in three weeks with Thanksgiving in the middle
13 of all that, and I guess I was just going to raise the
14 hypothetical question, is it possible that those two meetings
15 could become one?

16 CHAIRMAN WITTGRAF: Certainly. I think it's
17 largely a function of what we are concerned with, be it
18 regulations, be it -- for example, if we were concerned with
19 drafting new regulations to comply with reauthorization
20 legislation or something that would be more pressing, if
21 there aren't that many pressing things, much as June and July
22 have become one meeting, July 13 and 14, that's entirely

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1 possible. Yes, sir. And probably more logical if we moved
2 up to December 7th.

3 MR. RATH: Right.

4 CHAIRMAN WITTGRAF: Further discussion?

5 (No response.)

6 CHAIRMAN WITTGRAF: Thank you, Ms. Batie. We will
7 move, then, to Ms. Batie.

8 MS. BATIE: I'm sorry. Our inspector general just
9 handed me a note. He wanted me to remind you that the IG
10 semiannual report must be considered in November, while you
11 are thinking about November or December.

12 CHAIRMAN WITTGRAF: And it is possible, in line
13 with Mr. Rath's suggestion, that we will be able to forego a
14 December meeting, and we could deal with what we had to deal
15 with in mid-November, but I think the six-month semiannual
16 report period ends the end of October, Mr. Quatrevaux, or the
17 end of September?

18 MR. QUATREVAUX: It ends at the end of September.
19 My report is due to you by the end of October, and your
20 report to the Congress by the end of November. Now, perhaps
21 we can look at accelerating the process, and I will certainly
22 try to work with you, but I wanted you to be aware of that

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1 date for scheduling.

2 CHAIRMAN WITTGRAF: So we would be able to respond
3 either when we met in October or, if that wasn't practical
4 because we hadn't received yours and had a chance to digest
5 it, we could respond, then, in November, but we do have a
6 November 30th deadline.

7 MR. QUATREVAUX: That's correct.

8 CHAIRMAN WITTGRAF: Keep that in mind, too, Ms.
9 Batie, please.

10 MS. BATIE: A final question, if I may ask if we
11 are looking at a November date or scratching either November
12 or December, are we going to be meeting in D.C. or Orlando,
13 or do we have a preference?

14 CHAIRMAN WITTGRAF: I would defer to the board
15 member from the great State of Florida as to his preference.

16 MR. KIRK: I have noted a substantial preference
17 among staff and board members for meeting in Florida.

18 CHAIRMAN WITTGRAF: You are not going to accept the
19 responsibility for this decision? I guess the answer is, if
20 there is only one meeting in November and December, it will
21 be south of Washington, in about Orange County, Florida.

22 MS. BATIE: Thank you very much.

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1 MR. KIRK: I would like to have meetings in D.C.

2 CHAIRMAN WITTGRAF: Yes, sir. Presumably that will
3 be in October, Mr. Kirk.

4 We now will move back to Agenda Item 6-B, and for
5 that purpose, I will recognize the president and Ms. Smead.

6 MR. O'HARA: While Ellen is coming up to the table,
7 -- and David, will you join Ellen at the table, since you are
8 on right after her?

9 CHAIRMAN WITTGRAF: Before you get started, I think
10 perhaps the Governor is here. Governor, this is Tom Rath,
11 Norm Shumway from California, Jeanine Wolbeck from Minnesota.
12 This is the president of the corporation, Jack O'Hara.

13 GOVERNOR BRANSTAD: Hi, Jack. Good to see you.

14 CHAIRMAN WITTGRAF: Basile Uddo, from Louisiana.
15 Bud Kirk from Orlando.

16 GOVERNOR BRANSTAD: Good to see you. Welcome.

17 CHAIRMAN WITTGRAF: Blakely Hall, from Rockwall,
18 Texas.

19 GOVERNOR BRANSTAD: Hi, Bud. Good to see you.

20 CHAIRMAN WITTGRAF: Let me just take a moment to
21 tell you a little bit more about ourselves. Mr. Hall, as I
22 indicated, is from Texas. He is a county seat practitioner,

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1 much like I am and you used to be. Mr. Kirk, from Orlando,
2 on the other hand, is an international litigator.

3 (Laughter.)

4 GOVERNOR BRANSTAD: One of the bad guys.

5 CHAIRMAN WITTGRAF: Both plaintiff and defense,
6 though, I think, so he goes both ways.

7 (Laughter.)

8 GOVERNOR BRANSTAD: I went to college with a guy
9 named Kirk Kaiser from Iowa. He went to Florida State. When
10 they started the law school down there, with Dean Ladd, I
11 believe it was, and I think last I knew he was in the Florida
12 State Senate.

13 MR. KIRK: Yes, and he is no longer, but was an
14 outstanding member, a truly outstanding member of the
15 legislature, and got quite a name for himself as a
16 Republican.

17 GOVERNOR BRANSTAD: Yes, that's right.

18 CHAIRMAN WITTGRAF: Mr. Kirk, I believe --
19 sometimes it is hard to know the political leanings on this
20 board. Mr. Kirk is a pro-choice Democrat, but sometimes his
21 ties are closer to our good Republican friends, and Kirk
22 Kaiser -- Kirk Kaiser?

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1 GOVERNOR BRANSTAD: Kirk Kaiser.

2 CHAIRMAN WITTGRAF: Was originally from the
3 Davenport area before he moved down --

4 GOVERNOR BRANSTAD: His mother, Jean Kaiser, served
5 in the Iowa legislature. Kirk grew up in Davenport, and went
6 to the University of Iowa undergraduate school, and then he
7 went, when Dean Mason Ladd started the law school down at
8 Florida State, and there were some Iowa students that kind of
9 followed him down there, and I think Kirk Kaiser was in that
10 first law class they had at Florida State.

11 MR. KIRK: Governor, we have probably 15 Iowa
12 graduates in Orange County, Florida. I mean, they are just
13 -- it is like an alumni association down there.

14 GOVERNOR BRANSTAD: Well, that's great.

15 CHAIRMAN WITTGRAF: Basile Uddo is a professor of
16 constitutional law and related subjects at Loyola University
17 in New Orleans. Our president, Mr. O'Hara, spent a long time
18 keeping members of Congress straight, and has been good
19 enough in the last year or so to try to keep us straight, and
20 to manage our staff of 125, 130 or so, 140. It's growing. I
21 thought it was supposed to decrease.

22 Ms. Wolbeck is from a dairy farm near Saulk Center,

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1 Minnesota, not too far from here. The Governor is a farmer.

2 GOVERNOR BRANSTAD: Winnebago County. In fact, my
3 home is six miles from the Minnesota border, closer to St.
4 Paul than to Des Moines.

5 CHAIRMAN WITTGRAF: Mr. Shumway is now one of the
6 members of the Public Utilities Commission in the great State
7 of California, served -- 12 years?

8 MR. SHUMWAY: Twelve years.

9 CHAIRMAN WITTGRAF: -- in the U.S. House of
10 Representatives, and voluntarily decided to go back home and
11 did that the better part of a couple of years ago, and I
12 think has not regretted his decision terribly.

13 MR. SHUMWAY: Not one bit.

14 CHAIRMAN WITTGRAF: Mr. Rath is the most
15 politically prominent attorney in the great State of New
16 Hampshire, I think, and was glad to be back to Iowa, having
17 not been here since the caucus cycle four years ago.

18 Jo Betts Love is -- she has lived in more parts of
19 the county than most of the rest of us, but calls Aberdeen,
20 Mississippi, home now, and has lived in Wisconsin, Chicago,
21 Nebraska, many other places.

22 Unfortunately, three of our board members are not

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1 able to be here this morning. Howard Dana is a private
2 practitioner from the great State of Maine. Guy Molinari,
3 the vice chairman of our board, is a former member of
4 Congress along with Mr. Shumway, and is now president of the
5 Borough of Staten Island. And Penny Pullen, from Parkridge,
6 Illinois, is a member of the Illinois House of
7 Representatives.

8 We have a number of other staff members as well as
9 Mr. O'Hara. We've got representatives of the Polk County
10 Legal Aid Society, the Legal Services Corporation of Iowa,
11 and we do have a few of our friends who follow us across the
12 country from Washington and off to other places to try to
13 keep us honest and to keep track of what we are doing as we
14 deliberate occasionally.

15 This is the Honorable Terry E. Branstad, the
16 Governor of our great State, who was a private practitioner
17 for a few years, served a few years in the legislature,
18 decided to become our lieutenant governor, elected in 1978,
19 spent about four years there.

20 Decided to move up, became governor in 1983, after
21 winning the election in '82, and has been governor all that
22 time, and, among other things, is a Republican, but also a

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1 good friend and colleague of Governor Bill Clinton, with whom
2 you have worked on a number of projects during the last few
3 years.

4 Governor, we are glad to have you here for a couple
5 of minutes, and anything you would like to share with us, it
6 would be our pleasure. Thank you.

7 PRESENTATION BY THE HONORABLE TERRY E. BRANSTAD

8 GOVERNOR OF THE STATE OF IOWA

9 GOVERNOR BRANSTAD: George, thank you very much.
10 Since you said I was a good friend and colleague of Bill
11 Clinton, I want you to know I am also a very good friend of
12 the President. I want to first of all welcome the board of
13 directors of the Legal Services Corporation to Iowa, to our
14 capital city of Des Moines.

15 If you had just gotten in here a couple of days
16 earlier, you could have seen the Grand Prix race. We had a
17 tremendous race that was held here. It drew about 100,000
18 race fans over the weekend. And, of course, Drake
19 University, where I went to law school, is right next door,
20 and this fine facility which Congressman Neal Smith and his
21 wife, Bea, were very instrumental in making possible to have
22 this here for the benefit of all of us here in the State of

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1 Iowa.

2 We are very pleased to have you here, and I thought
3 maybe since George mentioned me being a friend and colleague
4 of Bill Clinton, I want to share with you a little anecdote.
5 I almost feel like I ought to start out, may it please the
6 court. This is very much like arguing before the Supreme
7 Court in Iowa. Most of the audience is behind you. You have
8 the bench in front of you, and whatever.

9 CHAIRMAN WITTFRAF: Unfortunately, we are not
10 nearly as distinguished a group.

11 GOVERNOR BRANSTAD: My more recent appearances in
12 the Supreme Court are just to go there when my appointees are
13 sworn in, which is a lot better than going before the bench
14 to argue a case.

15 We are pleased that you are meeting here in Des
16 Moines, and I just thought I would share with you, I had the
17 honor of chairing the National Governors' Association three
18 years ago, when we had the education summit, at which
19 President Bush called all the governors together at
20 Charlottesville, Virginia, a very enjoyable and historic
21 occasion.

22 Thomas Jefferson, of course, developed and built

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1 the University of Virginia, and his home, Monticello,
2 overlooks the city. We at that occasion began the process of
3 developing national education goals.

4 And then, once the goals, the six national goals
5 were finally agreed upon, which is quite a feat, to think of
6 it, between the President and the governors, to come to that
7 agreement on a consensus basis, we decided that the most
8 appropriate forum to announce them would be the State of the
9 Union Address.

10 So President Bush invited four governors to be
11 present for that, the ones that had worked most directly with
12 him on the goals, and that was myself, as chairman of the
13 governors, Steve Gardner from the State of Washington, who
14 was the co-chairman at that time and has now served his time
15 as chair, too, and then Governors Clinton and Campbell, who
16 co-chaired the Education Task Force.

17 And the President invited us up to the private
18 quarters of the White House, and so, it was Roger Ailes -- I
19 believe you may have heard of Roger Ailes, a political
20 consultant who I have worked with -- and the President, and
21 us four governors that had the honor of going up.

22 So I am glad to say that I am probably the only

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1 person that has been in the elevator with Bill Clinton and
2 George Bush at the same time. It may be the last time, and
3 it may be the only time that Bill Clinton gets to see the
4 private quarters of the White House.

5 Usually I have found in politics these days it is
6 dangerous to try to use humor because it can get you in a lot
7 of trouble, but I have also found out in this agricultural
8 state that lawyer jokes are a fairly popular way to win over
9 the audience. And I thought I might share with you some
10 stories.

11 I am sure a lot of you saw a movie that Danny
12 DeVito starred in a few years ago, "War of the Roses". He
13 said, what's 500 lawyers at the bottom of the bay? A good
14 start. I heard one that the undertaker told me. He said,
15 they have taken to burying lawyers 30 feet deep, because down
16 deep they are really nice people.

17 This is one from a farmer here in Iowa which
18 usually they really enjoy, and that is, a farmer asked the
19 question, he says, do you know how many lawyers it takes to
20 grease a combine? Only one, but you've got to feed him
21 through real slow.

22 Somebody said that -- well, before I get in any

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1 more trouble with this, I think I just want go to on and say,
2 seriously, we are pleased that Legal Services Corporation has
3 taken on the challenge of meeting the great demand to provide
4 legal services for people who otherwise might not have access
5 to the legal system.

6 And I commend you for this very strenuous effort.
7 We are pleased that you are here today, and that you are
8 working to try to make sure that the people of this country
9 do have access to the legal system.

10 We in state government have had our challenges
11 budget-wise just like the federal government, and at least I
12 can say we have a budget. California and some states don't
13 at this point, but we had a very difficult session and a
14 couple of special sessions to try to resolve these matters.

15 But I feel very strongly that we do have an
16 obligation to see that we meet the financial challenges of
17 our people and that in these times we have to look for
18 innovative ways to involve people, many times in a volunteer
19 effort, and ask people to be willing to make a sacrifice in
20 order to meet the challenges and needs of our citizens.

21 We are especially proud in the State of Iowa of the
22 focus we have on education. We have the highest test scores

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1 on the American College and Scholastic Aptitude tests. We
2 are not resting on our laurels. We are working very hard to
3 try to achieve the very ambitious national education goals,
4 and to try to really help our schools make a transformation
5 to meet the challenges of today's diverse society, challenges
6 of drugs and all the other problems that schools are faced
7 with.

8 We also, as an agricultural, rural state, and that
9 is -- when we talk about Legal Services here, one of the big
10 challenges is helping distressed farmers, helping people,
11 small business people that are going through financial
12 hardship, and this was really brought home to us during the
13 decade of the eighties in the period known as the farm
14 crisis, because we literally had a banker in Hills, Iowa,
15 that was shot by a farmer, and that was one of the tragedies
16 of the situation.

17 But we have just a lot of stress and a lot of
18 problems out there, and your people involved with Legal
19 Services have been very instrumental in helping us, as have
20 the people here at Drake University as we worked in
21 restructuring agricultural debt and we worked on the farmer-
22 lender mediation program.

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1 And that has been very instrumental in helping a
2 lot of farm families survive the farm crisis, stay on the
3 farm, make the adjustment, some of them maybe make the
4 transition out of agriculture into something else, but many
5 people actually being able to hang on, restructure their
6 debt, and to be able to stay on the farm and to meet the
7 challenge of the future.

8 Right now, the last couple of weeks I've been going
9 around assessing the damage from the draught, but I am
10 pleased to say that usually if I schedule a tour in the State
11 of Iowa to examine the draught, it brings rain, and at this
12 point we have reached the point where we have prayed so hard
13 for rain, now we're trying to figure out how we can turn it
14 off. But it is looking a little more encouraging.

15 We are pleased and proud to have you here, and I
16 would be glad to respond to any questions, and encourage you
17 to enjoy your visit to the state. We have a lot of sales
18 going on, shopping is really good here. We need the revenue.
19 Our attorney general just bought shoes in New York, so maybe
20 we can make it up by having some of you folks buy some things
21 while you are here.

22 CHAIRMAN WITTGRAF: We hope, Governor, that any

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1 time you or the members of your staff have any needs or any
2 concerns, that on the one hand you are able to contact Polk
3 County Legal Aid Society or the Legal Services Corporation of
4 Iowa, which serves the other 98 counties outside Polk County,
5 or that you would contact the Legal Services Corporation and
6 our staff in Washington.

7 There was a period, perhaps, when there was a great
8 deal of controversy surrounding the corporation and
9 surrounding some of its grantees. We would like to think
10 that that is mostly in the past, and that most of the efforts
11 that are going on now are constructive efforts that are
12 generally supported by the bar, generally supported by the
13 clientele whose needs are being met, and generally are being
14 supported by the political community as well.

15 Hopefully, if you ever have any concerns you will
16 not hesitate to share them.

17 GOVERNOR BRANSTAD: The only thing I don't like is
18 when they have these prisoners suing the state, but I don't
19 know if you all have been in that or not. We have had our
20 share of that in this state.

21 CHAIRMAN WITGRAF: That does not involve Legal
22 Services funding.

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1 GOVERNOR BRANSTAD: No, it is usually the
2 University of Iowa Law School.

3 MR. KIRK: Are you the defendant in those?

4 GOVERNOR BRANSTAD: Well, I'm the defendant
5 -- when you're the governor, you're kind of a target
6 defendant, you might say. No, I think it's usually --- it
7 has been the governor. Probably Watson versus Ray was the
8 most significant case, and that came out in the State of Iowa
9 My predecessor was the defendant in that case. And that
10 involved Fort Madison, a maximum security facility, and that
11 was a matter that was, I think, eventually worked out, and I
12 don't think it eventually went to trial.

13 But I think there have been several cases since
14 that time. The precedent is now -- the states are not in as
15 weak a position, I guess, as they were at that time in terms
16 of defending themselves against those kinds of suits, but we
17 have, like a lot of states, we have our problems with prison
18 overcrowding. We have been in the process of expanding our
19 corrections facilities and trying to accommodate more people.

20 MR. KIRK: Well, Legal Services does file suits on
21 behalf of prisoners, class actions on behalf of prisoners,
22 and things like that. I hope that -- I'm sure they are well

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1 founded, and we will hope that they are.

2 GOVERNOR BRANSTAD: Well, you know, frankly, a lot
3 of them that are filed against us are filed by jailhouse
4 lawyers that aren't even -- you know, they aren't even
5 lawyers. They are just criminals that file their own suits.
6 Most of those get dismissed, but I thought I would throw that
7 in.

8 CHAIRMAN WITTGRAF: Well, if it would make you feel
9 any better, all of us have been sued in our corporate
10 capacities in the last couple of years, and sometimes we are
11 sued by disgruntled former employees. Often times we are
12 sued by the programs across the country that we're funding,
13 and we get into disputes over statutory and regulatory
14 interpretations. So, it is a litigious society. Hence all
15 of those good jokes you were sharing with us.

16 GOVERNOR BRANSTAD: Any questions, or suggestions,
17 or advice that you all want to give me?

18 CHAIRMAN WITTGRAF: When the state gets back on
19 good, firm financial footing, the state might be able to join
20 in some funding of Legal Services programs. You and I
21 actually talked about this a year or so ago.

22 It's a bad time to bring the subject up now, but

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1 most Legal Services attorneys deal mostly with state laws and
2 state cases in the state courts, and eventually the state are
3 going to end up having to put some money into the civil legal
4 services for the poor, as well as the federal government, but
5 right now it's pretty much either the established bar or
6 IOLTA funds from the established bar, or else the federal
7 government.

8 In time, the states are going to have to do
9 something, too, but that's a tough case to make this year.

10 GOVERNOR BRANSTAD: States are having their
11 severest financial troubles right now, and at least -- I
12 guess in Florida you have real big problems out there, I
13 hear, and California.

14 CHAIRMAN WITTGRAF: We haven't asked Norm Shumway
15 if his paycheck is a chit or if it's an actual negotiable
16 check.

17 MR. SHUMWAY: It's not even a piece of paper. I
18 hope that you will share with Governor Wilson the secret to
19 balancing the budget.

20 GOVERNOR BRANSTAD: Well, the first mistake he made
21 was agreeing to the tax increase, I think, but we were --

22 MR. SHUMWAY: He is holding out against that this

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1 year, and that is why we have a stalemate.

2 GOVERNOR BRANSTAD: Yes. It is a delicate thing.
3 We went through that, and we had a stalemate for a long
4 period of time, and we finally worked out an agreement that
5 included substantial spending cuts, major spending reforms
6 that are more long-term, and a sales tax increase in this
7 state.

8 It was not an easy thing, and I had three weeks of
9 personal negotiations with the legislative leaders, and we
10 finally got it done just before the end of the fiscal year,
11 and there are still a lot of people who don't like it.

12 People are sick to death of higher taxes, yet
13 you've got a lot of demands out there for services. It is a
14 very difficult situation. And I think that explains why
15 you've got such an angry and volatile electorate out there
16 right now, because there are a lot of people that aren't very
17 happy, and I think that we really have an obligation to
18 scrutinize, and we are in that process.

19 We have, for instance, in our own state, dealt with
20 the issue of indigent defense. The costs were driving us
21 crazy, and so what we have done is, we have put together
22 -- we have tried to put together more of a public defender

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1 system.

2 Prior to that we basically -- the judges would
3 appoint private attorneys to handle it, and we now have a
4 hybrid system, but we are going more in the direction of a
5 public defender system, and we are being able to control
6 costs that way.

7 And we also, this year, we held out for contracting
8 with law firms where we don't have a public defender's
9 office, to try to hold down our costs and to try to do it in
10 a competitive way. That was a tough battle, and it was one
11 of the things we got worked out during one of the special
12 sessions of the legislature.

13 We also have - maybe I shouldn't bore you with some
14 of the budget problems, but basically what we have tried to
15 do is go through and identify where things are out of
16 control, mental health costs, Medicaid, and whatever, and we
17 are trying to go at it systematically, reviewing all of those
18 areas, and determining how we can be more efficient, how we
19 can meet the needs that are out there, try to correct some of
20 the abuse or misuse of funds that can occur if your rules
21 aren't strict enough.

22 For instance, we found in Medicaid that we have

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1 people that are going around and even giving seminars on how
2 to give away your assets so you can qualify for Medicaid in
3 the nursing home, and give away hundreds of thousands of
4 dollars, and then have the taxpayers pay those costs. Well,
5 that program was designed specifically to pay medical bills
6 for people that were destitute, that had no resources to pay
7 for it.

8 And this is one of the things that is, I am sure,
9 killing your budget in California, as it is across the
10 country. It never was designed to be a situation where a
11 majority of people would be having their long-term care paid
12 for solely out of that source.

13 And so those are some of the things we are trying
14 to wrestle with, and I think, in this state, at least, have
15 forthrightly stepped up now and said, we are going to take
16 them on, and I think we have begun, at least this year, with
17 major spending reforms. We have more to do in those areas,
18 but I feel at least we have made an important step, but
19 California is a bigger state with bigger problems, and I am
20 glad to be Governor of Iowa, not California.

21 MR. SHUMWAY: Those are good ideas. I will ask
22 Pete to give you a call.

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1 GOVERNOR BRANSTAD: Thanks a lot. And thanks for
2 coming.

3 CHAIRMAN WITTGRAF: Thank you very much.

4 (Applause.)

5 CHAIRMAN WITTGRAF: At this time, then, we will
6 proceed to Agenda Item 6-B. Mr. President.

7 REPORT ON PROTEUS/PIONEER PROPOSAL

8 MR. O'HARA: Thank you, Mr. Chairman. Ellen Smead,
9 who is the director of the Office of Field Services, is
10 joined at the table by David Richardson, who is the
11 comptroller of the corporation, and Ellen will report on the
12 Proteus/Pioneer proposal. Ellen.

13 MS. SMEAD: Thank you, Mr. O'Hara. As you will
14 recall, the Committee on the Provision of Legal Services has
15 been looking into alternative dispute resolution, commonly
16 known as ADR, and one of the things that Chairman Wittgraf
17 mentioned to that committee was the so-called Proteus/Pioneer
18 project that has been going on here in Iowa.

19 What we are going to try and do in the future,
20 later this year, is to facilitate exchange of information
21 about this Proteus/Pioneer proposal. This is a model where
22 ADR ombudsmen work with migrant laborers and their employees

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1 to resolve conflicts and head off potential litigation.

2 What we'd like to do is get LSC staff, some
3 officials from Proteus and Pioneer, and some representatives
4 from some of our LSC grantees such as those in North
5 Carolina, West Virginia, Pennsylvania, and Iowa. We haven't
6 contacted those people yet but will once we have a more firm
7 date.

8 Some of the things that we are looking at in terms
9 of date are approximately when we have the groundbreaking
10 here for the new building or some other time later in the
11 year after the migrant season is over and people are more
12 able to travel. It would be a one-day meeting. And that's
13 about all I have on that report.

14 CHAIRMAN WITTGRAF: I would say, Ms. Smead,
15 consistent with what you have just mentioned, that if it is
16 possible to do it here at the law clinic on the occasion of
17 the groundbreaking, I think it would be very appropriate.

18 I anticipate that Congressman Smith will be here
19 for the groundbreaking, and I think he would be interested
20 also in seeing this utilization of the law clinic on the one
21 hand and may even be interested in learning a little bit
22 about what is being done to resolve -- or one approach to

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1 resolving the differences that arise between farmers and
2 migrant laborers, at least from an Iowa perspective.

3 So, if at all possible to match up the
4 groundbreaking and the one-day seminar, I think it would be
5 great.

6 Further questions or discussion regarding this
7 particular project?

8 (No response.)

9 CHAIRMAN WITTGRAF: I think you have been keeping
10 Mr. Hall and the members of his committee advised as you
11 develop your plans further, please do that, so that if they
12 want to follow up on that in any way, or particularly if they
13 want to be present, that they will have the opportunity. Mr.
14 President.

15 MR. O'HARA: Thank you, Mr. Chairman. In the
16 interest of not giving my presentation in two separate
17 deliveries, I would like to turn to David Richardson at this
18 time.

19 REPORT ON BOARD TRAVEL POLICIES

20 MR. RICHARDSON: Thank you. Again, for the record,
21 my name is David Richardson. I am treasurer-comptroller of
22 the corporation. Today I am before you to speak in regard to

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1 the travel guidelines of the corporation, and just to let you
2 know a little additional background, we have an
3 administrative manual that has a number of chapters in it.
4 Chapter 6 is dealing with not only board travel but employee
5 travel.

6 It is broken up into eight components that deal
7 with the policies and the authorities of the travel
8 guidelines. We have travel documents and procedures. We
9 have modes of transportation. We have other supplemental
10 information, travel advances and events sponsored by the
11 corporation, so it is quite thorough in its approach.

12 Our guidelines are very similar to those of the
13 federal government. And I know in the past we have had some
14 questions in regards to the contract carriers, and the city
15 pairs in particular. Since we are covered under the GSA and
16 the travel policies and the way they bid out for city pairs,
17 we do try to follow those.

18 However, there is provision not only in the federal
19 travel guidelines but in ours that allows a traveler to go
20 away from the contract carrier to a government rate. It is
21 slightly higher, but that is available to a traveler, and
22 there are some circumstances that we follow in allowing

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1 people to use those modes of travel or that type of travel.
2 Usually it just has to be requested in writing with some type
3 of explanation as to why we would go away from the contract
4 carrier.

5 Some of the reasons that we do use is court space
6 available, flight schedules would not meet meeting
7 requirements or the business requirements that are being
8 undertaken, the flight origination and termination points
9 would involve sometimes local travel, so we also look at that
10 in regards to personal convenience, and, of course, with the
11 main thing in mind as the business of the corporation.

12 We also follow the high and low per diem rates
13 throughout the nation, and the federal guidelines and the IRS
14 pretty much mirror each other, where we have \$26 in some
15 cities, \$34 in others. We divide that into 25 percent
16 increments.

17 For instance, if you are on overnight travel, and
18 you are out all day, you would get the full amount. However,
19 on the day that the travel starts, for instance, if you leave
20 10 o'clock in the morning, and you are traveling, and you
21 have overnight involved, you would be eligible for 75 percent
22 of that day's per diem.

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1 Likewise, when you return, if you are out all day,
2 you return after 6:00 p.m. in the evening, then you are
3 eligible for the full amount of per diem on that particular
4 day.

5 So, we do try to allow some latitude there as far
6 as with the travel requirements. When we as a group meet for
7 a meeting, for instance, we'll have lunch today, and we in
8 the past have allowed a \$5 deduction for the per diem and
9 then any meals that you have the remainder of the day would
10 be either the 21 at a low cost or 29 in the high cost area.

11 For instance, last night when we got together, this
12 has not -- it is in proposed guidelines. We are reviewing
13 and going through these at this time with some revisions. In
14 the past, every meeting was \$5. We are looking at a
15 graduated amount for that.

16 For instance, yesterday the corporation provided
17 lunch, and then we had the meeting and the meal last night as
18 a group, so we would look at that and make some appropriate
19 adjustments so that everybody would be accommodated and have
20 their substance requirements met.

21 I'm available for any questions that you may have.

22 CHAIRMAN WITTGRAF: I think there are a couple of

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1 questions or comments. Let me ask you first, Mr. Richardson,
2 if there are any admonitions, any requests, any suggestions
3 that you might want to share with us as we attempt to
4 complete our necessary reports to stay within what we think
5 and hope is the letter of the law. This is your opportunity
6 maybe to preach, if you'd like.

7 MR. RICHARDSON: The main thing that I look forward
8 to is to basically try to accommodate your needs. One of the
9 things that we do -- and I know Ms. Batie's office has been
10 very diligent.

11 For instance, when we traveled to this meeting, her
12 office gave us three different travel times from Washington
13 into Des Moines for National Airport, and then there were two
14 additional ones for Dulles. She is trying to do the same
15 thing for each of you as far as calling and getting your time
16 requirements.

17 The only thing that I would ask, and something that
18 many of the staff don't understand, and sometimes members of
19 the board do question, too, is, for instance, if you've got a
20 ticket that, for instance, you are coming to Washington.
21 Your ticket cost \$400, and you buy it two weeks in advance.
22 If you change your requirements a few days before, more than

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1 likely you are going to get a ticket that cost more than that
2 original \$400.

3 The airlines only allocate so many for the contract
4 carrier. Now, the second tier, of course, is the government
5 reg, so that ticket may cost you another \$50, \$75, depending
6 on the area that you are coming from. My suggestion is that
7 you make your travel plans as soon as possible, remembering
8 that.

9 There is also occasion where there may not be a
10 contract carrier or may not be a government rate available,
11 so when you call in, you find out your ticket has gone to
12 \$650, it's because there are no more rates available under
13 that particular contract for that flight.

14 CHAIRMAN WITTGRAF: So, once we become aware of
15 meeting dates, become aware of our personal schedules and how
16 they match the meeting dates, it would be best, with Ms.
17 Batie, Ms. McCollum, Ms. Dickens, to try to make the
18 reservations and thereby to save some money on the cost of
19 the fares?

20 MR. RICHARDSON: Yes, that's true. And there are
21 times, for instance, if the flight is not full, you can walk
22 up and buy your ticket at the counter, but that is -- some

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1 areas you cannot do that. Particularly in Washington, with
2 so many of your people traveling, federal employees, you are
3 not going to be able in most cases to walk up to the airline
4 and purchase the contract rate.

5 So, yes, as soon as possible. It would be
6 beneficial and less costly for the corporation.

7 CHAIRMAN WITTGRAF: Any other admonitions?

8 MR. RICHARDSON: No, not at this point. No.

9 CHAIRMAN WITTGRAF: Mr. Uddo?

10 MR. UDDO: I guess one of my concerns, David, is,
11 and it may be just what you just talked about. At least from
12 my perspective, and I don't know if this is a problem shared
13 by the board generally or not, but flexibility is really
14 important. I mean, for example, I wasn't here yesterday
15 because I was supposed to be in Washington to attend another
16 meeting.

17 Well, Thursday or Friday last week I found out I
18 had to be in court yesterday in a case I am serving in an
19 expert in unexpectedly, so I didn't go to Washington. So,
20 when I finally made the arrangements, I had to make them out
21 of New Orleans rather than out of Washington.

22 And it seems like there are an awful lot of times

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1 when I've got to make changes like that because of things
2 that I don't anticipate. I could make reservations for all
3 the meetings for the rest of the year, and I'll bet you
4 three-quarters of them I'd have to change before the time
5 actually came. And your office has been very good about
6 trying to accommodate that.

7 So, I guess what I think we need to know, at least
8 what I need to know, is, what sort of are the constraints
9 within which we have to operate and when we have to make
10 changes or when the contract carrier is not available -- in
11 some cases -- the contract carriers from New Orleans to D.C.
12 is Continental, and they have horrible schedules. You fly to
13 Houston to get to Washington, and it is really a waste, I
14 think.

15 I guess knowing a little bit about what the
16 constraints are and how we can use the airline arrangements
17 would be helpful to me, and, as I say, in most cases your
18 office has been accommodating when I have had scheduling
19 conflicts or difficulty, approving government rate ticket
20 rather than the contract carrier rate.

21 Is that sort of the standard? I mean, if a board
22 member has conflicts or problems arranging things within a

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1 time frame to meet a contract carrier or whatever, that there
2 is some flexibility on that?

3 MR. RICHARDSON: Yes, sir, there is. As a matter
4 of fact, if you book your own flight through Omega there in
5 New Orleans, and you request and receive the -- not contract
6 rate, but the government rate, another airline for that is
7 acceptable, and it is just a matter of stating that the
8 contract carrier did not meet the time constraints because of
9 outside commitments. That is perfectly acceptable.

10 MR. UDDO: I use Omega in Washington anyway, so
11 they are people that deal with the corporation all the time.
12 I mean, I think that is helpful to know, and I think it makes
13 it a lot easier to make those arrangement, because I just
14 find there are an awful lot of times where I end up having to
15 make changes, and I know that sometimes you do get caught.

16 For example, I think that this ticket here was a
17 lot more expensive because I had to make a last-minute
18 change, but it was out of my hands.

19 MR. RICHARDSON: And I know at the last meeting
20 when we were talking we had two or three tickets, and as we
21 were on the phone back and forth talking about itineraries,
22 we lost one.

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1 MR. UDDO: Yes, seats filled up. Yes, I've had
2 that happen.

3 MR. RICHARDSON: There's another item Mr. Kirk
4 brought up last night. Normally we do restrict business
5 calls to two. In your particular circumstances, we do know
6 that you have businesses to run, so we would waive that
7 restriction to accommodate your needs there.

8 MR. KIRK: I have a list of things here. Would it
9 save the corporation anything if we dealt directly with Mr.
10 Omega?

11 CHAIRMAN WITTGRAF: Ms. Omega.

12 MR. KIRK: Ms. Omega.

13 MR. RICHARDSON: Not necessarily. I mean, if you
14 know, certainly, your flight schedules, normally what we try
15 to do is give you two or three different options, like we
16 call your office, you have a meeting set up, what is your
17 type of time restraints that you are working with, and then
18 we try to fill out a few options for you.

19 We try to accommodate your needs that way. It
20 would not necessarily save -- it would not save the
21 corporation any additional money for you to do that on your
22 own.

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1 MR. KIRK: What I'm thinking is, you know, a
2 corporation person calls Mrs. Omega, or Ms. Omega, calls her
3 back, gives her the list, and she writes them down, faxes
4 them to me, and my secretary looks at them, you know, and I
5 know this isn't good. I mean, it just seems like sometimes
6 it may be just a -- is there a restriction against dealing
7 directly with Mrs. Omega?

8 MR. RICHARDSON: We try to do that. However, no,
9 there is no restriction. We have consultants who deal with
10 Omega on their own, with their requirements, when they go out
11 on a trip.

12 MR. KIRK: Are receipts necessary to get the per
13 diem?

14 MR. RICHARDSON: No, sir.

15 MR. KIRK: So I don't need to keep these things any
16 more?

17 MR. RICHARDSON: The only reason that we have asked
18 in the past for a board member to maintain their receipts and
19 keep them is for your protection.

20 MR. KIRK: Okay. And taxis and tips?

21 MR. RICHARDSON: Taxi fare that, for instance, is
22 over \$15, you do need a receipt. If it is under, you do not.

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1 That, again, we ask that you retain those, again, for just
2 your protection. If you don't have it, you can't be
3 reimbursed for that.

4 MR. KIRK: The written justification on not using
5 the contract rate and going to the government rate, I don't
6 remember ever doing that before.

7 MR. RICHARDSON: Usually, I mean, we have not
8 required it to be in writing. For instance, if you call and
9 say, I cannot -- when we are providing you these time lines,
10 this ticket information, if the contract rate is not
11 available for your particular flight, then Ms. Batie and I
12 usually take care of that between us for you.

13 MR. KIRK: Thank you.

14 CHAIRMAN WITTGRAF: Ms. Love.

15 MS. LOVE: I have to get up at 4 o'clock in the
16 morning to go just about anywhere where the meetings are.
17 Number One, I have had coffee, by 6:30 I'm flying. I get
18 peanuts from Point A to B. You get on B to C. All the many
19 times I have to travel, I am still getting peanuts. But I
20 try to stop off before I get there on my plane.

21 Well, in Mississippi they don't give receipts. So
22 here I am, trying to keep all these prices in my head. Then

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1 I get to Atlanta, and I am grabbing something there if I can.
2 Then I get to wherever I am going. Then I spend the whole
3 thing, because I am just that hungry, and I do eat.

4 Nineteen dollars, to me, to travel is no money for
5 me to eat, because one meal will cost me \$19. So, what about
6 the rest of my money that I have spent for \$19 for traveling?

7 MR. RICHARDSON: You are speaking of an instance
8 where you leave home after 6 o'clock in the morning, and you
9 are traveling, for instance, to Des Moines, Iowa. Under the
10 per diem arrangements, that is \$26 for Des Moines.

11 MS. BATIE: That's correct.

12 MR. RICHARDSON: So you receive 75 percent of that.
13 Receipts are not necessary. We do ask that you keep those,
14 again, for your protection. We are looking at per diem, and
15 a per diem arrangement. We are not necessarily reimbursing
16 expenses per se. So you would be entitled to the \$19.50 for
17 that day if you are leaving your home prior to 6 o'clock, and
18 from what I hear you saying, you may be.

19 MS. LOVE: No, I have to be at the airport, flying
20 in the air at 6:30.

21 MR. RICHARDSON: Then you would be eligible for the
22 full day per diem, because the requisite required that you

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1 should leave home prior to 6:00 in the morning.

2 MS. LOVE: So when you are going to Washington, you
3 are really starving, and that is a high rate.

4 MR. RICHARDSON: In that particular circumstance,
5 if you are leaving again after 6:00 you would receive 75
6 percent. If you are leaving before 6:00 you would receive
7 the full \$34 for that day.

8 MS. LOVE: Thank you.

9 CHAIRMAN WITTGRAF: Further discussion? Ms. Batie,
10 you had some admonitions for us? This has been quite a day
11 for you. It is not even noon.

12 MS. BATIE: Thank you. I wanted to clarify a
13 couple of things with respect to direct contact, board
14 members directly contacting the travel agency. While we
15 would like to see that happen in all instances because it, of
16 course, lifts at least that responsibility off of my
17 shoulders and the shoulders of my staff, we are pleased to
18 make your travel arrangements and continue to do so.

19 One of the reasons that we need to is just so that
20 we know what to expect in terms of your arrivals and
21 departures, and we lose that ability when you all make your
22 own travel arrangements.

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1 The other thing that happens is, even if we were to
2 all agree that that would be the procedure here in out, my
3 office would still have to contact Omega, get your travel
4 information, and Omega, if there was a justification needed,
5 would still contact my office to get approval before that
6 ticket was purchased, just so that you know that that would
7 still occur.

8 The other thing I wanted to clarify is that in the
9 Office of Monitoring, Audit, and Compliance, I think Ms.
10 Sparks would have to confirm this for me, but the last time
11 that I worked in that office, we did not usually allow our
12 consultants to have direct contact with Omega, and usually
13 that travel for monitors, staff, and consultants would be
14 coordinated through the travel coordinator.

15 MS. SPARKS: I could give 30 minutes on traveling
16 with monitors, but generally it just keep the cost down. Of
17 course, if there are emergency situations that arise, we
18 encourage them to call the 800 number, as many of you may,
19 but it does keep costs down, and it gets people at the same
20 place at the right times, and does help in organizational
21 purposes, as Pat was explaining.

22 CHAIRMAN WITTGRAF: Thank you, Ms. Sparks. Mr.

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1 Uddo.

2 MR. UDDO: Let me ask a question. I do make my own
3 arrangements through Omega, and as I understand it, and this
4 is the way I have done it, when they print the ticket, they
5 send it to you, and you get the information off of it, and
6 then it gets Fed Ex'd to me with the package. They never
7 send them to me directly.

8 MS. BATIE: That is sometimes the case, and it is
9 also usually the case that, at least with respect to your
10 ticket, we will receive your ticket some time after we have
11 issued tickets to other board members.

12 MR. UDDO: Well, I am slow about making them, but
13 I'll tell you, if I didn't make them myself I'd still be slow
14 about making them.

15 MS. BATIE: No, I understand that.

16 MR. UDDO: It's just that -- I don't know why. I
17 ought to get better about that. But what I'm saying is, they
18 never send the tickets directly to me. My understanding is,
19 they always send them to the corporation, and then they get
20 shipped to me with whatever other materials there are.

21 So you may not get it early enough to publish my
22 travel schedule, but you know my travel schedule, I think,

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1 almost always before any meeting, because you are the one who
2 sends me the ticket, I think.

3 MS. BATIE: Usually, that is the case.

4 MR. UDDO: And, you know, I just want to say, and I
5 think it is important for me, being able to make my own
6 arrangements is a convenience, an important convenience,
7 because, you know, I find that if I've got three or four
8 choices, and none of them look right, if I get on the phone
9 with the people at Omega, they find three or four more, or
10 something that fits better what you need to do. So, I think
11 it has worked out pretty well for me.

12 CHAIRMAN WITTGRAF: The president wants to make a
13 comment. Before he does, let me ask you to follow up, Mr.
14 Richardson. I don't know if you answered fully Mr. Kirk's
15 question about tipping, say, tipping taxicab drivers, tipping
16 bellmen at hotels. Is there any admonition or guidance on
17 that regarding reimbursement?

18 MR. RICHARDSON: In the guidelines that we
19 presently have, we do not have a limit. We are looking
20 internally. Ms. Batie and many of the directors and I have
21 sat down and had a couple of meetings, and we are redrafting
22 that and looking at it. But, no, at this point we have not

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1 made a decision on that.

2 Just by rule of thumb, for instance, for a skycap,
3 usually \$1, \$1.50 a bag is what we normally do. The
4 cabdriver, 15 percent.

5 CHAIRMAN WITTGRAF: Mr. O'Hara?

6 MR. O'HARA: Thank you, Mr. Chairman. I just
7 wanted to make a few comments for the board members. You
8 know, I spent a few years in the airline industry, and I also
9 did a lot of oversight on the airline industry for a number
10 of years on Capitol Hill.

11 And while the tickets you get have a contract price
12 with the carrier, that does not mean that another carrier
13 will not accept them. You should know that the carriers know
14 how many seats are going to be empty almost any day of the
15 week. Everything is in the computer.

16 That is why a few weeks ago they had this big
17 reduction for the summer, because they know that they are
18 losing money, the economy is not good, so they know that on
19 Sunday, they may have only 45 empty seats on a flight, but on
20 Monday they will have 25, but on Tuesday they will have 95,
21 because Tuesday is traditionally a low, slow day in the
22 industry.

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1 It picks up on Wednesday, more on Thursday, more on
2 Friday, continues heavy on Saturday, until around Saturday
3 noon, 2 o'clock, and then it starts to fall off until Sunday
4 afternoon again, and then Saturday evening you have a
5 reduction in flights because they are repositioning planes
6 for the following week.

7 So, what happens when you get to the position where
8 you can't make your flight, and the contract carrier doesn't
9 have any other flights on the same day, sometimes if you
10 present that ticket to another carrier, they probably will
11 have empty seats, and they will honor that ticket, or they
12 may say, it will cost you \$20 more, or whatever. So that
13 possibility is out there.

14 Along the lines of what David is saying, we are
15 doing what I consider a massive overhaul to the travel
16 policies that we have. We have been spending a lot of time
17 on them. I expect that when we finish we will be meeting
18 with the inspector general's office to get their input for
19 the book if they have any comments to make on that. But I
20 think that a lot of the questions you have brought up this
21 afternoon or this morning are good, and we hope to answer
22 them for you in the very near future.

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1 MS. WOLBECK: Mr. Uddo.

2 MR. UDDO: Let me say one thing, and I assume from
3 the discussion that this is being taken into consideration.
4 I think that the board's problems are different from the
5 staff, and even consultants who for a period of time are
6 spending their time full-time for the corporation, and if the
7 staff is traveling on staff business, it is part of their
8 work.

9 The board is not in that situation, obviously, so
10 that is why, you know, my big thing is flexibility, because
11 we are trying to meld what we do here into the rest of our
12 lives, and that is where I think the big difference is
13 between the staff, who may be traveling during their work day
14 -- obviously, you know, that is part of their work, and it is
15 a little bit easier for them to manage what they've got to do
16 than it is for the board.

17 And again, I want to say I think David and Pat have
18 been very helpful and very solicitous of those concerns, but
19 if you are redrafting them, I hope that that continues to be
20 a motivating principle, that the board is not full-time here,
21 and the flexibility is important to us.

22 CHAIRMAN WITTGRAF: Mr. O'Hara.

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1 MR. O'HARA: If I might, Mr. Chairman, I think
2 there is something else I want to point out to the members.
3 We recognize that many of you do not live in locations where
4 you have easy access to the number of flights that we have
5 access to in Washington, and we will consider that, Mr.
6 Chairman.

7 CHAIRMAN WITTGRAF: Thank you, Mr. O'Hara. Mr.
8 Richardson.

9 MR. RICHARDSON: Since we are talking about
10 admonitions a little bit, there is one that I would bring
11 forward a little bit, and that is the selection of carrier.
12 Sometimes the records that -- requirement for deviation is, I
13 don't like to fly Delta, or I don't like to fly American.

14 We really do need to try to stick, if the contract
15 carrier is accommodating for that particular area, to stick
16 with that. And, of course, where there is -- we go to the
17 government rate, that is fine, too, but to get away from the
18 contract carrier simply because I don't want to fly that
19 particular airline is not justification enough.

20 CHAIRMAN WITTGRAF: Would that we all had the
21 luxury of choices such as that. That raises one more
22 question from Mr. Uddo.

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1 MR. UDDO: One more question. What about choices
2 of airports? I mean, the last Washington meeting that became
3 a problem for me, because National, there was no government
4 rate left, nothing left, so I had to fly to Dulles, which is
5 okay, except that it meant that I had to leave the meeting
6 early to get the flight out, so, I mean, to what extent does
7 that figure into how you make a decision?

8 MR. RICHARDSON: Flying in that particular
9 circumstance, you could fly into Dulles and fly out of
10 National.

11 MR. UDDO: Except that there were none available
12 for that particular meeting.

13 MR. RICHARDSON: Going or coming. I was not aware
14 of that.

15 MR. UDDO: Yes, it was going and coming. So there
16 was none available either way. But ordinarily I would
17 imagine that you can pick National as long as you can get at
18 -- certainly you can get the government rate, but it would
19 take something extraordinary to go beyond the government rate
20 to justify into National.

21 MR. RICHARDSON: That's the way I try to look at
22 it. Yes, sir.

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1 MR. UDDO: Okay.

2 CHAIRMAN WITTGRAF: As long as we are taking
3 admonitions, perhaps the inspector general has admonitions in
4 this area, or not?

5 MR. QUATREVAUX: Mr. Chairman, no admonitions. We
6 are in progress with an audit of travel and other related
7 expenses, and it would be improper for me to comment on
8 anything while it is still in progress. We are not looking
9 at it from the perspective of admonitions, but rather,
10 examining, attempting to examine the policy and the execution
11 of the policy, compliance with it.

12 CHAIRMAN WITTGRAF: Eventually examinations lead to
13 admonitions, do they not?

14 MR. QUATREVAUX: They might, but they would be on a
15 general basis, not individual. Collective, I should say.

16 CHAIRMAN WITTGRAF: We will await those possible
17 admonitions at a later time. Mr. O'Hara.

18 PRESIDENT'S REPORT

19 MR. O'HARA: Thank you, Mr. Chairman. I notice by
20 my watch that we are running a little late, so I am going to
21 go through this real quickly, as I always do at the board
22 meetings, to report on my own activities and what I have been

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1 doing since the last meeting.

2 The law school grants have been made, and by now
3 you should have received a letter informing you of the law
4 schools and the amounts which each were awarded. The 1993
5 funding application has been updated again, and there has
6 been a further reduction from 1992, and it will be one
7 document instead of two documents this year.

8 The Migrant Legal Action Program has now been
9 awarded a grant to assist the new migrant programs. I have
10 had a meeting with the Native American group in Gallup, New
11 Mexico, to discuss their concerns. This is the second
12 session I have had with them, and they have been very
13 productive.

14 While at Gallup, I then drove to Window Rock,
15 Arizona, and attended the 25th anniversary of DNA, which is
16 the Navajo nation, and met with Peterson Zah, who is
17 president of the Navajo nation, to discuss their concerns
18 with Legal Services and their needs.

19 In the meritorious and innovative grants area, we
20 have received in excess of 140 proposals. Is that correct,
21 Ellen, 143 or so?

22 MS. SMEAD: A hundred and forty-three proposals.

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1 MR. O'HARA: Right, totaling about \$8.3 million?

2 MS. SMEAD: Right.

3 MR. O'HARA: And I think that this is an indication
4 of the need that the programs have found out there by the
5 very fact that they have been able to submit these in such a
6 short time, and they will be gone over by a committee that is
7 being put together that will consist of people from programs.

8 The Veterans Project has received six proposals.
9 They have had a couple of meetings. Ken, you have been at
10 those meetings. I understand that they are moving along and
11 that we expect to make an award in that area fairly shortly.

12 MR. BOEHM: Yes, the committee will probably make a
13 decision internally this week, by the 16th. Then there is a
14 period of a few days where we consult with the board, and
15 then we also negotiate with possible recipients at that point
16 -- 30 days after that, I believe it is, where we talk with
17 possible recipients, have grant assurances, and if things
18 need to be in any way changed, and then, right after that the
19 grant is made.

20 MR. O'HARA: So we are still within the timetable
21 that we told the board. Good. I have had another meeting
22 with the state support organizations, and I want to report to

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1 the board that again we have made considerable progress in
2 our discussions with them as to streamlining their reporting
3 requirements.

4 We are making, I think, considerable reductions in
5 the amount of information that they are being required to
6 report to the corporation and, in fact, at the last meeting
7 one of the representatives for NOSSU said that your proposal
8 is better than our proposal, which I think is an indication
9 that we are reaching out, and we are finding out that we are
10 working together. That meeting will take place on the 30th
11 of July in Minneapolis.

12 We have already talked about reauthorization. I
13 think that Ken and Susan did an outstanding job under very
14 difficult circumstances, being called at the last minute. We
15 weren't aware. They did yeoman work. They sat in the room
16 next to mine, because I was frequently interrupted, but I
17 observed and participated in their discussions, and they just
18 did a wonderful job, and I think the board should be proud of
19 them.

20 The notice on the private attorney involvement has
21 gone out to all of the programs regarding the awards and the
22 humanitarian awards. Ellen, that's correct? We will have

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1 that information, and that will be done by the annual
2 meeting?

3 MS. SMEAD: The nominations are due back in in
4 August, and there will be a committee meeting in August to
5 select.

6 MR. O'HARA: Okay. Lastly, I want to say that the
7 newsletter is out, and I have had to admonish some people in
8 the corporation for putting my photograph in there three
9 times. I think that is getting a little out of hand. That
10 was slightly delayed because of the annual report, but we
11 will have the next addition of the newsletter out, hopefully
12 in August. I see some shaking of heads, so I assume we will
13 meet that target this time.

14 And again, we are soliciting articles from the
15 field programs to submit them to us. We want their input.
16 We want to get in there what they need to get out to the
17 other programs as to what they are doing. That will be done.

18 Next week, I will have a meeting with a group of
19 consultants who have been doing monitoring for the
20 corporation. That meeting is to discuss ways to improve the
21 monitoring process. I won't go into all of the details that
22 I am going to discuss with them, but these are people who

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1 have been doing monitoring for a number of years.

2 I want to get their input, see how it can be
3 changed, how we can improve our way of doing monitoring, and
4 how we can improve our delivery of recommendations to
5 programs, and how we can help them. And that would complete
6 my report, Mr. Chairman, except for staff compensation.

7 CHAIRMAN WITTGRAF: Thank you, Mr. President.
8 Before you move to that, let me just say the annual report, I
9 think, is not only attractive, but the content and the tone,
10 I think, integrates well our activities with the corporation
11 with the activities of our friends and colleagues in the
12 field, and I commend you for that effort and that result.

13 I don't know whether or not you deserve credit for
14 having annexed Louisiana to Texas or Texas to Louisiana,
15 but --

16 MR. O'HARA: Well, it has been said that Governor
17 Redwood has had some influence on me when he was on the
18 Public Works Committee. I'm not sure.

19 MR. UDDO: So you gave him Texas.

20 CHAIRMAN WITTGRAF: Given a choice between Governor
21 Richards and Governor Edwards, I don't know what somebody
22 from Austin might do.

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1 Go ahead, then, if you would, Mr. President, with
2 Agenda Item 6-C, please.

3 REPORT ON STAFF COMPENSATION SCHEDULE

4 MR. O'HARA: There have been several questions
5 raised by some board members about the staff compensation,
6 and before I begin these particular items that I want to
7 discuss, I want to say to the board that we have formed a
8 Compensation Committee within the corporation to review the
9 present salary structure.

10 And we are going over that right now, and it is
11 something that I have been looking at. We made a change in
12 January. We have got some feedback from the employees. And
13 I think we are taking that feedback, and we are working with
14 it, and we will make whatever adjustments are necessary.

15 But some of the points that I would like to make
16 and bring to the attention of the board, Number One, federal
17 employees are paid, it is said, somewhere in the area of 30
18 percent less than the private sector for some of the key
19 positions in that area. The corporation's salary schedule
20 was not increased in 1984, '85, or '86, in conjunction with
21 the federal cost of living increases. Therefore, the
22 corporate salaries are less than federal salaries for

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1 comparable positions.

2 The Federal Pay Comparability Act was passed by
3 Congress to increase federal salaries and make them more
4 competitive with the private sector, and in follow-up to
5 that, federal employees received a 4.1 percent increase in
6 1991, 4.2 percent in 1992, and they are scheduled to receive
7 3.7 percent in 1993.

8 Federal employees also receive step increases in
9 addition to their cost of living increases. Some management
10 employees in the federal sector also receive merit increases,
11 and federal employees are also eligible to receive lump sum
12 cash payments for sustained outstanding performance awards.

13 Eleven or more of the designated federal entities
14 are paid in accordance with the GS schedule which is used in
15 the government. The pay scale of the Federal Deposit
16 Insurance Corporation, which is one of the designated federal
17 entities, is approximately 25 percent higher than the GS
18 schedule, that GS schedule being the general salary schedule
19 under Civil Service.

20 The average increase for represented employees of
21 the Tennessee Valley Authority is 6.2 percent for 1992 in
22 addition to an annual, across-the-board increase equivalent

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1 to the federal government COLA. However, the increase is not
2 called a COLA. Additionally, represented employees are
3 eligible to receive a bonus of up to 10 percent of their
4 annual salary in recognition of their efforts on an
5 exceptional project or activity.

6 There was a recent salary survey done in the
7 Washington area which showed that the average salary increase
8 in the Washington area, and that includes Fairfax,
9 Montgomery, and Prince George's Counties, will be about 4 1/2
10 percent, and reportedly this is a 10-year low in the
11 Washington area.

12 We have a merit pay system which was established in
13 1989 which has resulted in what we consider a motivated and
14 highly productive work force, and we have made the adjustment
15 in the salary structure in the beginning of this year, and we
16 are now, as I said before, reviewing that, and we will report
17 back to the board when we are finished with that review.
18 That will complete my report on the staff compensation.

19 CHAIRMAN WITTGRAF: Thank you, Mr. President.

20 Discussion? Questions? Comments? Mr. Kirk.

21 MR. KIRK: This probably should have come before we
22 started about the salaries, but I have two items just to

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1 mention. The first is that a monitoring team came to
2 Orlando, and I spent probably four hours with the monitoring
3 team, and I just want to tell you that I was absolutely
4 impressed.

5 I mean, I went there thinking I really wasn't going
6 to like them, and I was going to try to find fault with them,
7 and what have you, and there were some really dedicated
8 people, and I would just commend everyone on the board, if
9 you have an opportunity to catch a monitoring team the night
10 before they go in and they start, while they are doing the
11 planning.

12 I visited the program while they were there, and
13 just some really nice people, and caring people, and not
14 people looking for jobs, but people who are doing this
15 because this is the way they are giving something to the
16 community, and I was very impressed with that, and I wanted
17 to mention that, Mr. O'Hara.

18 MR. O'HARA: Thank you, Mr. Kirk.

19 MR. KIRK: The other item is that yesterday, it was
20 noted that there was an effort to place an item in the
21 Federal Register, and we voted on it yesterday, but that they
22 were trying to get it in last week, and I would just like to

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1 figure out what the procedure is on that. I think that I
2 would have been surprised -- I wouldn't have been surprised,
3 because I knew that it could have been done. I talked to Mr.
4 Fortuno before about it.

5 But to have seen that we were considering having a
6 public hearing on taking some regulations and knocking them
7 out without having a vote on it or anything seemed surprising
8 to me, and I am wondering if we can get a report on the
9 procedures involved in that, and if we need to change it,
10 maybe we ought to.

11 That just seems like it is something that the board
12 or committee ought to have some input on when it is done.

13 CHAIRMAN WITTGRAF: Mr. Rath, do you --

14 MR. RATH: First of all, we didn't vote on anything
15 yesterday -- that wasn't in the public register. We voted to
16 see if we could put something in the public register so that
17 we could have a full discussion of those items at our August
18 meeting.

19 MR. KIRK: Maybe you heard something different than
20 I did. I heard that the reason it was -- we found out was
21 that they tried to get it in last week --

22 MR. RATH: Right.

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1 MR. KIRK: -- without advising your committee, or
2 without the committee participating in it, and the only
3 reason it got on the agenda was because they couldn't get it
4 in last week.

5 MR. RATH: No, I had a discussion earlier in the
6 week with Mr. Fortuno about whether something could go in the
7 Register in time to make it an action item for August, is
8 actually what we were trying to do. We determined we could
9 not do that, and that is why yesterday we simply put it on
10 that we could go through the process of getting it in the
11 Register, so actually the action item will really come on
12 more for discussion in September. That would be the accurate
13 time.

14 CHAIRMAN WITTGRAF: It seems to the Chair there may
15 be some misunderstanding as to the nature of the notice that
16 was being given. Mr. Fortuno, you can weigh in at this
17 point, or I will go back to Mr. Rath, just as you wish. I
18 think we are talking about a notice regarding comment. We
19 are not talking about a notice as to any proposed action.

20 MR. RATH: Exactly right, and let me just --

21 CHAIRMAN WITTGRAF: Mr. Rath.

22 MR. RATH: To be clearer, I had a committee member

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1 call me concerning his desire to get the issue of regulations
2 on the agenda, and I then inquired, worked through counsel to
3 see whether it could properly be put on the agenda for this
4 meeting. It was determined it could not be, and all we did
5 then simply was allow it to be put on the agenda for the
6 preceding meeting so that we would do it in accordance with
7 what the Federal Rules require.

8 I would do that, if any committee member asked me to
9 amend the agenda or put something on the agenda, call me, and
10 we put it on. But we have to do it and amend the agenda
11 accordingly, and that was the problem.

12 MR. KIRK: I don't think you and I are talking
13 about the same thing. But let me listen to Mr. Fortuno for a
14 second.

15 MR. FORTUNO: Do we want to discuss procedure, or
16 the specific instance? There is no written procedure anyway.
17 The way it has functioned in the past, and this is a long
18 standing practice of the corporation, is, when any committee
19 with jurisdiction over a specific subject matter proposes to
20 have something on its agenda, the chairman may ask that a
21 Federal Register notice be sent to the Federal Register
22 either setting an agenda or indicating what rulemaking

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1 activity the committee will be considering for comment.

2 That is then put in the Federal Register. It is
3 noticed for at least 30 days, affords the public the
4 requisite notice and opportunity to comment. The comments
5 are received. The staff that is designated to receive the
6 comments reproduces them so they are available to the
7 committee and the full board, and to analyze the comments,
8 then does so, and provides all of that to the board.

9 What was being proposed here was a notice that goes
10 to the Federal Register to notice the public on what is being
11 proposed, that is, withdrawal or revision of regulations. It
12 doesn't bind the corporation to do anything. What it does do
13 is put the public on notice of what the corporation or at
14 least the committee would be considering at whatever meeting
15 it is being scheduled for. The question was whether it was
16 possible to put in there in time to have considered in August
17 in San Francisco.

18 I went ahead and checked it and was informed that,
19 no, there wasn't time, that the only way that we would
20 publish it in time for the public to get its 30-day comment
21 period would be to have it in the Federal Register by Friday.
22 That could not be done unless it involved the public safety

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1 or health.

2 So, at this point, it can't be published far enough
3 in advance to get the 30-day notice in to have at the August
4 meeting in San Francisco, so if you choose to publish it now,
5 that can be done. You can elicit comments from the public,
6 and you can consider it. Not at the -- you can't act on it
7 at the August meeting, but you can act on it at the September
8 meeting.

9 But this was just a notice for comment, not any
10 final action. Of course, it wasn't any final action.

11 CHAIRMAN WITTGRAF: Mr. O'Hara.

12 MR. O'HARA: I think there are two things that we
13 need to consider here. Number One is the situation that Vic
14 is talking about, and when this was brought to my attention
15 on Thursday, I believe, we were discussing this, and the
16 question came up. I was asking questions about procedure,
17 and how things get in the Federal Register, and what the past
18 procedure has been against what the procedure should be, and
19 who should set the procedure, and is the board aware of all
20 these things.

21 After a discussion with Vic, I asked Vic to call
22 Mr. Rath, the chairman of the committee, for two reasons.

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1 Number One, we couldn't get it in the Register, as Vic has
2 pointed out, in time for the committee to take action at the
3 August meeting, and Number Two, this seemed to be something
4 that we could wait a few days so that the members of the
5 entire board could consider something like this as well as
6 the members of the committee.

7 So, it was really an attempt -- not an attempt, but
8 it was the decision on my part to have Mr. Rath make the
9 decision which he made not to put it in the Federal Register
10 until such time as the board had a chance to talk about it,
11 but it raises some questions to me, at least, as to why we
12 don't have better procedures for putting things in the
13 Federal Register. We should have some kind of a process that
14 the board approves to do this before this is attempted again.

15 CHAIRMAN WITTGRAF: Mr. Kirk.

16 MR. KIRK: I just think that's -- that was my
17 point, not that Mr. Rath did anything wrong. I wasn't trying
18 to imply that at all. I think that putting it in the agenda
19 was the proper thing to do. It appeared that this was just
20 going to be -- that this could be a staff function, and I
21 think Mr. Fortuno and I talked about the fact that this is
22 something that could be done just by staff when we met in

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1 D.C. in this instance.

2 And I am wondering if a notice of something like
3 that really, not just a notice of an agenda change or
4 something, but a notice of a hearing requesting comments is
5 something that maybe the committee ought to vote on, as we
6 did here as a standard practice, as opposed to just seeing it
7 one day in the Federal Register.

8 CHAIRMAN WITTGRAF: Mr. Uddo.

9 MR. UDDO: It has always been my understanding that
10 with respect to what gets published in accordance with what a
11 committee is going to do is up to the chairman.

12 MR. FORTUNO: That has been the long standing
13 practice of the corporation.

14 MR. UDDO: The chairman requests the staff to
15 publish an agenda with the items that the chairman feels
16 should be on there, and every chairman I know has always been
17 open, as Mr. Rath says, to whatever any member of the
18 committee might want on there. A member of the board, or the
19 president, or anyone says this is something that needs to be
20 explored, let's put it on the agenda.

21 I don't see how you could ever function by the
22 committee voting on what is going to be considered or put on

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1 the agenda. I mean, these things usually come up between
2 meetings, and you've got to make a decision, what are we
3 going to discuss at that meeting, and I think that that is
4 probably the best procedure that you could have, knowing that
5 any committee member can certainly request that something be
6 put on.

7 I wasn't there, so maybe I am missing something. I
8 don't understand what the problem is.

9 MR. O'HARA: I think we may be talking about two
10 different things. I think what we are talking about is a
11 rulemaking process versus the committee process of putting
12 things on the agenda.

13 MR. UDDO: But that is pretty much specified in
14 terms of how much time it has got to be published in the
15 Federal Register. I mean, somebody was trying to actually
16 publish a rulemaking change?

17 MR. O'HARA: Notice of proposed rulemaking.

18 MR. FORTUNO: Or proposal for comment. I think it
19 is a two-step process. Certainly it is the chairman of the
20 board who sets the agenda for the board, or the chairman of
21 the committee who sets the agenda for the committee.

22 There are some exceptions to that, and there are

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1 ways that a number of members of a committee or a number of
2 members of the board can cause something to be put on there
3 in more formal processes, but generally it's the chairman of
4 the board who sets the agenda for the board, chairman of the
5 committee who does so for the committee.

6 If a committee chairman wants something on his
7 agenda, his or her agenda, and what the chairman wants on the
8 agenda is something in the rulemaking category, then there
9 are different options. One would be, I'd like on the agenda
10 an item that enables us to discuss whether we want to engage
11 in rulemaking and what the proposed notices should say, and
12 when this should go in, and when we want to schedule it.

13 Or it can be, I'd like to engage in some
14 rulemaking. I'd like staff to prepare some notices that will
15 go out that will enable us to take some action at the next
16 scheduled meeting, recognizing, of course, that a minimum of
17 30 days' notice has to be given to the public.

18 And the practice -- and nowhere is it written. I
19 think it is in the bylaws that the chairman would set the
20 agenda, but nowhere is it written precisely how the
21 rulemaking process is initiated.

22 The practice, however, has been that the chairman

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1 of the appropriate committee has staff work up a proposed
2 notice, reviews it, and they circulate it among other members
3 of the committee or the board, and then decide, okay, let's
4 publish this. I'd like it given 30 days, 30-day notice and
5 comment period, and then I'd like copies of all the comments
6 and staff analysis, and I want it on the agenda.

7 If you want to set forth certain specific
8 procedures in writing are somehow different from what the
9 practice has been, then that is certainly something that the
10 board is in a position to do. Right now there are no written
11 procedures other than the bylaws provide that the chairman of
12 either the board or the committee sets the agenda for either
13 the board or the committee.

14 If you want something specific beyond that, then I
15 think it is certainly appropriate for the board to consider
16 it. At this point, all we have in place is nothing in
17 writing, but simply, it is the long standing practice of the
18 corporation.

19 Now, it is not something with which this board has
20 had much in the way of dealing because you haven't engaged in
21 rulemaking. But certainly the corporation has over the years
22 been involved in a fair amount of rulemaking, and that is the

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1 way they have operated in the past.

2 MR. UDDO: So the only thing that happens, though,
3 if you publish under the rulemaking procedures, is that it
4 starts the 30-day notice period, and then if a meeting occurs
5 after those 30 days you can actually do something, but, I
6 mean, it is no more binding. It just opens up the procedure
7 to give the committee the opportunity to do something after
8 the 30-day period.

9 MR. FORTUNO: That's correct.

10 MR. RATH: If I might interrupt, Mr. Uddo, the
11 concern expressed to me by a member -- it was Mr. Dana
12 -- was, if reauthorization moved very quickly to a denouement
13 and there was suddenly the ability to make rules, we would be
14 left -- there would be some question as to the validity of
15 the rules that we in fact did have, so should we put
16 ourselves in the position by publishing early to respondents
17 if in fact that occurred.

18 And I said, if you want that position to be
19 considered by the committee when it meets, I have no problem
20 with the committee making a determination as to whether or
21 not we should put ourselves in that position, and in order to
22 do that we had to go through the process that Mr. Fortuno has

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1 outlined.

2 MR. UDDO: I understand.

3 CHAIRMAN WITTGRAF: Further discussion? We are on
4 the President's Report, and most specifically, his last
5 comments regarding staff compensation. Further discussion
6 regarding either that specific item or anything else
7 discussed by President O'Hara? Ms. Love, any questions?

8 (No response.)

9 CHAIRMAN WITTGRAF: Thank you, Mr. President. At
10 this time, the chair recognizes the corporation's inspector
11 general, Mr. Quatrevaux.

12 INSPECTOR GENERAL'S REPORT

13 MR. QUATREVAUX: Just one item for this session.
14 It has to do with the reauthorization legislation. We are
15 fortunate to have been able to report to the chairman of the
16 Reauthorization Committee and the OIG Committee that language
17 we crafted was adopted by the Judiciary Committee. From our
18 perspective it is a difference of night and day between the
19 Senate bill and the House version.

20 CHAIRMAN WITTGRAF: Excuse me, Mr. Quatrevaux. By
21 that, if day is good, that is the Senate version. Is that
22 right?

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1 MR. QUATREVAUX: That is correct.

2 CHAIRMAN WITTGRAF: You prefer the Senate version?

3 MR. QUATREVAUX: We prefer the Senate version.

4 Thank you.

5 CHAIRMAN WITTGRAF: Go ahead.

6 MR. QUATREVAUX: We got some help along the way,
7 both from staffers, the Senate Governmental Affairs
8 Committee, as well as I understand Jack and Ken and Susan
9 also put forth our position in their meetings, so we are very
10 pleased with the outcome. That is all I have to report.

11 CHAIRMAN WITTGRAF: Thank you, Mr. Quatrevaux.
12 Under the agenda, we would next move to committee reports,
13 Items 8 and 9. I think instead let's move to executive
14 session so that we can begin those items, and then we can do
15 our committee reports when we come out of executive session.

16 We have before us the four or five items listed for
17 executive session. We will eat our lunch at the same time as
18 we conduct our business. I would anticipate a half-hour to
19 45 minutes will be necessary for executive session. To that
20 end all or a majority of the members of the board have agreed
21 previously in writing to executive session for the purposes
22 denoted.

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1 At this time, I would ask for a motion within the
2 context of this meeting to allow us to proceed at this time
3 to executive session.

4 M O T I O N

5 MR. RATH: So moved.

6 MR. SHUMWAY: Seconded.

7 CHAIRMAN WITTGRAF: It has been moved by Mr. Rath,
8 with a second by Mr. Shumway. Discussion?

9 (No response.)

10 CHAIRMAN WITTGRAF: Hearing none, those who are in
11 favor of the motion will signify by saying aye.

12 (A chorus of aye.)

13 CHAIRMAN WITTGRAF: Those opposed, nay.

14 (No response.)

15 CHAIRMAN WITTGRAF: The ayes appear to have it.
16 The ayes do have it. We now will proceed to executive
17 session.

18 (Whereupon, at 12:26 p.m., the board of directors
19 convened in closed session.)

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A F T E R N O O N S E S S I O N

(1:18 p.m.)

1
2
3 CHAIRMAN WITTGRAF: At this time we will be in
4 order in open session once again. We are prepared to proceed
5 to amended Agenda Item 8. Before we do so, however, let me
6 take just a moment on behalf of the board and our staff to
7 commend and thank our hosts and hostesses. If you haven't
8 had the opportunity to meet him, Dan Power, who runs the
9 Drake University Law School, is our host, together with his
10 staff of the immediate facility here, at the immediate
11 facility.

12 Special arrangements were made to provide lunch
13 yesterday, breakfast this morning, lunch again today, and not
14 only has it been delightful, but we owe a great debt of
15 gratitude to them, and I anticipate that Ms. Batie and I both
16 will communicate the board's appreciation, thanks to them for
17 their assistance to us.

18 We will turn, then, to Agenda Item No. 8, Mr. Rath,
19 the report of the Committee on Operations and Regulations.

20 MR. RATH: I keep looking at the wrong number. I
21 thought it was Agenda Item No. 9.

22 CHAIRMAN WITTGRAF: That is why I say periodically

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1 "amended agenda." Agenda Item 5 was stricken from the
2 original agenda.

3 OPERATIONS AND REGULATIONS COMMITTEE REPORT

4 MR. RATH: That's right. Very simply, Mr.
5 Chairman, the Committee on Operations and Regulations met
6 pursuant to notice yesterday. We took two substantive
7 actions. First was to provide for, as has been alluded to
8 earlier, notification to the public in the Federal Register
9 of the potential to contemplate rulemaking. That will be
10 discussed in August. It won't come on for action until
11 September.

12 And the more immediate action by the committee was
13 to approve, with one amendment, the draft that has been
14 circulated to the board on the competitive demonstration
15 project which has consumed so much of our time for the last
16 six months, and the only change from the draft, which I
17 believe the whole board received, was to provide for
18 participation in the peer review by members of current
19 program staff.

20 The solicitation should go out some time in early
21 August, and we should stick to the timetable that we have
22 outlined on a going forward basis.

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1 CHAIRMAN WITTGRAF: Any questions regarding either
2 of those matters for Mr. Rath or for Ms. Smead or Mr. Moses
3 of the staff?

4 MR. RATH: I would just add, Mr. Chairman, if I
5 could, I think, on behalf of the entire committee, which we
6 did say yesterday, Number One, we are most gratified that the
7 collaborative process between the staff and the field was as
8 productive as it was.

9 And I particularly want to thank our staff people,
10 Mr. DeBettancourt, Ms. Smead, Mr. Moses, who really tried to
11 deal with a lot of different competing forces, and I think
12 they did excellent work. And I thanked them all personally,
13 and on behalf of the committee and the board I would like to
14 commend them again here this afternoon.

15 CHAIRMAN WITTGRAF: Thank you, Mr. Rath. We will
16 move, then, to amended Agenda Item 9. That is the report of
17 the Provision for the Delivery of Legal Services Committee.
18 Mr. Hall.

19 PROVISION FOR THE DELIVERY OF LEGAL SERVICES COMMITTEE REPORT

20 MR. HALL: Thank you, Mr. Chairman. Our committee
21 did not meet this past time. However, there are a couple of
22 things I wanted to touch on. Our president mentioned one of

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1 the main ones, which is the meritorious grant situation. As
2 he told you, June 30th of this year is the deadline for
3 receiving proposals.

4 We had received approximately 170, I think -- 145,
5 wasn't it, proposals from different places. I think there
6 were about half and half, some meritorious and some
7 innovative. Of course, all the innovative have to be
8 meritorious as well.

9 He reported to you we have about \$8.5 million in
10 requests. It seems like each one of them was for the top
11 amount of \$75,000. By my math, we will make about seven of
12 those proposals. That might be even a little bit high. We
13 do have teams that are reviewing those that consist of one
14 LSC staffer, a program staffer, and one representative of the
15 bar association.

16 I think what they are doing is, they split these up
17 into three different groups, and they are going to mark the
18 top 10 out of each one, and then they are going to get
19 together and meet, and I think August the 20th of this year
20 is the target date for announcing or deciding. Is that
21 right?

22 CHAIRMAN WITTGRAF: Ms. Smead?

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1 MS. SMEAD: August 20th is the date. What the
2 schedule in more detail is is that on July 30th, the nine
3 people that are reviewing the proposals will get together and
4 try and decide which ones to recommend to the president for
5 funding, and then it will go through the internal process
6 after that.

7 CHAIRMAN WITTGRAF: You are saying nine will be
8 recommended for funding?

9 MS. SMEAD: Nine people are reviewing the proposals
10 at this point. As he said, it has been divided into thirds.
11 The top 10 from each team, so we will have 30 proposals by
12 the last week in July that will be under consideration. Nine
13 people will review those 30 proposals. The same nine people
14 will review those 30 proposals, and out of those 30 they will
15 pick the top ones to recommend to the president for funding.

16 CHAIRMAN WITTGRAF: Any questions for Ms. Smead?
17 (No response.)

18 CHAIRMAN WITTGRAF: Are you familiar with all the
19 proposals, Ms. Smead?

20 MS. SMEAD: No, I am not. I am familiar that there
21 are 143, and they are about 50-50.

22 CHAIRMAN WITTGRAF: My question may be premature,

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1 but what is your sense about the quality of these proposals?

2 MS. SMEAD: I have scanned several of them, and
3 they are very high quality. It is going to be a very tough
4 decision for these people to make, because they are very high
5 quality and very meritorious.

6 CHAIRMAN WITTGRAF: I am just thinking as we look
7 ahead to budgetary matters, either with our management
8 administration portion of the budget or to budget
9 recommendations to the Congress in the future, that this may
10 have some bearing on our thinking. I look forward to what
11 conclusions you and your colleagues do draw. Further
12 discussion from Ms. Smead?

13 MS. SMEAD: Thank you.

14 CHAIRMAN WITTGRAF: Thank you, Ms. Smead. Mr.
15 Hall?

16 MR. HALL: I wanted to comment that I have seen one
17 of the proposals we have, and it is from Victor Geminiani,
18 who I think everyone on this board knows. He and I spoke in
19 Austin when we were there, and he mentioned that he had an
20 ADR proposal that he wanted to put forth, and he has, and I
21 have scanned it, and I am very impressed with it, and it will
22 be among the group that is being considered. That is the

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1 only one that I have seen.

2 As to attorney recruitment, I understand that we
3 are preparing a survey that has not been finished yet, but
4 will be soon. It will be sent out to the different providers
5 asking what type of technical assistance or attorney
6 recruitment or retention items that they are interested in.
7 I have a rough draft of that. I have not really looked at
8 it. It is to go out soon.

9 On ADR, I know since we last met Leslie Russell has
10 visited the Wayne County Legal Services Housing Dispute
11 Center that Linda Bernard told us about in her testimony, and
12 Chris Sundseth has been to the Negotiation Skills Training at
13 Harvard Law School this past June. I understand as well
14 staff, Ellen has taken a survey, a questionnaire on that as
15 well?

16 MS. SMEAD: Right.

17 MR. HALL: Also, I have learned that the LSC and
18 the Drake University are co-hosting an annual training on
19 trial advocacy skills that will be held here at Drake next
20 week, beginning on Sunday, to be attended by 34 program
21 attorneys. Two attorneys from Legal Services Corporation
22 staff will attend.

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1 There will be 30 private lawyers, judges, and
2 trainers, and other attorneys have volunteered to train at
3 this event. I understand it is a popular event and receives
4 high praise every year. That concludes my report.

5 CHAIRMAN WITTGRAF: Thank you, Mr. Hall.
6 Discussion?

7 (No response.)

8 CHAIRMAN WITTGRAF: Hearing none, we will move to
9 Agenda Item 15 -- I will skip Number 14 fore the moment and
10 come back to it -- the report of the Audit and Appropriations
11 Committee. Ms. Wolbeck.

12 AUDIT AND APPROPRIATIONS COMMITTEE REPORT

13 MS. WOLBECK: In the absence of Mr. Dana, who had
14 to leave because of a funeral in the family, I am going to
15 have David Richardson help me out with this and to report on
16 the Agenda Items 3 through 6.

17 MR. RICHARDSON: For the record, I am David
18 Richardson, the comptroller of the corporation. Yesterday,
19 when we met, in your board books, in the green book, we have
20 the April expenses. I handed out to the board, which you
21 should have available, the May expenses. We highlighted the
22 areas of expenses in the area.

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1 I won't go through those because most of you were
2 available for the meeting. I will point out that the money
3 for the emergency funds, we have made some grants that will
4 come through in June that will increase this figure. To
5 date, we have only spent a little over \$6,000, and there is
6 an amount there of \$488,000.

7 I am aware that there are some grants that will
8 come in in June. The U.S. Court of Veterans Appeals money,
9 the \$950,000 there, you have received a report on that.
10 There is additional expenses that will be coming against
11 those funds later this year also.

12 The law school clinics, of course, those are being
13 awarded, and you've got notices on those. The other moneys
14 that we have that have not been used to date is under caption
15 II, and it's the National Resource Training Center and, of
16 course, you are aware that we are working on proposals for
17 that, or a proposal for that, and that should be drawn to a
18 conclusion very shortly.

19 As far as through the management and administration
20 portion of the budget, we are 67 percent through the year.
21 We have spent 62 percent of our funds to date. As you see,
22 we are under the budget. We are coming into a time in the

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1 summer where our expenses usually do go up a little bit, so
2 you will see some increases there.

3 At the August meeting we hope to have the
4 projections -- we'll have the June expenses and the
5 projections hopefully through the end of the year, and the
6 that amount is usually turned over to both House and Senate
7 for the appropriations process and to make them aware of how
8 much we anticipate as unencumbered carryover.

9 For those of you who might not have been here
10 yesterday, I did have a request to separate the components
11 for the consulting, for the next board meeting, under the
12 board of directors. There is \$119,000 on that particular
13 line. Much of that is, of course, the attendance fees for
14 the board meetings, but there is also a cost for court
15 reporting and there are the attorneys' fees where the board
16 has hired an attorney outside the corporation to assist in
17 some litigations and counseling matters.

18 If you have any questions about that, I'd be glad
19 to answer them.

20 CHAIRMAN WITTGRAF: Any questions regarding the
21 budget and expenses through April 30 or May 31 of this year?

22 (No response.)

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1 CHAIRMAN WITTGRAF: Why don't you go ahead to touch
2 briefly on the proposed resolution. I think the committee
3 approved a resolution on investment of corporate funds.
4 which, for the members of the board who don't have it before
5 them, is found at Page 21 of the so-called green book, that
6 being the book that was prepared for the meeting yesterday of
7 the Audit and Appropriations Committee, Page 21. Mr.
8 Richardson.

9 MR. RICHARDSON: To give you a little bit of
10 background, when we went through the audit with Grant
11 Thornton last fall we did not have investment policy in
12 place. Basically, I had been instructed by prior boards to
13 continue the investment of funds, but it was never anything
14 put on the record.

15 M O T I O N

16 MR. RICHARDSON: The auditors suggested, through
17 the result of their audit and looking at this, that it would
18 be good to, of course, have the policy adopted, and, of
19 course, a resolution then would follow to designate the
20 treasurer-comptroller, myself, the authority to invest the
21 funds, and this is a recommendation of the committee.

22 CHAIRMAN WITTGRAF: In fact, the committee adopted

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1 this resolution did it not, yesterday, Ms. Wolbeck? The
2 chair takes that committee recommendation, then, as
3 presentation of the resolution to the board. The chair
4 interprets the resolution to be before the board. Further
5 discussion regarding that resolution? Again, it is at Page
6 21 of the green book.

7 (No response.)

8 CHAIRMAN WITTGRAF: Hearing no further discussion,
9 those who are in favor of the adoption of the investment
10 policy regarding corporation funds will signify by saying
11 aye.

12 (A chorus of aye.)

13 CHAIRMAN WITTGRAF: Those who are opposed, nay.

14 (No response.)

15 CHAIRMAN WITTGRAF: The ayes appear to have it.
16 The ayes do have it. The motion is adopted.

17 Were you going to discuss the matter of the leasing
18 of the corporation's former office space very briefly?

19 MR. RICHARDSON: Yes, sir. Just to bring everybody
20 to date, we have not yet subleased the premises. We have a
21 tentative agreement or actually an agreement to allow HUD to
22 move into the space. We are working on a lease negotiation

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1 with them at this point.

2 There are a number of interested parties. We hope
3 to meet with GSA tomorrow upon our return to Washington or
4 Thursday so that we can finalize this, and possibly to
5 negotiate additional space that they are interested in.

6 CHAIRMAN WITTGRAF: Any questions regarding that
7 matter for Mr. Richardson?

8 MR. SHUMWAY: So at the present time are we paying
9 rent on both facilities, the new and the old?

10 MR. RICHARDSON: When we negotiated the lease for
11 the new building, there was a year free rent, so that we are
12 not paying rent this year. However, accounting-wise, we do
13 have to recognize some of the expense, so we will have double
14 expense during this time.

15 CHAIRMAN WITTGRAF: Mr. Uddo?

16 MR. UDDO: Have you and Ken been putting money
17 aside to pay that lease? Wasn't that the deal?

18 CHAIRMAN WITTGRAF: Further discussion?

19 (No response.)

20 CHAIRMAN WITTGRAF: Hearing none, Ms. Wolbeck, do
21 you want to discuss the matter of where your committee is at
22 on the proposed guidelines for the corporation's annual

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1 audit?

2 MS. WOLBECK: I think David is going to talk about
3 it.

4 CHAIRMAN WITTGRAF: Oh, okay. Mr. Richardson.
5 Thank you.

6 MR. RICHARDSON: We have worked with the inspector
7 general's office, also general counsel and the executive
8 office in coming up with a set of guidelines for our annual
9 audit. There is one area of concern that still is to be
10 settled. The particular guidelines that were handed out
11 yesterday called for the audit to be conducted under
12 generally accepted auditing standard. That's the standard
13 that is set forth in our Act.

14 There was some language that was changed at the
15 meeting. I have provided each of you on the board a copy
16 earlier this morning, but there are additional copies if you
17 don't find that. The inspector general's committee also
18 reviewed these guidelines. They are proposing that generally
19 accepted government auditing standards be applied to our
20 audit.

21 Since Mr. Dana is not able to be with us today
22 because of a death in the family, he and Mr. Kirk agreed that

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1 they would table this particular matter until the August
2 meeting, where Mr. Dana can speak to his views as to having
3 the GAS audit and Mr. Kirk could then speak to the full board
4 on the GAGAS audit. So at this point --

5 MR. UDDO: Sounds appetizing.

6 MR. RATH: I certainly am sorry I'm not going to be
7 there. Perhaps you could append that to the other video.

8 MS. WOLBECK: Thank you, Mr. Richardson. Ellen
9 Smead is going to talk about the status report of the
10 Micronesian grant and also on grantee insurance coverage.

11 MS. SMEAD: On Micronesia, the problem we had to
12 deal with was that 75 percent of the people who live in
13 Micronesia Legal Services Corporation service areas was not
14 going to be counted by the U.S. Census, so the question was
15 how to calculate their grant.

16 Some censuses were done by the Federated States of
17 Micronesia and by the Republic of the Marshall Islands in the
18 mid-1980s. Those censuses have been analyzed by very highly
19 qualified demographers at Johns Hopkins and were found to be
20 valid, and they were extrapolated to 1990, so we now have
21 figures that approximate what it should be for 1990.

22 The committee recommended that we take that report

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1 that was done by Johns Hopkins, submit it to Congress with a
2 recommendation that we use those figures for calculating
3 Micronesia Legal Services Corporation's grants. And that was
4 all that was done on Micronesia Legal Services.

5 On the property insurance issue, this was something
6 that Basile Uddo brought up at the last board meeting, and
7 this was a concern about our emergency grant funding being
8 viewed as an alternative to property insurance for casualty
9 loss and how could we address that concern.

10 Yesterday we presented three options, one of those
11 being, conduct a survey through the refunding application.
12 Another was to have a grant condition requiring programs to
13 have casualty loss insurance.

14 And the third option was to amend our emergency
15 guidelines to require that LSC would only pay the difference
16 between the cost of replacing the item versus what the
17 program would have received if they had had replacement cost
18 insurance. So, if the item cost \$100 to replace, but they
19 would have gotten \$80 from reasonable insurance, we would
20 only pay the 20.

21 Yesterday, what the committee decided was that at this
22 time we should just proceed with the survey, and the staff is

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1 to come back at the next meeting with a proposed survey
2 instrument that could stick into the refunding application so
3 that we could gather more information to understand what type
4 of insurance the programs have at this time.

5 CHAIRMAN WITTGRAF: And Ms. Rogoff assured us that
6 the response to that questionnaire would be better than the
7 response to the malpractice questionnaire two years ago. Is
8 that right? Mr. Uddo.

9 MR. UDDO: I did have to miss the meeting
10 yesterday. What is the survey?

11 MS. SMEAD: The survey will ask programs whether or
12 not, Number One, do they have insurance, the extent of the
13 coverage, whether it is replacement cost insurance, and we
14 may ask them what the premiums are. And that is why we have
15 to bring a draft at the next -- if there is something you
16 would suggest that we add.

17 MR. UDDO: I like 2 and 3. I like either 2 or 3 or
18 2 and 3 make sense to me. I mean, it seems like it is not
19 something we need to have an extended survey of to find out
20 who's got what.

21 I mean, if you have a grant condition that they are
22 only going to get emergency funds if they've got casualty

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1 -- or grant conditions that have to have casualty coverage,
2 or an emergency funding provision that says you only get the
3 difference between the loss and what you would have gotten
4 from replacement insurance, people who don't have insurance
5 would probably go buy it.

6 I mean, what is the survey going to do? How is it
7 going to help us decide what to do?

8 MS. SMEAD: It's going to give us information to
9 understand what programs do have currently, because the
10 question that Chairman Dana asked me yesterday which we
11 couldn't answer was, do we know that programs don't have
12 casualty insurance? No, we don't know that they don't. We
13 do know that most of them probably have it.

14 We don't know that they have replacement cost. We
15 also know that some programs are not insured against every
16 loss. For example, a lot of our programs in California
17 cannot afford to by earthquake insurance.

18 CHAIRMAN WITTGRAF: Mr. Uddo?

19 MR. UDDO: I guess the question is, do we want them
20 to have insurance? And if we do, why don't we just make it a
21 grant condition that you ought to have casualty loss
22 insurance, and not -- how long is this survey going to take,

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1 and what is involved in it?

2 It just seems like a long way to get to where we
3 could get a lot quicker by saying, have insurance, or you
4 don't get emergency funds if something goes wrong, except for
5 things like earthquake insurance, like, I am sure there are
6 areas where flood insurance -- of course, that is federally
7 subsidized so that's not a problem usually, but I mean if all
8 the survey is going to do is get us to the point of doing 2
9 or 3, I am just not sure why we are going through that.

10 Of course, I wasn't at the meeting yesterday, and I
11 am sure Howard had some good reason for it. I am being
12 facetious.

13 CHAIRMAN WITTGRAF: Ms. Wolbeck.

14 MS. WOLBECK: It would be part of the '93 funding
15 application, so it isn't like we're doing a whole separate
16 kind of thing, and I think we just felt like we wanted to be
17 sure that we knew what we were doing before we mandated
18 something.

19 MS. SMEAD: In the investigation that staff has
20 done, as limited as it is, into property casualty loss
21 insurance, there are lots of intricacies into is it cost
22 prohibitive, and the deductible amounts have an effect on it.

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1 It is quite a complicated area. I don't know that we know
2 enough about it yet, and maybe we need to find more
3 information.

4 MR. UDDO: If you are coming back with an
5 instrument at the next meeting, I will wait until then and we
6 can discuss it.

7 CHAIRMAN WITTGRAF: Mr. Kirk.

8 MR. KIRK: I have long recommended that the
9 corporation hire an independent insurance consultant to come
10 in and handle the whole panoply of insurance. I mean,
11 somebody that can sit there who doesn't have a stake in what
12 he sells you. He doesn't make more by what he sells you. He
13 comes in and does an objective evaluation. He is going to
14 find that you've got double and triple coverage in some
15 places, you've got gaps in other places.

16 The other thing he's going to do, he's going to
17 tell you, you know, if you've got a \$1 million grant, the
18 person administering the grant ought to have a big
19 deductible, because you can afford it, and the money you pay
20 to get the small deductible is just not worth it. I mean,
21 this is the type of advice that the corporation needs to be
22 able to pass on to the field.

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1 So, I mean, mine is just a recommendation, but I
2 have been recommending it for a long time, and it needs not
3 to be an agent, not to be somebody that is ever going to buy
4 insurance from us, but somebody who is totally and absolutely
5 independent.

6 CHAIRMAN WITTGRAF: Thank you, Mr. Kirk.

7 Ms. Smead, were you going to say anything regarding
8 the Census data and the status of that effort?

9 MS. SMEAD: Yes.

10 CHAIRMAN WITTGRAF: I think all the board members
11 have received the material that you and Ms. DeBettancourt and
12 Mr. Moses and others put together.

13 MS. SMEAD: I guess to highlight that data, it
14 showed that there was a 15 percent increase overall in the
15 poverty population for that Census data that we have. We
16 don't have the data for the territories. It also shows that
17 there have been substantial increases in the south and
18 decreases in the north.

19 And those tables presented various options for
20 calculating grants, taking into account various funding
21 levels, different positions, and we will be looking at that
22 further at the next meeting.

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1 And if anybody -- this offer was made yesterday,
2 but I will reiterate it again. If anybody has any ideas that
3 they would like staff to pursue in terms of how to calculate
4 these things, let us know and we will do computer runs to the
5 best of our ability to answer those requests.

6 CHAIRMAN WITTGRAF: Thank you, Ms. Smead. Ms.
7 Wolbeck?

8 MS. WOLBECK: Thank you.

9 CHAIRMAN WITTGRAF: Thank you. The report of the
10 Inspector General Oversight Committee. Mr. Kirk.

11 INSPECTOR GENERAL OVERSIGHT COMMITTEE REPORT

12 MR. KIRK: Thank you. The Inspector General
13 Oversight Committee, as I recall, has nothing to report. Our
14 primary consideration was the recommendation that we go to a
15 GAGAS audit, and that, at the request of Mr. Dana, has been
16 postponed for consideration at the meeting until we get to
17 California. Aside from that, that is all we have to report.

18 CHAIRMAN WITTGRAF: Thank you, Mr. Kirk. At this
19 time the chair would ask Mr. Fortuno to come forward. Agenda
20 Item 14 pertains to a proposed resolution regarding
21 indemnification of certain corporation officials. I believe
22 Ms. McCollum is passing out at Mr. Fortuno's suggestion a

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1 proposed resolution or resolutions?

2 MR. FORTUNO: There are five in all.

3 CHAIRMAN WITTGRAF: They are all the same. Just
4 changed the names?

5 CONSIDERATION OF AND ACTION ON PROPOSED MOTIONS
6 INDEMNIFYING CERTAIN CORPORATION OFFICIALS IN THE MATTERS OF
7 SINGH VS. THE LEGAL SERVICES CORPORATION, ET AL., AND
8 WILLIAMS VS. THE LEGAL SERVICES CORPORATION, ET AL.

9 MR. FORTUNO: There are five packets there. The
10 bylaws of the corporation require that the corporation
11 indemnify directors, officers, employees, agents of the
12 corporation under certain circumstances. Here, what we have
13 is two lawsuits that have been filed against both the
14 corporation and individuals employed by the corporation,
15 either presently employed or formerly employed by the
16 corporation.

17 One suit is that brought by Mr. Singh, and that
18 suit was brought against LAFLA, Legal Aid Foundation of Los
19 Angeles, one of our grantees, the corporation, and certain
20 present and former employees of the corporation. The present
21 employees of the corporation are Emilia DiSanta and Susan
22 Sparks. The former employees of the corporation named as

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1 defendants are David H. Martin and Edward B. Merkel.

2 What you have before you is an indemnification for
3 each of the -- a proposed indemnification or resolution
4 indemnifying each of these four individuals. If you would
5 like, I can read one into the record. They are almost
6 identical. The change would be the change in name.

7 The fifth document that you have is a proposed
8 indemnification for Alice Dickerson, as she has been named as
9 a defendant in an action filed by Sheila Williams against the
10 corporation and Ms. Dickerson. Ms. Dickerson is the director
11 of the Office of Human Resources of the Corporation.

12 CHAIRMAN WITTGRAF: Let's take one resolution at at
13 time. Why don't you tell us the five resolutions so we can
14 try to make sure that everybody has each of the five proposed
15 resolutions before him or her? Can you identify them, Mr.
16 Fortuno?

17 MR. FORTUNO: Yes, Emilia DiSanta, Susan Sparks,
18 David H. Martin, Edward B. Merkel, and Alice C. Dickerson.

19 M O T I O N

20 MR. RATH: I will move the group, DiSanta, Martin,
21 Sparks, and Wilkerson -- and Merkel.

22 CHAIRMAN WITTGRAF: In the matter of Sing versus

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1 LAFLA, et al. Is there a second?

2 MR. SHUMWAY: Second.

3 CHAIRMAN WITTGRAF: It has been seconded by Mr.
4 Shumway, the motion having been made by Mr. Rath. Does
5 everyone have before him or her the draft resolutions in
6 Singh versus LAFLA, et al., pertaining to DiSanta, Martin,
7 Merkel, and Sparks? Discussion?

8 (No response.)

9 CHAIRMAN WITTGRAF: Hearing none, those who are in
10 favor of adoption of the resolutions --

11 MR. UDDO: Can I ask a question?

12 CHAIRMAN WITTGRAF: Mr. Uddo.

13 MR. UDDO: Is there an inconsistency between
14 indemnifying someone in their individual capacity and then
15 saying, provided, however, that a court of law doesn't
16 determine that they were not acting within the scope of their
17 authority?

18 MR. FORTUNO: I don't believe there is. At this
19 point, we are assuming that they were and basing it on the
20 allegations in the complaint. If at some point later on in a
21 separate action it could be determined by a court that in
22 fact they weren't acting in the best interests of the

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1 corporation, then they wouldn't be entitled to
2 indemnification.

3 MR. UDDO: Right, but are you still indemnifying
4 them individually?

5 MR. FORTUNO: I'm sorry. I'm not sure I
6 understand.

7 MR. UDDO: Well, you've got a paragraph that says,
8 "Be it further resolved that the corporation undertake fully
9 to represent him in his corporate and individual capacity to
10 the extent that he is not represented." And then you say,
11 "provided, however, that in the event it is later determined
12 by the corporation, a court of law, or otherwise that whoever
13 was not acting within the scope of his authority as a
14 corporation employee or in good faith."

15 MR. FORTUNO: That is simply lifted out of the
16 corporation's bylaws, I think, at 16 --

17 MR. UDDO: You don't read "individual" to mean that
18 even if they were not acting in the course of their
19 employment you would have to indemnify them?

20 MR. FORTUNO: No. They would have to be acting in
21 the course of their employment. What has happened is -- if
22 they were acting outside the scope of their employment, then,

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1 no, they wouldn't be indemnified.

2 MR. UDDO: So when you say "individually" you mean
3 that in the course of their employment -- if they are acting
4 in the course of their employment and they are individually
5 cast in damages, you indemnify them.

6 MR. FORTUNO: Yes.

7 MR. UDDO: You don't mean to say that if it is
8 found that they weren't acting in the course of their
9 employment, you still indemnify them for what individual
10 damages they might have to pay?

11 MR. FORTUNO: No.

12 CHAIRMAN WITTGRAF: Further discussion?

13 (No response.)

14 CHAIRMAN WITTGRAF: Hearing none, those who are in
15 favor of adoption of the resolution, which is a resolution
16 pertaining to the four individual indemnification resolutions
17 as to the named individuals in the named litigation, will
18 signify by saying aye.

19 (A chorus of aye.)

20 CHAIRMAN WITTGRAF: Those who are opposed, nay.

21 (No response.)

22 CHAIRMAN WITTGRAF: The ayes appear to have it.

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1 The ayes do have it. The resolution regarding the four
2 resolutions is adopted. Mr. Rath.

3 M O T I O N

4 MR. RATH: Now I would move the indemnification of
5 Ms. Dickerson.

6 CHAIRMAN WITTGRAF: Pursuant to the resolution
7 drafted by Mr. Fortuno?

8 MR. RATH: That's correct, sir.

9 CHAIRMAN WITTGRAF: Is there a second?

10 MR. HALL: Second.

11 CHAIRMAN WITTGRAF: It has been seconded by Mr.
12 Hall, the motion having been made by Mr. Rath. Discussion?

13 (No response.)

14 CHAIRMAN WITTGRAF: Hearing none, those who are in
15 favor of adoption of the resolution of indemnification
16 regarding Alice C. Dickerson in the matter Williams versus
17 LSC and Dickerson will signify by saying aye.

18 (A chorus of aye.)

19 CHAIRMAN WITTGRAF: Those who are opposed, nay.

20 (No response.)

21 CHAIRMAN WITTGRAF: The ayes appear to have it.
22 The ayes do have it. That resolution is adopted.

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1 Mr. Fortuno, is that everything?

2 MR. FORTUNO: That is, Mr. Chairman.

3 CHAIRMAN WITTGRAF: Under Agenda Item 17, then,
4 other business, the chair recognizes at this time a friend of
5 ours, Rosie Newsome, who is good enough to visit some of our
6 board meetings and is with us today, both individually as a
7 client representative and as the first vice chair of the
8 Project Advisory Group, for a few comments she has to share
9 with us. Ms. Newsome, hi.

10 CONSIDERATION OF OTHER BUSINESS

11 MS. NEWSOME: Hi. Hello, everybody. And thanks
12 again for seeing me. I am not here to represent Peg. I am
13 representing clients. The last time that I was before this
14 board, Peggy Santos and myself, we were here on behalf of the
15 national organization. During that time, it is my
16 understanding that funds have been given to support centers
17 to support self-help for clients.

18 And I am here to hear it from this board if that
19 has happened, and if it has happened, Region 5 clients, who
20 are 14 states, and Northern Indiana Client Counsel, and the
21 nine clients from Project Advisory Group who represents the
22 other eight regions.

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1 CHAIRMAN WITTGRAF: Let me ask Ellen Smead, whom
2 you know as the director of our Office of Field Services, to
3 come forward with you, Ms. Newsome, at the table there. She
4 probably best can answer your question. If you want to wait
5 just a moment, I think you posed a question, and I think Ms.
6 Smead is able to answer it. Ms. Smead.

7 MS. SMEAD: I'm not familiar with -- you are saying
8 there was a grant that was awarded. In the past year we have
9 awarded grants to start up five new state support centers, so
10 that's not that. I don't recall giving out any client self-
11 help training funds within the past year.

12 MS. NEWSOME: Okay. May I start again?

13 CHAIRMAN WITTGRAF: Ms. Newsome, certainly.

14 MS. NEWSOME: It was recommended from this board
15 that funds for '93 would go to support centers for self-help
16 for clients. I, for one, have asked that moneys would be
17 given to the national organization. It was stated from one
18 board member, I think, like \$3,000 or \$300, which I didn't
19 -- I don't have it with me. Was it Mr. Hall? One of you.

20 CHAIRMAN WITTGRAF: Mr. Hall. Mr. Hall.

21 MR. HALL: I don't recall.

22 CHAIRMAN WITTGRAF: To my recollection, Ms.

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1 Newsome, there is in the budget recommendation, at least the
2 one made by the majority of the board -- I don't recall the
3 alternative budget resolution -- a line item -- okay, in both
4 budget resolution or recommendations there was a line item
5 for client self-help training or assistance.

6 I don't recall the amount in either of the budget
7 proposals offhand, but we, of course, have no more idea today
8 than you do as to whether or not such funding will be given
9 to the corporation by the Congress, and probably won't know
10 until September at the earliest. Mr. Hall.

11 MR. HALL: I think it may have been \$1.5 million.
12 I know Basile took some issue with it. He said, how would we
13 know how much we give, and what we were going to do, whether
14 it was going to be reinstatement of a REGGIE-like program or
15 whether it was going to be some type of training. So 1.5 may
16 be the figure, but I'm not positive on that. Does that ring
17 any bells with you, Jeanine?

18 MS. NEWSOME: It does.

19 CHAIRMAN WITTGRAF: But today we have no more idea
20 about the status of that funding than you do, and whether or
21 not the Congress will go with it. I think you may have heard
22 Mr. Boehm speak this morning, among others, wherein he

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1 suggested that what indication we have at the moment
2 regarding an increase in funding includes a suggestion of
3 perhaps a 4 percent increase or a \$14 million increase
4 overall.

5 I don't think the budgeteers in the House
6 Appropriations Subcommittee have gotten to the point of
7 determining whether or not those moneys will go all toward
8 basic field grants or whether they will go to some special
9 things such as client self-help training, such as the
10 comparative demonstration project in the area, such as
11 meritorious and innovative grants. We just don't have any
12 idea.

13 MS. NEWSOME: Okay. My purpose and the client's
14 purpose of my being here today is, it is a long-range
15 process.

16 CHAIRMAN WITTGRAF: Yes, ma'am.

17 MS. NEWSOME: And thinking along that long line
18 process, we are asking that we as clients have a contact
19 person when that money is issued from this board to assure
20 that the clients get their input on how that money should be
21 spent and what training they should get.

22 CHAIRMAN WITTGRAF: I think that is a logical

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1 request or inquiry. As our board exists today and will exist
2 for the balance of this calendar year, 1992, I think the
3 logical person is Mr. Hall, together with the members of his
4 so-called Provisions Committee.

5 And if the board were to act in that area or direct
6 the staff to act in that area, we would do so as a board
7 based upon a recommendation from that committee, so if you
8 are looking to sort of a contact person, I think that is Mr.
9 Hall at this point, as he works on the committee with Ms.
10 Wolbeck and Ms. Love.

11 MS. NEWSOME: Thank you. That is all that I have
12 to say, and now that I have my contacts directions from the
13 chair, thank you.

14 CHAIRMAN WITTGRAF: Thank you, Ms. Newsome. We
15 appreciate you having spent the two days with us. We
16 appreciate you coming to Des Moines.

17 Anything further under new business or other
18 business? I would have taken the opportunity again to thank
19 our principal host, Professor Power, but every time that
20 opportunity presents itself he is out of the room.

21 M O T I O N

22 MR. UDDO: I move we adjourn.

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1 CHAIRMAN WITTGRAF: Second?

2 MS. WOLBECK: Second.

3 CHAIRMAN WITTGRAF: Those who are in favor of the
4 motion to adjourn will signify by saying aye.

5 (A chorus of aye.)

6 CHAIRMAN WITTGRAF: Opposed, nay.

7 (No response.)

8 CHAIRMAN WITTGRAF: The ayes appear to have it.
9 The ayes do have it. The meeting is adjourned. Thank you
10 all.

11 (Whereupon, at 2:00 p.m., the meeting was
12 adjourned.)

13 * * * * *

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