

RETURN TO CORPORATION
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TRANSCRIPT OF PROCEEDINGS

BOARD OF DIRECTORS CONFERENCE

VOLUME II

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Moot Court Room
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735 West New York Street
Indianapolis, Indiana

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P R O C E E D I N G S

9:20 a.m.

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3 MR. HARVEY: Immediate to recess yesterday, Mary
4 Weiseman was discussing the proposal for the OCR, and at that
5 point, we recessed. Mary, the floor is yours. Please
6 continue.

7 MS. WEISEMAN: Thank you, Dean Harvey. In
8 addition to the OCR work that the General Counsel's office
9 has been doing in connection with the Operations and
10 Regulations Committee, we've been requested to do a
11 number of things.

12 This morning, I would just like to brief the
13 Board on some of the outstanding questions, which we are
14 addressing, and will be proceeding with further at the
15 committee meeting in August.

16 First is the changes that will -- if Congress
17 or the Senate passes the HR 3480, substantially in the same
18 manner that it's pending, or has been passed by the House,
19 there will be a significant and -- many significant changes
20 to the Legal -- the Legal Services Corporation Act.

21 I think each of you has received a description
22 of 3480, which has been prepared by Dennis Dougherty. I
23 have -- there's 19 or would be 19 substantive changes in
24 the statute, if 3480 is passed.

25 Many of those changes -- I have, for purposes
of explanation or report, I view the changes in three
different areas: management, restrictions on activities,

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1 and sanctions.

2 With respect to management, 3480 would require
3 that State Advisory Councils be appointed by the Governor
4 of each State.

5 If the Governor fails to appoint State Advisory
6 Councils, then the Corporation is required to do so.

7 The State Advisory Council, the statute envisions
8 as having more power, not only with respect to the programs
9 in the State, but also with respect having -- being
10 informed before any grants or contracts are issued in any
11 State, to be informed as to what those are -- the proposals.

12 I think the 3480 would envision much more active
13 role for the State Advisory Councils, in connection with
14 the Legal Services Act.

15 Also, the qualification of recipients would
16 change. Currently, the recipients -- 3480 would require
17 that the recipients be all non-profit, private corporations
18 or private institutions, and that they not, except for
19 private attorneys. Currently the Bar Associations are
20 eligible in other -- for profit organizations, and they
21 must be solely for the -- organized for the delivery of
22 legal services.

23 And then there's mandatory private bar
24 involvement. Another management portion of 3480, is the
25 allocations of funds in the minimum access.

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1 What 3480 would require, is that if minimum
2 access has not been reached, then there will be an equality
3 of Legal Services Funds, an equalization of Legal Services
4 Funds.

5 In the -- I believe in Dennis' memo and in the
6 Legislative History, the -- when the representative who
7 offered this amendment was asked about it, he said -- he
8 was asked if it meant a dollar per dollar equality, and he
9 said not exactly, or not exactly a dollar per dollar, but
10 certainly the equality was one of the issues of equality
11 of funding.

12 Eligibility in Lobbying Documentation, this is
13 in terms of management, more documentation of eligibility
14 and the requirement of the Corporation, to review the
15 eligibility and the documentation that would support any
16 lobbying activities of recipients.

17 The -- 3480 would also require auditing by the
18 General Accounting Office.

19 Currently, the General Accounting Office, although
20 although it audits the Legal Services Corporation, it does
21 not have the authority to finally settle, as it does with
22 government agencies.

23 This 3480, if passed, would give the General
24 Accounting Office that authority.

25 It also permits the Legal Services Corporation

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1 to sue for a specific performance, of the grants or
2 contracts.

3 There is -- there has been done, a memorandum,
4 which was done about two or three years ago, from the
5 General Counsel's office, that reaches the decision that
6 probably the Corporation has that authority right now.

7 It's never been used, but this legislation would
8 clearly give the corporation the power to go in to court,
9 and sue for specific performance of contract and grant
10 conditions.

11 As I say, we probably have that authority right
12 now even without the statute.

13 And then, on attorneys' fees, the attorneys'
14 fees, if they are -- 3480 would provide that if attorneys'
15 fees are awarded in civil actions, they would be turned
16 over to the Corporation, except for costs, that are
17 reasonably kept in any litigation by the litigator, and
18 except for attorneys' fees, where there's mandatory
19 appointment of attorneys.

20 These are several management -- what I view
21 anyway, as management changes in the Act, which would
22 occur with the passage of 3480.

23 Now, the restrictions are -- many more
24 restrictions in the type of services that Legal Services
25 can perform, or recipients can perform.

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1 Lobbying, there's a substantial change in the
2 lobbying statute, as -- or would be, with the passage of
3 3480.

4 I'm going to talk about lobbying a little later
5 and at that point, I was going to compare 3480 with the
6 lobbying statute currently in effect.

7 But, with 3480, there would be no longer, a
8 right to legislative lobbying, legislative representation
9 by a recipient for an eligible client.

10 There would be the right to administrative
11 representation, but not legislative. And there are some
12 other changes that would be made.

13 Class actions would not be permissible against
14 Federal, State or Local Governments. As the bill passed
15 the Committee, there was a caveat in that section, that
16 unless the Board of Directors approved it, you would have
17 no such class actions.

18 That was changed when it went to the floor, and
19 the class actions would be banned altogether, against
20 Federal, State and Local Governments.

21 They have the negotiating requirement prior to
22 filing suit.

23 There's two provisions on -- in Section 13 and
24 14, -- 12; two provisions with respect to litigation or
25 representation concerning homosexuality; one which tracks

1 the language currently in the rider, that is the
2 legalization, any litigation involving the legalization;
3 the other is support, defend, or encourage -- I probably
4 have the words a little wrong; but also, no such actions
5 for those purposes on the issue of homosexuality.

6 There is a prohibition on training for advocacy
7 for political programs, or political activities; and there
8 is a restriction on abortion litigation, unless it involves
9 the life of the mother, as opposed to the current legisla-
10 tion, which is -- that involves non-therapeutic abortions.

11 Sanctions are also maybe one of the most
12 important sections of 3480 or the most -- one of the
13 biggest changes is the enforcement.

14 Section 1011 of The Statute which permits the
15 right to -- presumptive right to refunding, and a right to
16 a hearing if refunding is denied; that would be repealed.

17 There would be no right to a hearing on the
18 denial of refunding. There would be a right to a hearing
19 on termination, but the Statute 3480 reads in terms of
20 a hearing, a fair hearing, the statute currently is a
21 full and fair hearing, whether there's any difference in
22 substance in that, is another question.

23 But, there would be no right to a hearing on
24 that, if refunding were not granted, and there would be
25 no right to a show-cause hearing on suspension or

1 termination for less than 30 days, which there currently
2 is in the Statute.

3 Legal Services Corporation also would have much
4 expanded liability for attorneys' fee, or potential
5 liability for attorneys' fees in litigation.

6 Currently, a court may award attorneys' fees
7 against the Corporation, if a Court determines that the
8 action was brought to harass, intimidate, et cetera; the
9 opposing party.

10 Under 3480, it would be without probable cause,
11 or just cause, so therefore, the standard, which a
12 defendant would have to show in order to be able to recover
13 attorneys' fees, is much lower under 3480, and could result
14 in a significant award of attorneys' fees; in many different
15 cases, could be a significant financial matter.

16 A couple of other restrictions I missed, were
17 the proceedings on desegregation, there's no right to that;
18 and the alien -- currently, the Corporation has a so
19 called alien rider to the appropriation, which prohibits
20 the corporation to represent alien, persons known -- aliens
21 who were known to be in the country illegally.

22 That definition, or that rider, has been
23 interpreted, and it's one of the areas we're looking at
24 with Mr. Stubbs' Committee, has been interpreted by the
25 Corporation to mean that an alien, unless there's a final

1 order of deportation, is -- a recipient is entitled to
2 represent an alien, unless there's been a final order of
3 deportation.

4 3480 has categories, or defines categories of
5 aliens, who are eligible; that is, the permanent residents
6 and other categories who are eligible, and all others not
7 being eligible, for representation by Legal Services
8 programs.

9 Obviously, all of these changes would make --
10 if 3480 were to pass, there would be need for regulations
11 and redrafting of regulations, and many of -- some of the
12 regulations have to be put into effect, fairly quickly.

13 The statute requires, for instance, on the State
14 Advisory Councils, that within 90 days, the Corporation
15 has the duty to issue regulations on that.

16 We have, in connection with Mr. Stubbs' Committee
17 we have -- the Corporation has in the past, and I believe
18 you know, certainly could in the future, because these
19 regulations would be so important to the Corporation,
20 can issue temporary regulations, so that we could issue
21 regulations, and then have more time, even if the statute
22 speaks in terms of 30 days for one section, 90 days for
23 another within which the Corporation has to issue
24 regulations to enforce it.

25 But, 3480 has passed, I think Dennis Dougherty

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1 will talk more about where it is in the Congress. It has
2 passed the House, and has not yet passed the Senate, but
3 if it does go into effect, it will result in a radical
4 change of the statute.

5 MR. DEMOSS: Can we ask questions?

6 MR. HARVEY: Go right ahead, Hal.

7 MR. DEMOSS: Mary, what is -- speaking about
8 this change about attorneys' fees permissible against the
9 Corporation, tell me a little bit about what is the
10 statistical experience of this; and secondly, I'm a little
11 confused as to why -- well, I guess maybe you'll answer
12 it by your statistical experience; what I was getting at
13 is, is there any derivative liability on L.S.C., as a
14 result of actions of the grantee corporations, that comes
15 under this exposure to additional attorneys' fees?

16 MS. WEISEMAN: Currently, there has been one
17 case, it was in -- I believe it's in Texas; but, there was
18 one -- there has been one award of attorneys' fees against
19 the Corporation in litigation where the Corporation was
20 not involved as a recipient, and that -- it is derivative
21 liability.

22 The Corporation was not involved in the
23 litigation, it was a Title VII Discrimination Case. The
24 Judge awarded attorneys' fees against the Corporation.

25 It's a procedural problem, because we weren't

1 involved in the litigation.

2 We come in at the end when an attorney's fee
3 award has been issued against us, without having -- and we
4 don't control the litigation of the recipient.

5 There is another case that is pending currently
6 in the Fifth Circuit, where a court has done the same
7 thing, has awarded attorneys' fees against the Corporation.

8 Briefs have been filed, and in fact, had been
9 filed approximately in March of '82. It's -- it hasn't
10 been decided yet, and the issue there -- the standard in
11 those cases, is much more restrictive than in 3480.

12 You have to show that the suit was brought for
13 harassment and -- but, those are the two cases that I am
14 aware of, where one -- attorneys' fees have been awarded,
15 Corporation had not taken part in the litigation, but is
16 required to pay the attorneys' fees; and the other, where
17 we're in the Court of Appeals right now, arguing whether,
18 in fact, it meets the standard of the current statute.

19 MR. DE MOSS: Do we have indemnification
20 provisions in our grants and contracts, that would permit
21 us to recover back against the grantee, if we get stabbed
22 with attorneys' fees as a result of something that the
23 grantees' actions did?

24 MS. WEISEMAN: I was just asking Clint Lyons,
25 and I don't believe we do. I know we paid the one attorneys

1 fee out of the General Counsel's budget. I don't think
2 we do have a grant condition on that.

3 MR. LYONS: I don't believe we do, either.

4 MS. WEISEMAN: It hasn't happened, you know,
5 it's happened only once, and this is the second time;
6 but we paid it.

7 MR. DE MOSS: Relatively, it doesn't happen very
8 much?

9 MS. WEISEMAN: No, the standard is very high.

10 MR. DANA: Well, the current standard is high.

11 MS. WEISEMAN: Yes, that's right. But 3480 is
12 a different story.

13 MR. DE MOSS: It would lower the gate, and might
14 encourage a lot more attempts to impose liability on
15 L.S.C. for attorneys' fees, than under present law.

16 MS. WEISEMAN: Absolutely.

17 MR. DE MOSS: And, it would seem to me, that
18 just as a matter of prudent business, that this corporation
19 ought to have an indemnification provision from those with
20 whom it contracts and makes grants, that if it is their
21 actions, and their employees which expose us to liability,
22 that we'd have an offset right against them.

23 Why don't you all take a look at that from a
24 established pinpoint?

25 MR. DANA: It would -- Hal, I was concerned

1 about the same matter, and I don't know if we have an
2 opportunity to make that clear in the statute.

3 If this is going to be passed, it would seem
4 that a provision authorizing us to deduct such a fee award
5 from a future allocation, would make that clear.

6 The statute -- the existing statute and as
7 proposed, says that any such costs and fees shall be paid
8 directly by The Corporation.

9 Without some language in there, I -- we might
10 have a hard time charging back, is my concern.

11 MR. HARVEY: It could condition our grants.

12 MR. DE MOSS: It may be that the answer will be
13 we don't have the authority to so condition our grants.

14 I was hoping maybe, that as far as grants and
15 contracts were concerned, we were dealing on the basis of
16 separate corporate entities, fully able to negotiate and
17 enter in to whatever contractual agreements they wanted
18 to.

19 Now, you've raised a problem that I didn't think
20 about.

21 MR. DANA: It may not be a problem, but if we
22 could -- if it's going to be a problem, in a contractual
23 way, to deal with -- make it clear up front, that if the
24 Corporation itself gets tagged, we're going to deduct it
25 from next years appropriations, so be careful.

1 If we can't do that, because of the statute,
2 we better -- while we -- while the statute is still in the
3 Congress, talk to Congress about it.

4 Because I think it -- I think the purpose of the
5 provision is to make sure that the award is paid, and the
6 corporation presumably has more money than the recipient.

7 MR. HARVEY: Bill?

8 MR. EARL: Well, I mirror the feelings expressed
9 here. I think it's very important that -- if we have some
10 kind of cause of action, perhaps not even waiting until
11 the next years allocation, but if the wrong was done by
12 the program, or recipient, we need to have a way to go
13 against them to recover it.

14 We should not be penalized for whatever illegal
15 actions or has warrant to award of attorneys' fees; that
16 it ought to come out of the program in the current year.

17 MR. HARVEY: Mary?

18 MS. WEISEMAN: In connection with the legislative
19 representation, administrative representation, we have
20 sent to each Board member, a memorandum, respecting that --
21 the current statute, regulations and the Moorehead
22 Amendment.

23 The issue of legislative and administrative
24 representation has been one that a lot of debate has gone
25 on about.

1 3480 would -- if enacted, would work a substantial
2 change in the authority of the programs in the corporation,
3 to do any legislative representation.

4 Currently under the statute, the Corporation is
5 forbidden from doing any direct lobbying, except with
6 respect to its own statute, and with respect -- when it's
7 requested to by Congress.

8 The recipients, on the other hand, are -- or
9 the Corporation is required not -- to make sure that the
10 funds of the Corporation are not used by recipients, for
11 lobbying activities, except in three areas, and those
12 exceptions have been the ones that have caused many problems.

13 The exceptions are, when representing an eligible
14 client, with respect to a -- when it's necessary to provide
15 legal advice or assistance.

16 The other area is when the client or the
17 recipient is requested to make a representation before a
18 legislative body.

19 And, the third area is on its own -- when the
20 legislation effects the recipients themselves.

21 Regulations were issued to implement the statute,
22 and it's contained in Part 1612 of The Corporation
23 Regulations.

24 The difficult issues involved in lobbying and
25 the statutory history of that is detailed in our memorandum.

1 It is our conclusion, based on the legislative --
2 or at least our current review of the legislative history
3 and the statute, that the Corporation has authority to
4 require that the programs produce more documentation, that
5 they are in fact, representing eligible clients, that they
6 are not soliciting clients, and that the representation is
7 on behalf of a client.

8 One thing was done in 1981; new regulations were
9 issued as a result of criticism of the lobbying activities.
10 New regulations were issued requiring that the recipients
11 have proof that they have an eligible client.

12 There was suggested a retainer agreement, and
13 a suggested format of retainer agreement, which I believe
14 the program we were talking about yesterday in terms of
15 retainer -- that's the written contract between the client
16 and the program, to do the legislative lobbying for them.

17 That is a would-be documentation to show the
18 nexus between the client and the legislative activity.
19 This revision of the regulations was just enacted last
20 year.

21 I don't believe there's been a study of the
22 effect of that, or how that's been complied with, as yet.

23 It was an attempt a year ago, to be sure that
24 there was actual nexuS between the eligible client and the
25 legislative lobby, and not the other way around.

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1 We could require, and some of the things that
2 we'll be discussing with Mr. Stubbs' committee, is
3 additional documentation, additional requirements on the --
4 showing that -- that the legislative lobbying is done for
5 an eligible client, and these are areas that we will be
6 discussing.

7 But, the statute does currently, and will not
8 under 3480, permit the legislative lobbying on behalf of
9 an eligible client, if it's necessary for the provision of
10 legal advice and services.

11 The regulations speak in terms of not necessary
12 for the provision of Legal Services, but legislative
13 lobbying for an eligible client, where it may affect a
14 client's -- a particular statute may affect a client.

15 Some view that as a less restrictive language,
16 than the statute itself, where it says it's necessary to
17 the provision of legal advice and assistance.

18 It may be viewed just the opposite, as being
19 tied to a particular statute, or particular legislative --
20 the regulation ties it to a particular legislative
21 activity, that is rather than necessary to provision of
22 legal advice or assistance.

23 So, it could be viewed one of two ways, as more
24 restrictive than the statute, or as less restrictive in
25 use of the terms necessary and particular legislative

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1 proposal.

2 With respect to the other area, where we do
3 believe there is certainly room for something to be done
4 right now in connection with the Moorehead Amendment,
5 that was passed in 1979 and has accompanied all the
6 appropriations of the Corporation.

7 It prohibits the use of Corporation funds for
8 the -- for lobbying and the exact language -- which escapes
9 me at the moment -- that prohibits the use of Corporation
10 funds for the -- to -- just one moment -- "no part of
11 this appropriation shall be used for publicity or
12 propoganda purposes, designed to support or defeat
13 legislation pending before Congress or any State
14 Legislature."

15 This is the same language that has been used
16 in the appropriations for Treasury and Postal Service,
17 with the exception that it did not apply to State
18 Legislatures.

19 Prior to this year, it had been the Corporation
20 position that Moorehead neither added to, nor subtracted
21 from the authority of the Corporation, to engage in
22 legislative lobbying.

23 That position was criticized by the General
24 Accounting Office, and as a result, we have been drafted
25 an instruction, which we think will enforce the Moorehead

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1 Amendment.

2 The Moorehead Amendment would prohibit the
3 so-called "Grassroots Lobbying"; that is, appeals to the
4 public to urge their Congressmen to -- or their State
5 Legislatures, to support or defeat legislation.

6 It's our position that not only does that apply,
7 -- it applies as a restriction on the statute itself, even
8 if the statute itself would permit that type of lobbying.
9 If it's the grassroots lobbying, Moorehead prohibits it,
10 and it may not -- Corporation funds may not be used for
11 that purpose.

12 One -- we had suggested in a memo, which is
13 being rethought right now, that perhaps it should -- the
14 Moorehead restriction should be implemented by an
15 instruction, since -- and the reason for that was that
16 it is an appropriations rider. It may or may not be on the
17 1983 appropriation, although it's been on for several
18 years, so I think we could probably expect it will be.

19 That instruction is quicker, and you do not --
20 you can just publish it, and that it would be -- since
21 it is an appropriations rider in an appropriate way, to
22 implement Moorehead.

23 However, because of the serious -- the Corporation
24 views the matter very seriously, and the lobbying in
25 violation of the Moorehead Amendment seriously, that it

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1 would be better to implement it by regulation with comment
2 and with the opportunity for comment prior to the time it
3 becomes a regulation.

4 That was one of the things also, that we would
5 be discussing with Mr. Stubbs' committee, whether we
6 should -- what actually the language of such regulation
7 or proposed regulation would be, and then the format in
8 which it would be issued.

9 MR. OLSON: Mary, can I just ask, what is the
10 relative effectiveness, in terms of obtaining compliance,
11 in this Moorehead area, of proceeding with a regulation
12 change, or an instruction, or a grant condition, or some
13 other mechanism to communicate our Board policy to the
14 recipients?

15 MS. WEISEMAN: Well, I think that the instruction
16 and regulation, as long as it's published and the grantee
17 has notice of it, they're bound by it.

18 Both of those would be binding on the grantees.

19 The regulation, of course, is a -- the method,
20 the regulation method, is a more -- it allows a comment
21 period, it allows for the Corporation to rethink the
22 position based on comments; it's one that is more
23 structured.

24 The instruction comes from the Corporation
25 President, as opposed to The Board, so that it would

1 probably, or it may not, be seen to have the authority of
2 a regulation, but they're still binding -- both of them
3 would be binding.

4 A grant condition is another matter certainly,
5 of determining what the grantees will do, or what authority
6 they have to utilize the funds.

7 A grant condition -- that would not take effect,
8 of course, until the new grant periods.

9 An instruction could go out and be effective in
10 30 days. A regulation will take longer than that, and a
11 grant condition -- one problem I can envision with a grant
12 condition, if it's viewed that it is not in conformity
13 with the statute, that that could result in litigation,
14 that if it's not a regulation, they have no notice of it,
15 but they're entitled to the comments, or the recipients
16 would be entitled to a comment period, and it can't be
17 done by grant condition.

18 I can see those kind of problems arising, and
19 I think the regulation method probably would be the best
20 way to go. That would be my thought.

21 MR. OLSON: As between regulation and instruction
22 though, in terms of legal force and effect, you see no
23 difference?

24 MS. WEISEMAN: No, I see -- no -- no difference
25 as -- it has to be -- the instruction has to be 30 days.

1 It has to be published for 30 days. But it would still
2 bind the grantees.

3 MR. DE MOSS: This discussion bears most
4 pertinently under the statutory provision and the regulation
5 provision it speaks to the question of no use of funds of
6 L.S.C. directly or indirectly, and then you talk about the
7 lobbying, and then there's some exceptions.

8 Immediately after that, in both of the statute
9 and the regulation, is a blanket prohibition against any
10 political activity by any employee of any recipient.

11 What is the status of interpretation of that
12 language, and I ask it in the light of -- I looked at
13 Websters, not that that's any authority, but politics is
14 generically defined as "the process of government, the
15 passage of laws, the election of individuals", the whole
16 realm of political activity.

17 What is our existing interpretation provisions
18 as to that provision, which it seems to me is even broader
19 in its scope, and more immediately directed at activities
20 of Counsel?

21 MS. WEISEMAN: The legislative lobbying, is on
22 behalf of an eligible, must be on behalf of an eligible
23 client, unless it involve the program itself, or they're
24 requested to provide information.

25 Political activity, is the activity of the

1 attorney, or the employee, for himself or herself.

2 It's the -- the Hatch Act prohibition, which is
3 applicable to the Corporation employees, and to the
4 attorneys of the programs.

5 That is, while they're providing legal
6 assistance, they may not engage in political activity.

7 The difference between that, is political
8 activities for their own projects, for their own -- and
9 not in representation of an eligible client.

10 That's the difference and that's how it's been
11 interpreted before.

12 If, in fact, an employee or an attorney of a
13 recipient, is engaging in lobbying which is not on behalf
14 of an eligible client, that would be prohibited.

15 Both, under the legislative representation
16 section, and perhaps under the political activity section
17 also.

18 MR. DE MOSS: What -- and I'm asking you to
19 probably speculate a little bit; but, as I understand the
20 changes of 3480 would do away with this distinction
21 entirely, is that ---

22 MS. WEISEMAN: Well, 3480 ---

23 MR. DE MOSS: -- that the bottom line?

24 MS. WEISEMAN: Yeah. 3480 would prohibit all
25 legislative representation on behalf of recipients.

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1 MR. DE MOSS: Now, it does -- as I heard you say
2 permit administrative ---

3 MS. WEISEMAN: That's right, on behalf of
4 eligible clients.

5 MR. DE MOSS: Are those terms defined by statute
6 or by interpretation?

7 MS. WEISEMAN: I think they've been fairly and
8 clearly defined under the current statute, what is
9 administrative and what is legislative.

10 I think the statutory history that's in the
11 memorandum clearly shows -- those are questions that they
12 went through initially when the statute was passed,
13 administrative and legislative representation.

14 So, I think those are clear definitions, and
15 could be made clear.

16 MR. DE MOSS: And, for example -- give me some
17 examples of bodies, other than State Legislatures and
18 Congress, who would be known to be legislative bodies.

19 MS. WEISEMAN: Local councils, who act in a
20 legislative capacity, the difference being that it be an
21 administrative agency, which would be making regulations,
22 as opposed to making statutes, or passing statutes.

23 MR. DE MOSS: Ordinances -- I mean, City Councils,
24 County Governmental agencies, to the extent that they are
25 involved in the adoption of county ordinances, or ---

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1 MS. WEISEMAN: Yes, I think they would come
2 within it; and the differentiation being the administrative
3 agencies would be the ones who would be interpreting and
4 regulating the actions of particular agencies.

5 MR. MC KEE: Mary, I would think that the
6 administrative agency, when it refers to things such as
7 local housing authorities, promulgating regulations,
8 administrative hearings in a situation regarding medicaid
9 or medicaid benefits.

10 For example, I would think that if the State,
11 Indiana State Human Resources Commission, or whatever it's
12 called, was acting pursuant to either a legislative statute
13 from the legislature here, or something through H.E.W.,
14 when they promulgated their regulations, there's nothing
15 that would prohibit that kind of participation, as opposed
16 to going to the State Legislature itself, and advocating
17 a particular change.

18 MS. WEISEMAN: What -- well, the statute does
19 even restrict that though. It has to be a particular -- an
20 eligible client and a particular case.

21 I mean, it's very particularized under 3480,
22 as to what even administrative representation -- the
23 criteria for administrative representation.

24 MR. McKEE: Well, we found -- when we were
25 talking in our meeting, is that assuming that there was

1 no 3480, that the language of the Regulation speaks to
2 references -- references are to a -- an eligible client,
3 an it's a client, a client -- all the way through.

4 What apparently happens a lot, is the word "a"
5 becomes the masses, or groups, and for example, when we
6 were reviewing some of the grants and contracts that went
7 out of the Corporation over the last year, to various
8 organizations; under the heading of full training program,
9 people would have -- get a 35 or \$40,000. to run a two
10 or three-day training program.

11 And it's not a matter of the people who came to
12 that conference being all specific eligible clients of
13 a particular program, it would be almost like "ya all come",
14 we're going to have a training program, and this is what
15 is going on, here's what you should do, as opposed to a
16 specific client being educated on a certain matter.

17 And I would think, and what Mr. Stubbs and I
18 talked about, is that in terms of an instruction or lan-
19 guage which gives our interpretation on the regulations of
20 The Moorehead Amendment, as to these particular things.

21 And, at the grants and contracts meeting, a
22 representative from the support center was saying, that
23 maybe they needed some guidance themselves.

24 So, notwithstanding 3480, no matter what happens
25 to that, that committee and our committee, we're thinking

1 of doing something in terms of clarification or instruction
2 based upon the Moorehead Amendment, because apparently it
3 never really, really came out of the Corporation.

4 It's just kind of been floating around, and
5 people doing their own thing.

6 MS. WEISEMAN: Just one -- just one point on
7 that. There is that the difference between the representa-
8 tion of an eligible client, and the educational and outreach
9 function of Legal Services, and that's where there's been
10 tension in that area, which is which?

11 Which is educational, and outreach and telling
12 people what their legal rights are; and what is soliciting
13 a client for a particular purpose. That's where a lot of
14 the issues have been.

15 MR. HARVEY: Go ahead, Mary. Continue.

16 MS. WEISEMAN: That actually concludes my
17 presentation of this report.

18 MR. HARVEY: Alright. Thanks so much. Very
19 well done. I appreciate it.

20 MR. DANA: Excuse me, Bill. Do I understand
21 that we're going to get another presentation on 3480,
22 from Dennis?

23 MR. DOUGHERTY: I'm on the program to discuss
24 3480. I'm not certain precisely what's left to discuss.

25 MR. DANA: Well, I didn't know -- I have a few

1 questions, and I didn't know who to ask. So ---

2 MR. HARVEY: Yes, Dennis come down here, and we'll
3 discuss this all.

4 MR. DANA: So, if Mary could stay ---

5 MR. OLSON: Well, why don't we have both of them?

6 MR. HARVEY: Later in the meeting, ladies and
7 gentlemen, there's going to be time for public comment on
8 the matters we've considered these last two days.

9 MR. CAPLAN: There may be some stone that's been
10 left unturned, Denny. Mary didn't lift them all.

11 MR. HARVEY: This is Dennis Dougherty. Dennis,
12 one thing you might be able to help out on, is just what
13 the legislative status, progress, prognosis, history of
14 it, which Mary didn't touch upon at all.

15 MR. DOUGHERTY: Thank you, sir. I was asked to
16 come and provide an update on where we stand legislatively,
17 and first of all, let me report that with respect to an
18 appropriation, there has been no action yet scheduled in
19 the Subcommittee on Commerce, Justice, and State Departments.

20 That action is expected to take place in August,
21 with floor action either in August or in September, raising
22 the probability that for at least a portion of the year,
23 that our appropriation will be contained in a continue
24 resolution, extending the spending authority of a number
25 of government agencies, either at this years appropriation

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1 level or at level arrived at in that House measure, which
2 is -- will be considered, of course, first in the House
3 of Representatives.

4 MR. HARVEY: Excuse me, please. What's the level
5 on the House measure?

6 MR. DOUGHERTY: There is no -- the House has not
7 acted yet. But, ordinarily in a continuing resolution,
8 the Congress has the option of selecting either the funding
9 level specified in a measure which has passed either body
10 of The Congress, or funding level adopted the previous
11 year.

12 And, we will not have October 1st, in my
13 judgement, a Senate passed appropriation. We will have
14 at that point, a continuing resolution referencing either
15 the figure adopted by The House, or our current appropria-
16 tions level of \$241,000,000.

17 MR. De MOSS: Dennis, let me ask you, in 3480,
18 which I think it has been passed by The House, there are
19 funding levels specified, if I remember correctly, of
20 \$241,000,000. for this year, and one or two years in the
21 future.

22 MR. DOUGHERTY: 3480 authorizes \$241,000,000.
23 fiscal year '82, which is the year we're currently in,
24 and fiscal year '83, which is the year for which
25 appropriations will be considered.

1 It's just a two year ---

2 MR. De MOSS: If the Congress is faced with
3 adopting a continuing resolution, do you feel they would
4 look to that specific legislation passed already by The
5 House for purposes of fixing the funding level; or would
6 they look to whatever are these preliminary estimates
7 under the budget resolutions, that have just been through
8 the mill?

9 MR. DOUGHERTY: I don't think either one of
10 those are -- what is most relevant, is the figure that was
11 adopted for last year, in terms of an appropriation.

12 If 3480 became law, of course, that would be a
13 ceiling on our appropriation. But I don't think that
14 purely as an authorization bill that's just passed one
15 House, that its amount is -- had that sum not been
16 appropriated last year, I wouldn't think it'd be terribly
17 relevant.

18 MR. DE MOSS: Our best argument then, as far
19 as the continuing resolution, is 241 is what we are now
20 operating under, and that ought to be the level at which
21 the continuing resolution speaks about continuing from.

22 But, is that a -- is that fixed in any way?
23 Could the continuing resolution make any change in that
24 amount?

25 MR. DOUGHERTY: If the House had passed an

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1 appropriation measure specifying a different amount.

2 MR. DE MOSS: Prior to the time of the adoption
3 of the continuing resolution?

4 MR. DANA: Dennis, during our tenure on The
5 Board, I am not -- unaware of our ever having taken a
6 position on any of the legislation pending before Congress.

7 Is there an existing Corporate position with
8 respect to these bills?

9 MR. DOUGHERTY: With respect to the HR3480,
10 the Corporation did not -- President Bradley did encourage
11 the Senate to take up the measure.

12 He did not specify a particular position on
13 individual provisions of it.

14 The Board of Directors adopted a set of
15 principles early in the authorization process last year,
16 fairly generalized set of principles; referring to the
17 importance of local priority setting, the responsibilities
18 of an attorney to his clients, limiting the restraints
19 placed on that, and so forth, without specifically getting
20 into questions of alien riders, class action suits, et
21 cetera.

22 MR. EARL: Dennis, am I correct in understanding
23 that there are hearings coming up at which the Corporation
24 will have the opportunity of presenting its position on
25 3480 provision?

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1 MR. DOUGHERTY: No, ---

2 MR. EARL: The Senate ---

3 MR. DOUGHERTY: Let me turn now from the

4 appropriation to authorizing legislation. There is a

5 measure that was introduced in February of this year, by,

6 -- I'm sorry, in April of this year, by Senator Simms of

7 Idaho, and a number of his fellow litigants in a lawsuit,

8 brought Iowa, by Senator Grassley, fellow Members of the

9 Congress and some State Legislators from Iowa.

10 That legislation is -- was proposed for hearings

11 this past week, the hearings were deferred, but will

12 probably be held some time in the months of August or

13 September by Senator Denton's Subcommittee on Aging, Family

14 and Human Services, jointly with Members of the Senate

15 Judiciary Committee, who also have an interest in the

16 matter.

17 That bill, hearings are scheduled, and there

18 are indications that the Corporation will be asked to

19 testify.

20 The -- with respect to HR3480, there is no

21 currently scheduled hearings in the Senate, on that measure.

22 Let me turn, first of all, to what S2393 does,

23 if I might. That bill, in your Board book, you may wish

24 to refer to it -- as I mentioned, the bill arises from a

25 suit that was filed last year, 1980, challenging lobbying

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1 activities of The Corporation, and a number of its
2 grantees, challenging them with respect to violations of
3 the Legal Services Corporation Act, and the Moorehead
4 Amendment.

5 The Court never reached the merits of the case,
6 deciding -- dismissing the suit, on the grounds that there
7 was no right of action, no right to bring action to grant
8 it to persons including Members of the Congress, to enforce
9 the terms of the Legal Services Corporation Act.

10 In arriving at that decision, the Court looked
11 to the factors that were cited in a landmark Supreme Court
12 Case, Court-Rigby-Ash , which includes a number of items,
13 but the most significant of which is there anything in
14 the legislative history from which we can imply a decision
15 to grant or deny a right of action to enforce the terms
16 of the statute.

17 In the case of our Act, there was a specific
18 debate in 1974 on the subject. The Nixon Administration
19 had included in its proposal for Legal Services
20 Corporation, a proposal that persons aggrieved would be
21 able to bring action to enforce the prohibitions contained
22 in The Legal Services Corporation Act, and that would be
23 able to bring actions seeking injunctive relief, to enforce
24 the prohibitions of The Act.

25 That was debated on the floor of The House. The

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1 House Education and Labor Committee in reporting the bill,
2 omitted that provision from the bill.

3 They felt that it would encourage frivolous
4 litigation, and that it would -- was unnecessary in light
5 of other enforcement mechanisms built into The Act.

6 On the floor of The House, Congressman Dennis
7 from Indiana, I believe, offered an amendment to insert
8 that language back in to the bill.

9 His proposal was defeated 159 to 237. Mr. Dennis
10 and others argued that the experience with the Office of
11 Economic Opportunities ability to control the actions of
12 its recipients, of local Legal Services Programs, were
13 poor; that there was a need for a mechanism to go to the
14 independent entity, such as the courts, to review
15 allegations of violations of The Act.

16 The proponents argued, on the other hand, that
17 there were any number of protections in The Act, cited
18 particularly the State Advisory Councils as a watchdog
19 for reviewing violations of The Act.

20 They cited the authority of the Board of
21 Directors to adopt regulations, monitoring of local pro-
22 grams, the right to terminate funding of parties, of
23 grantees that were in violation of the statute, and so
24 forth.

25 The ---

1 MR. HARVEY: Dennis, may I ask you a question?
2 I mean, after we've finished?

3 MR. DOUGHERTY: Go ahead.

4 MR. HARVEY: 2393 states that any person may
5 bring a civil action. It does not say any injured person,
6 it just says any person.

7 It seems to me that's rather significant, do
8 you agree with that? To say it's very, very broad ---

9 MR. DOUGHERTY: It's very, very broad, and Mary
10 and her staff indicated that their belief is that there
11 would be constitutional standing questions would still
12 be relevant in any litigation brought on the matter.

13 But, those that are prudential standing questions
14 would be precluded by this grant of the right of action.

15 MR. HARVEY: Well, let me ask you another
16 question. You used the expression a moment ago, the
17 Corporation might be asked to testify and I do not know
18 what that means.

19 I'd like to know, is there a history which
20 interprets that phrase, or an alternative question would
21 be if I'm asked to testify in say "X", Clarence says "Y",
22 and Mary Weiseman says "Z", what is the Corporation doing?
23 What is the Corporation which is asked to testify?

24 MR. DOUGHERTY: I don't think that that matter
25 is clearly defined in the statute. The ---

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1 MR. HARVEY: No, I don't either. Is there a
2 practice, is there a common law on this that you're familiar
3 with, in the Corporation, or anyone else that might know
4 about it?

5 MR. DOUGHERTY: I don't know.

6 MR. DANA: I think Clint or Bucky would be best
7 versed on what past practice has been. Who would go up
8 in the past?

9 MR. LYONS: Normally, at the beginning of an
10 appropriation request, the testimony given by the
11 Corporation would involve the President of the Corporation
12 and normally the Board Chair.

13 Throughout the remainder of the process of the
14 appropriation or the re-authorization, the President
15 traditionally, historically has carried the banner on the
16 resolution in presenting the case of The Corporation, to
17 The Congress.

18 MR. CAPLAN: And, on specific legislation --
19 what's been the practice?

20 MR. LYONS: The practice has been that the
21 President, along with his staff, at the direction of the
22 Board of Directors; will present the case of the Corporation
23 on any particular matter.

24 MR. DANA: Bill, let's -- that's a -- if I can
25 follow up on that -- the President didn't go up and just

1 say what he thought, There was some direction given on a
2 piece of legislation given by The Board, wasn't there?

3 MR. LYONS: Absolutely. The Board, as Dennis
4 indicated earlier, would -- at the initiation of re-authori-
5 zation, would in fact either through the adoption of some
6 principles, or some other way, take a position with re-
7 spect to a particular piece of -- a re-authorization
8 amendment or whatever we're spending, before the Congress.

9 And of course, the President of the Corporation
10 would receive their direction from whatever position The
11 Board of Directors took.

12 MR. Mc KEE: Mr. Chairman?

13 MR. HARVEY: Clarence?

14 MR. Mc KEE: I would hope that the staff would
15 circulate these -- I think Dennis referred to a set of
16 principles that the prior Board put together?

17 I'd like to look at those, and see what they
18 were talking about in terms of the statute.

19 My experience in agencies of The Government,
20 where there are Commissioners of Members, where a chairman
21 is up to speak, particularly on a major piece of legisla-
22 tion, such as this is; is that the Chairman of the
23 Commission, will get comments and views of the members of
24 The Commission, and sometimes the -- for example, the
25 Federal Communications Commission -- and sometimes there

1 would be a meeting held when Chairman Wiley was going up
2 to the F.C.C. and his testimony had been circulated --
3 had been developed and members commented on it, if there
4 were any dissenting persons.

5 Sometimes the issue was so important, that all
6 members of the Commission would go, and then all different
7 views were expressed.

8 But I would think that our Board should have its
9 own set of principles, since this is a very important piece
10 of legislation, and some of the pieces, I think, are very
11 good.

12 And, we should develop our own set of principles
13 in terms of direction to the President, before anybody
14 does anything in terms of comments on it, so we can all
15 have our viewpoints.

16 MR. DANA: I couldn't agree more. I think there
17 are some provisions that are very good. There are some
18 provisions which I think are -- do not so qualify, and
19 I'd like to get the staff's position on their evaluation
20 of the impact of some of these provisions.

21 And, I'm particularly concerned about Section (9),
22 which is the private bar involvement section, which ---

23 MR. De MOSS: Let me ask a question. We are
24 back on 3480 ----

25 MR. DOUGHERTY: I was wondering if it might be

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1 possible for me to make a couple of other comments with
2 regard to S2393, and then turn to 3480?

3 MR. DANA: I'm concerned about that too. Go
4 ahead.

5 MR. DOUGHERTY: If -- that's where the interest
6 is.

7 There are several examples of agencies where
8 Congress did explicit several statutes -- where Congress
9 specifically granted private rights of action, and most
10 of those are in the environmental area; The Clean Air Act,
11 The Federal Water Pollution Control Act, The Noise Control
12 Act, The Consumer Product Safety Act, Toxic Substances
13 Control Act.

14 The majority of those require that the plaintiff
15 give notice to the agency involved, prior to commencement
16 of the action; in case of Consumer Product Safety Act:
17 30 days; the case of Toxic Substances Control Act: 60
18 days.

19 And, ordinarily, in the context of agencies
20 that are subject to the Administrative Procedures Act,
21 there is a clear doctrine in the courts, of acquiring
22 exhaustion of remedies and final action by the agencies,
23 that is not discussed in 2393, as it is written out.

24 And, finally, I wanted to mention that the
25 original Nixon provision, was a provision allowing

1 injunctive relief. It was not a proposal like this,
2 that authorized damages, treble damages in the case of
3 S2393 to ---

4 MR. DANA: Dennis, on 2393, a lawsuit may be
5 brought either against the corporation, or a recipient;
6 but only for a wrong committed by a recipient, grantee or
7 contractor, if I read it right.

8 And, I wondered if -- what the thrust of that
9 was. In other words, if on a finding that a recipient,
10 grantee, or contractor has violated The Act, you get an
11 award.

12 But, why would we as -- be a defendant in a
13 situation in which the recipient, grantee, or contractor
14 violated The Act?

15 MR. De MOSS: Probably because we failed to
16 enforce the regulation prohibiting it.

17 MS. WEISEMAN: I believe it's the same idea as
18 the attorneys' fee award against The Corporation. You're
19 not monitoring, you're not doing your job, and you're
20 going to be held liable, is the idea behind it, even
21 though you didn't take part in this particular action,
22 your failure to enforce the statute or the regulations,
23 makes you liable.

24 MR. DANA: I think that's -- I agree, and that
25 means that, in effect, every program bears the expense and

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1 attorneys' fees and the whole problem for the sins of one
2 program, is that correct?

3 MS. WEISEMAN: That's true.

4 MR. DANA: And, -- okay. I understand it.

5 MR. OLSON: I would just add that except for
6 the fact that that doesn't deal with what Hal was talking
7 about before of having offsets, and contractual provisions
8 and that sort of thing, for the errors and omissions and
9 the particular program.

10 MS. WEISEMAN: Currently the law is that there's
11 no private right of action against The Corporation to
12 enforce the statute, and that -- obviously 2393 would
13 change that.

14 It could involve a significant amount of
15 litigation, because there is a significant -- not a
16 significant -- there are a number of cases where the
17 Corporation's been sued; it's been held uniformly that
18 there is no right of action to enforce the statute, and
19 so you can anticipate there would be significant amounts
20 of litigation, should the statute pass.

21 MR. DOUGHERTY: The 2393 authorizes suit to
22 enforce any provision of The Act, which is a broader scope
23 than the proposal debated in 1974, which was focused on
24 prohibitions in The Act.

25 Presumably, there have been suits brought against

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1 the Corporation, questioning the denial of services, and
2 so forth; that presumably also might arise under this --
3 under the bill, as drafted.

4 MR. BOLSON: Dennis, I'd like to reinforce
5 what Clarence McKee said. I think about this particular
6 statute, the timing is becoming important in this --
7 today's what -- the 17th - 18th?

8 I think this is going to come up fairly soon,
9 and I want to encourage the staff and of course, members
10 of The Board, to develop substantial communications on
11 this particular legislation, 3480 also.

12 MR. CAPLAN: Yes, on 2393, we do have a staff
13 paper which I haven't circulated. I just haven't reviewed
14 it carefully myself, it's quite a long one prepared by
15 the General Counsel's Office, and I think we would be in
16 a position shortly to pass it on to you, with suggestions
17 as to what we see the problems and advantages, and alter-
18 natives to 2393 are, and put you in a position to give us
19 some direction, putting together a final paper.

20 MR. EARL: Mr. Chairman? I think 2393, the
21 right of action, which might be created here; and 3480,
22 even if it only had one provision in it, attorney's fee
23 provision, which I think it endangers the Corporate
24 treasury, forget the class action prohibition and those
25 other things which I don't -- several other things which

1 I don't feel at all comfortable with, In light with what
2 Mr. McKee said, I believe it is important that The Board
3 formulate a position on these, even if it requires an
4 additional Board meeting, within the necessary time
5 constraints; it's critical policy matter ---

6 MR. De MOSS: I was just going to inquire of
7 Howard, you were talking amongst us yesterday, about trying
8 to schedule a meeting of the Presidential Search Committee,
9 which of course as a committee-of-the-whole involves all
10 of The Board -- have those -- have you gotten any dates
11 in mind yet?

12 MR. DANA: I think that I've talked with most
13 of you, and I think that we are pointing towards the 16th
14 of August, in Washington.

15 And, if -- I don't know whether the staff is in
16 a position to move with that kind of dispatch, but maybe
17 Mr. Chairman, we could -- as part of the Presidential
18 Search -- or in addition to the Presidential Search, we
19 could have a special meeting to develop a corporate
20 position on the legislation pending before Congress, if ---

21 MR. HARVEY: It's a splendid idea, Howard.

22 MR. De MOSS: Am I correct -- that's Monday,
23 August the 16th?

24 MR. HARVEY: That is correct.

25 MR. De MOSS: Do you feel like you all can be in

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1 a position to have some staff report and comments to us
2 sufficiently ahead of that time, to put us in a position
3 to be able to make solid decisions?

4 MS. WEISEMAN: On 2393, we have submitted a
5 paper. We've got the -- in fact, 3480 is one of the topics
6 for the Operations and Regulations Committee, which is
7 scheduled for the 6th and 7th of August, to be discussed.

8 There may be -- perhaps that could be a precursor
9 to your meeting with -- on the issues raised by 3480, and
10 there may be some -- perhaps some resolution as a result
11 of that committee meeting, that could be utilized.

12 MR. CAPLAN: Yes, I think we're in very good
13 shape on both. 3480 really involves policy decisions for
14 The Board.

15 2393, I think Mary's traced the legislative
16 history and the relative implications, and we have a
17 position on it for that matter, to recommend to The Board.

18 So I think that would not be difficult, and
19 we'll just expedite putting it in final form, not a
20 problem.

21 MR. De MOSS: Procedurally, Mr. Chairman, do we
22 need to take an action now, to set a special meeting of
23 The Board, to consider these matters?

24 It seems to me we probably ought to do that,
25 and if it requires a motion, I think we ought to get it

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44 1 taken care of.

2 MR. HARVEY: We have it on our agenda here, it
3 was under future meeting dates, Item Number 8, and I thought
4 maybe we'd just come back to that under Item Number 8.

5 If you want to do it now, if you'd prefer -- but
6 Bill?

7 MR. OLSON: Can I just ask Dennis is what we're
8 talking about with regard to the Senate authorizing sub-
9 committee hearings on both 2393 and 3480?

10 MR. DOUGHERTY: The hearings that have -- we've
11 been notified -- we were notified concerning a July 13th
12 hearing that has been postponed to a date uncertain ---

13 Well, basically because Senator Denton wanted
14 to have a confirmed Board of Directors and a Corporation
15 that was prepared to make a definitive statement of
16 position.

17 So, the hearings were postponed. That was going
18 to be on 2393.

19 There is no action currently scheduled in the
20 authorizing committee, on HR3480. I wanted to discuss
21 with you the possibility of it arising in the context of
22 an appropriation however.

23 MR. CAPLAN: Or if this Board showed interest
24 in it, then there might be interest in the legislature.
25 It's not entirely out of our control, I think it's a

1 question of what The Board -- how The Board feels about it,
2 parts of the bill -- whatever.

3 MR. EARLE: We need to take a policy position on
4 most of those issues anyway, the sooner, the better.

5 MR. CAPLAN: And then things could ---

6 MR. Mc KEE: Mr. Chairman, in terms of our
7 regulations, I will be talking to Mr. Stubbs, and I would
8 think that he will agree that what we can do at our meet-
9 ing in August, first part of August; since the committee
10 initiated a lot of this discussion; is to go over our
11 positions, and maybe lay some kind of a cursory foundation
12 for The Board's discussion, on the overall picture.

13 It will also give the staff a chance to -- in
14 our discussions, to hammer out some of those issues and
15 what we do not get in to, The Board will kind of add to.

16 MR. DANA: Bill?

17 MR. HARVEY: Yes?

18 MR. DANA: I would hope that Clarence, your
19 committee focused on -- if you would like changes in the
20 statute, which gave you more -- which gives The Board
21 more control over regulations and policy matters, that
22 as part of a discussion of 3480, we do more than just
23 react to the bill, and may suggest alternatives or
24 additional provisions which any one of the committees
25 may think is worth including.

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1 MR. HARVEY: Bill?

2 MR. OLSON: Mr. Chairman, I think that's a good
3 point. I also think that to that end, we might be able
4 to be provided by staff, the various proposals that might
5 have been made, and perhaps closely defeated, just as some
6 of these might have been closely passed, to review, to
7 see if there were some provisions that were suggested, but
8 for one reason or another, not considered favorably by
9 The House at that time, but may again come up with the
10 Senate, and that we might indeed support, or oppose, or
11 whatever.

12 But, if could have that also Denny, I think that
13 would be very useful.

14 MS. WEISEMAN: We have the entire legislative
15 history on 3480 in a book -- in two books -- right now,
16 which we could circulate.

17 It includes all the debate on 3480.

18 MR. HARVEY: Dennis, do you have other items, ---

19 MR. DOUGHERTY: HR3480, the President asked me
20 to discuss 3480 with you, partially in response to a
21 question Mr. De Moss raised at the Audit and Appropriations
22 Committee as to what extent could the restriction -- that
23 the proposals of HR3480 become relevant, as we seek an
24 appropriation this Fall.

25 The -- I have copied for you, the terms of the

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1 Senate appropriations language, from last year, which I
2 want to distribute out.

3 HR3480 was first and foremost a discussion about
4 appropriations for The Corporation.

5 The -- that's where the momentum came from for
6 passing the legislation. The restrictions were imposed as
7 a means of securing support for appropriations.

8 A test votes on the Corporation, feature, in
9 light of the President's proposals on funding, the House
10 Appropriations Committee reported -- when it reported its
11 version of appropriations for us last year; referenced --
12 adopted by reference, HR3480 as passed by the House of
13 Representatives.

14 The Senate, in turn, when it came to their
15 committee, adopted a series of amendments, primarily by
16 Senator Chiles, that included legislative language in its'
17 appropriation bill, the language you have before you there,
18 in four specific areas: (A) In expanding upon Alien Rider
19 that's been in appropriations before; Lobbying -- dealing
20 with the subject of lobbying, dealing with the question
21 of compositions of recipient Boards of Directors, and in
22 the area of class actions.

23 Those measures were never adopted by The Congress
24 because of a filibuster that arose over a school prayer
25 issue, and we ended up being in the continuing resolution

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1 for all of this year, without any -- with no new
2 conditions upon our appropriation beyond those that were
3 contained in the past year's appropriation.

4 But I think this shows the context in which some
5 of the 3480 issues could well arise, even if the Senate
6 Labor Committee does not pursue them.

7 The indications are that the primary impediment
8 to the action in the Senate Labor Committee, is a feeling
9 that with the President's position having been that he
10 would veto legislation authorizing funds for The Corpora-
11 tion, that the struggle wasn't worth it, to take up the
12 Senate's time, and to debate the issues.

13 The Senate did -- committee did report a bill
14 last year, which was never acted on, on the floor, extending
15 the authorization under its current term, but at a level
16 of \$100,000,000.

17 That was a bill that came out during the context
18 of that reconciliation, that struggle. It never went
19 further.

20 The issues raised by the bill -- Mary covered
21 most of them.

22 But let me mention a few that I didn't hear her
23 discuss: There's a good deal -- there are several elements
24 in there relating to the private bar.

25 There is, first of all, the provision which is

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1 Section 3 of the bill, I believe, which deals with the
2 composition of Boards of Director's recipients.

3 First of all, it requires -- it narrows the scope
4 of potential grantees, by eliminating State and Local
5 Governments as potential grantees; eliminates potential
6 grantees, partnerships, corporations; presumably it would
7 exclude law schools and bar associations.

8 It limits the categories of recipients to private
9 attorneys, and organizations organized solely for the
10 purpose of rendering legal services to eligible clients.

11 This would raise a -- also raise a conflict
12 with respect to those of our agencies, our recipients,
13 who receive Older Americans Act Funds, which are for Legal
14 Services to a broader category, than eligible clients.

15 It imposes a requirement that local bar associa-
16 tions, having in their membership a majority of the
17 attorneys practicing in the area, have the appointing power
18 over 50 percent of the Boards of Directors of each
19 recipient.

20 This would differ -- I think the focus there,
21 was on a -- the practice of filling some of the attorney
22 positions on our Board of Directors, by appointees from
23 either minority bar associations, or attorneys -- the 60
24 percent attorney requirement could be satisfied by appoint-
25 ments from other organizations, other than the bar.

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1 And, our current regulations preclude any
2 organization of appointing more than 50 percent of the
3 Board members in a particular category, which means no more
4 than 50 -- no more than half of the attorney representatives
5 or 30 percent of a Board, could be appointed by a single
6 bar association.

7 MR. Mc KEE: Dennis, what would that do to the
8 Reggy Program? For example, the recipient is Howard
9 University School of Law.

10 Indirectly, that would be used for service to
11 clients. But the initial purpose is for training. So,
12 would that be excluded? Are you saying that it would ---

13 MR. DOUGHERTY: That's not the sole purpose
14 of Howard University. I'm not -- is the Reggy Program
15 separately incorporated?

16 MR. OLSON: No, it is not separately ---

17 MR. Mc KEE: It's a grant of the law school,
18 isn't it?

19 MR. DOUGHERTY: The -- in addition, there are --
20 there is a requirement that at least -- in each state,
21 at least one private bar component be funded, and the
22 Corporation is directed to adopt suitable criteria for
23 defining reasonable costs and expenses.

24 The Section 9, I believe it is, of the bill,
25 Howard, that you were referring to, indicating that

1 payments to private attorneys shall not exceed reasonable
2 costs and expenses.

3 The -- in looking at the floor debate, I notice
4 some references to reduced fee payments; but, the intention
5 of the gentleman who offered that language in sub-committee,
6 Congressman Butler, was to preclude the payment of -- to
7 private attorneys of anything beyond their costs and
8 expenses.

9 MR. OLSON: Just so I understand the chronology
10 of what's happened with regard to fiscal '82 -- the order
11 that I understand, and correct me if I'm wrong, is that
12 The House considered 3480, and passed it.

13 The House Appropriations Committee reported an
14 appropriation of \$241,000,000. with the language that's
15 crossed out at the bottom here, "provided that none of the
16 funds appropriated shall be expended for -- as limited by
17 3480."

18 I assume ---

19 MR. DOUGHERTY: Yes, that's correct.

20 MR. OLSON: Okay. And then, this went to The
21 Senate, and The Senate said well, we're not going to
22 incorporate by reference, the entire bill, but take some
23 of the restrictions, and either tighten them or loosen
24 them or whatever, and in the process, ended with a
25 continuing resolution and none of that ever being put into

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1 law.

2 MR. DOUGHERTY: That is correct. But, other
3 provisions -- there are some other substantial provisions
4 that they did adopt; the limitation on lobbying, for
5 example.

6 It does not -- it does eliminate lobbying on
7 behalf of eligible clients. It only permits lobbying at
8 the request -- legislative advocacy at the request of
9 the legislative body.

10 MR. OLSON: Okay, which legislation are you
11 referring to now?

12 MR. DOUGHERTY: The Senate Appropriations
13 Committee Language, that I just handed out.

14 MR. De MOSS: And, what I think The Board needs
15 to be presented to, and to some extent the grantees and
16 recipients, is -- that the appropriation bill adopted by
17 The Senate, was \$241,000,000. with some restrictions,
18 some substantive restrictions, or the authorizations --
19 excuse me -- but The Senate's own appropriation was
20 \$100,000,000. without any restrictions.

21 What did you say on that bill?

22 MR. DOUGHERTY: The Senate agreed with The House
23 in the continuing resolution to a figure of \$241,000,000.
24 for an appropriation.

25 MR. De MOSS: I'm not to the continuing

1 resolution, I'm ---

2 MR. DOUGHERTY: There was an authorization bill
3 that came out early in the debate over Legal Services, last
4 year, that would have been a straight re-authorization at
5 the level of \$100,000,000.

6 There was -- an issue first arose in the context
7 of the Omnibus Reconciliation^{Act},/and the attempt to meet the
8 budget targets last year.

9 And, the assumption that was adopted last year,
10 was \$100,000,000. And, there was a first fight over the
11 President's proposal to defund The Corporation, was whether
12 or not reconciliation bill would be the vehicle for
13 deciding that issue.

14 And, Senator Weicker and Senator Eagleton were
15 successful in getting the Senate Labor Committee to report
16 out a separate bill, dealing with the Legal Services
17 Corporation, had \$100,000,000. level, as opposed to taking
18 that up in the Omnibus Reconciliation Act.

19 In the Reconciliation Act, something would have
20 happened. The bill they reported went to the floor, and
21 was never considered by The Body.

22 MR. De MOSS: But, we're dealing with two actions
23 by The Senate; one you have just mentioned at \$100,000,000.
24 and this one at \$241,000,000; containing some of the
25 restrictive substantive language that was in 3480.

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1 And, I appreciate the staff developing this,
2 because it is the point that I want The Board to be alert
3 to, and to some extent as I say, the recipients of The
4 Corporation is; that there is a tie between funding level
5 and some substantive restrictions.

6 MR. Mc KEE: Mr. Chairman ---

7 MR. HARVEY: Yes, Clarence?

8 MR. Mc KEE: I want to have Mary comment -- is
9 this page 35 of Dennis' handout, relating to lobbying
10 pretty much, the legislation -- it says "which seems
11 even more restrictive than 3880 does."

12 This is Dennis' handout?

13 MR. De MOSS: Well, that's the Senate appropria-
14 tion package.

15 MR. Mc KEE: It says that in terms of restrictions
16 on funds appropriated, "to pay for any personal service,
17 advertisement, telegram, telephone communications, letter,
18 printed or written matter, or any other device intended
19 or designed to influence any decision by a Federal, State
20 or Local Agency."

21 I believe that the other had been legislative
22 matters generally -- that would include the administrative
23 (sic.)
24 privone/ too, I would think, "except where legal
25 assistance is provided by an employee of a recipient, to
an eligible client, on a particular application, claim or

1 case, which directly involves the client's legal rights",
2 which is much tighter than and more particularized.

3 MR. DOUGHERTY: The item which you just read was,
4 -- is the provision dealing with administrative advocacy
5 that's contained in HR3480. Where the Senate Appropriations
6 Committee differed with HR3480 was in the next section,
7 which deals with legislative advocacy, in which the HR3480
8 provided that with respect to communications with The
9 Congress, or say Legislature, requested by that body,
10 could only be on matters directly affecting the recipient.

11 And that small change, was the only change that
12 was -- that's included here. Otherwise, this constitutes
13 precisely the terms of HR3480.

14 As it came out of committee in The House, that
15 same language you just read, was their proposal regarding
16 both administrative and legislative largely.

17 And on the floor of The House, the Cramer
18 Amendment was adopted by a considerable margin, precluding
19 even on particular applications, claims or cases, legisla-
20 tive advocacy on behalf of clients.

21 MR. Mc KEE: One of -- that -- just one part in
22 comment on all of that, Mr. Chairman, it seems that --
23 it's ironic -- I was telling a friend of mine last night,
24 that so many people were so busy working in The Congress
25 and The Senate to keep certain of us off The Board, that

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1 I think they let, in terms of their true constituency,
2 a lot of things fall through the cracks.

3 That's my whole comment on that.

4 (Laughter.)

5 MR. HARVEY: Comment well received.

6 MR. DOUGHERTY: Other provisions of 3480 that
7 Mary didn't specifically allude to, was -- I believe -- was
8 a requirement that to the extent that recipients are
9 representing group clients, that each and every member of
10 the group would have to be individually eligible for our
11 services.

12 Under our current regulations, it suffices that
13 either a majority are eligible under income criteria, or
14 that the group, as its purpose, the improvement of
15 conditions for the poor.

16 MR. CAPLAN: We have some draft proposals to
17 modify that, though. That's well within The Board's
18 authority to -- I don't know that there's much activity
19 along these lines that goes on; but, theoretically at
20 least, an attorney in the field could represent a group
21 that had no poor persons on it.

22 And, so we have some activity that would limit
23 that, or -- and one could confine it to a group that was
24 primarily, or even exclusively composed of indigents.

25 MR. DOUGHERTY: Relevant to our discussion with

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1 regard to the impetus for 2393 and the concern about the
2 ability to hold The Corporation, its grantees accountable;
3 HR3480 contains a provision authorizing the Justice
4 Department, to obtain injunctions to enforce the terms of
5 the statute.

6 It also contains a provision, giving the General
7 Accounting Office, the authority to settle and adjust the
8 accounts of The Corporation, which would allow it to make
9 a determination that funds had been appropriated to The
10 Corporation, were not expended for unauthorized activity.

11 And, I think that -- I don't recall whether you
12 mentioned the fact that there's a prohibition on strikes
13 by employees of The Corporation or its recipients.

14 Otherwise, I think Mary covered the waterfront.

15 MR. HARVEY: Thank you.

16 MR. DANA: I -- I just want to underline a
17 concern that you alluded to, and that's in Section 9. I
18 think that a strict and perhaps fair reading of that
19 section, as fair -- if the Congressional author of the
20 term is correct; would undermine Judicare.

21 And, it seems to -- what the particular provision
22 gives and promotes in the first half of the provision,
23 it undermines in the second.

24 And, I think that would be -- that's a real
25 concern of mine.

Reporter:

Scott

Typist:

Barry 1

Williams

Tape: 8 2

MR. HARVEY: Dennis -- Mary, thank you very much.

Appreciated your comments and observations.

3 The Chair wants to receive at this time, comments
4 from the public at large, The Board does; and so we'll proceed
5 to that way.

6 First, the gentleman right here.

7 MR. HOLLINGSWORTH: Mr. Chairman, I'm Don Hollings-
8 worth. I'm Director of Arkansas Legal Services,
9 and I just wanted to give you one example of what problem
10 I have with 3480 with legislative representation.

11 About two months ago, one of our staff people got
12 a call from the courthouse, and the lady 68 years of age,
13 and she was being threatened , and what
14 had happened in Pine Bluff, Arkansas was the city prosecutor
15 has started to use a general criminal trespass statute, to
16 evict tenants.

17 The landlord can come down and say Mary Doe, is
18 behind on her rent, and this is a statute -- for my memory
19 through the last few years, nobody's used for any time. I
20 think it's clearly unconstitutional.

21 The -- what happened, briefly; the lady was in the
22 hospital. She was served in the hospital, was released from
23 the hospital, and had to go to Municipal Court that day,
24 because the subpoena said, you appear.

25 And, the Municipal Judge, what he did, was he said

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1 you pay a \$200. fine, or you go to jail at 4:00 o'clock
2 this afternoon.

3 And someone who was with her, that knew about
4 us, urged her to call. And what our firm was able to do
5 for her, was negotiate matters, where she could avoid
6 going to jail.

7 The upshot of all this is that we have about
8 20 other clients coming in. And, I know those of you
9 that are lawyers on The Board, will understand what I'm
10 going to say.

11 I'm going to make it very brief, so I don't
12 take up much of your time.

13 You can not, from a litigation standpoint, cure
14 that problem very easily, in Arkansas; because your next
15 on appeal in that case, is a trial de novo , and a
16 client has got to post a bond.

17 The way to tackle that, is through the
18 legislative . You can either do 500 cases,
19 or you can go with a simple bill passed in the legislature.

20 And a client -- especially a 68 year old client,
21 would rather for us to go to her legislator on her behalf,
22 and not go -- saying the only other way you can remedy
23 this, is to post a bond, and go on up to the Circuit Court,
24 then the Court of Appeals.

25 You can't go to Federal Court because of

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1 Younger versus Harris obstention -- we'd be thrown out.

2 And that is just one recent example. I could
3 give you a lot more, where 3480 would work a real hardship
4 on our clients.

5 So, you know, I'm very happy that you all are
6 going to take a look at that. I think that part of the
7 bill, and maybe some others too, were passed in haste,
8 because of all the controversy.

9 But, it has a direct impact on our clients,
10 and it would mean we'd have to spend a great deal of
11 resources, if we could not go to the legislature.

12 And I -- the thing that's happened now, is two
13 other local prosecutors in Arkansas are picking up on
14 this, and it's sort of spreading.

15 And so if our hands are tied when the legislature
16 comes into session next January, or before committees of
17 the legislature this Fall, we can't do anything for that
18 client.

19 So, I hope you'll, you know, really take hold
20 of that issue.

21 MR. De MOSS: Mr. Hollingsworth, you said though
22 in your -- I thought, in your opening remarks, that this
23 was a statute, which in your judgement was clearly uncon-
24 stitutional.

25 MR. HOLLINGSWORTH: And -- what I want to make --

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1 while I didn't want to go in a lot of detail with this,
2 first, we can't stay in -- we can't get the Federal Court
3 because of Younger versus Harris obstention. That's the
4 first thing, so, you've got to go through State Court.

5 The Circuit Court is a trial de novo. You will
6 never get a ruling in Arkansas, that is going to stop that
7 Municipal Judge, unless you get all the way up to the
8 Arkansas Supreme Court.

9 And for a client, to have to keep posting a
10 bond, for just a Municipal Court misdemeanor, on criminal
11 trespass; you keep posting a bond -- I don't think a client
12 should be put through that hardship and that potential
13 liability, to solve that problem.

14 I think it's very unfair, when you've got the
15 simple thing of that problem going to the legislature,
16 okay?

17 And, just because that maybe one Circuit Judge
18 might say it's unconstitutional; say you do have a client
19 that will say okay -- put the bond, go up -- that's only
20 in that one jurisdiction.

21 And believe it or not, there are judges who
22 disagree, and don't always follow what another judge does
23 in an adjoining district.

24 That happens quite often.

25 MR. De MOSS: Do you think there is any way,

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1 I mean, do you have any suggestions for writing some sort
2 of statutory provision to deal with ---

3 MR. HOLLINGSWORTH: What I would -- in regard to
4 legislative representation approach?

5 MR. De MOSS: Uh-huh.

6 MR. HOLLINGSWORTH: What I would do, is -- has
7 to be an eligible client, or if you're requested by a
8 legislative body, and have it right at that.

9 That's my personal opinion. I'm not speaking
10 on behalf of anybody else. But, that's my frank opinion.

11 I can give you another example in regards to
12 need to respond to a legislative body, in the area of
13 unemployment compensation right now, where calls in
14 legislation out of session, we are continually having to
15 take cases to the Arkansas Court of Appeals, to the Arkan-
16 sas Supreme Court, in regard to denial of benefits by
17 Employment Security Division.

18 I have approved those appeals under the "regs",
19 we've won every one of them. And the problem continues
20 to reoccur.

21 We have been asked by one legislative committee
22 to come testify, and we did.

23 Under 3480, if I understand it, we would have
24 been prohibited, and we would have had to say to that
25 legislature, yes we do a lot of these cases and you're

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1 right, we have expertise, but we're prohibited from
2 talking to you, okay?

3 So, that's another current example in my program,
4 where 3480, we continue to mean a lot of our resources,
5 and spend case after case, where there's a more simpler
6 remedy for our clients -- a more fast, more complete
7 remedy.

8 MR. HARVEY: Thank you very much.

9 MR. HOLLINGSWORTH: Thank you.

10 MR. HARVEY: Yes, the back of the room -- way
11 back?

12 MR. MEANY: Thank you. I'm Bernie Meany, the
13 Executive Director of the National Client Council, and I
14 have just a brief request of The Board.

15 And, that is that you remember a month from
16 now, the last hour -- hour and a half, the number of
17 questions you asked of General Counsel about interpreta-
18 tion of the statute, what words meant.

19 The difficulty that you have with certain
20 sections of 3480, Mr. Dana's concern about language in
21 Section 9, seems to undo that which is given in the
22 earlier parts of Section 9.

23 The questions that were raised by Mr. De Moss,
24 about the difference between legislative advocacy and
25 administrative advocacy.

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1 The nuances, the twists, the turns that are
2 there in your discussion of those two bills, concerning
3 one issue -- the delivery of legal services, and what
4 impacts that will have.

5 If you take away the Legal Services program,
6 the ability to represent clients, how is the client com-
7 munity to get the information, and the skill, and the
8 ability, to get changes made in laws that are in fact,
9 negatively impacting on the client community.

10 The other interesting piece for me, is your
11 recognition of how much better it would be, if you could
12 get the changes in 3480 for example, around what happens
13 with attorney's fees, who was responsible for paying
14 those -- how much better, to get the change before it is
15 enacted into law, than later, when you might have to do
16 it by regulation.

17 I only beg that you remember your own conversa-
18 tion, as you make the decision about where you, as a
19 board, are going to be -- as advocates for poor people,
20 in the realm of whether or not Legal Services programs
21 can continue to represent eligible clients before legis-
22 lative bodies.

23 MR. De MOSS: Mr. Chairman, may I ask Mr. Meany
24 some questions?

25 MR. HARVEY: Yes, of course.

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1 MR. De MOSS: Mr. Veany, what I am concerned
2 about, is that this Corporation may be faced with what
3 may be a devil's choice; one, we can get \$241,000,000.
4 if we accept the lobbying restriction, or we get
5 \$100,000,000. if we don't do anything.

6 I would be interested in your comments on that
7 policy problem. Would you rather have, for instance,
8 \$100,000,000. without any lobbying restriction, or would --
9 can you live with \$241,000,000. with a lobbying restriction?

10 MR. VEANY: I ---

11 MR. De MOSS: And what I'm posing, is a policy
12 evaluation of the existence of a lobbying right, what it
13 means value-wise, if -- to have that right, we end up
14 with \$100,000,000. in the total program.

15 MR. VEANY: I don't think the choise --the
16 question before you right now, is where do you stand on
17 administrative representation.

18 At some point in the legislative process, you
19 may have to make a decision as to whether you're going to
20 in fact, step away from a principle that says, Legal
21 Services attornies should be allowed to represent eligible
22 clients; but for pragmatic, political reasons right now,
23 we understand that we're going to have to accept something
24 less than that.

25 Let me give you an example of past precedents

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1 set by The Board.

2 The statute is very clear, that you were
3 supposed to get your appropriations in annual increments.

4 That is, you were supposed to draw down whatever
5 it is that Congress appropriated, in one chunk.

6 For pragmatic, political reasons, because
7 Senator Holland's been Chair of the Senate Committee on
8 Appropriations, -- Sub-Committee; because he did not like
9 the idea of using federal funds to investigate, federal
10 money which the federal government said had to pay interest
11 on; what he said was we will not do that.

12 For pragmatic, political reasons, The Corporation
13 for the last several years, has not drawn down its' money
14 as the statute allows.

15 So, there is a different question. The question
16 is whether you will say to The Senate, and to The House,
17 "This is a restriction which we, as members of The Board
18 of The Corporation, do not think should be imposed", or
19 is the recognition that if at some point in time down the
20 line, in order to get the necessary votes to keep the
21 program alive, it may have to be that restrictive, but
22 it doesn't have to come from this Board.

23 That's the only difference -- it does not have
24 to come as a policy statement from this Board, at this
25 time.

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1 MR. De MOSS: Well, I don't want to be argumen-
2 tative with you, but I deem it to be one of the principle
3 functions of this Board, to get as much money for this
4 program, as we can.

5 And, I feel in my judgment, that the decision
6 is coming, the choice. They're -- in my judgment, the
7 legislative history demonstrates a tie between funding
8 level, and some additional restrictions on the activities
9 of The Corporation and its recipients.

10 So, you may say, put it off to another day and
11 hope that we don't have to make it, and -- but, what I
12 would really like to hear is, assume that we have to make
13 it.

14 What would be your choice? Would you rather
15 have \$100,000,000. in the total program, with no change
16 in the statute, or would you rather have \$241,000,000.
17 with some sort of a lobbying restriction?

18 MR. HOLLINGSWORTH: There's a client right here
19 before me, okay? I'll -- I won't answer it, I'll let her
20 answer it -- because I'm not at risk at this moment.

21 FROM THE FLOOR: I would say --
22 but, I am from northeastern Minnesota and I sit on our
23 local Legal Aid Board, and I'm eligible client,
24 and after sitting here yesterday, one of my biggest concerns
25 is that The Board would take the time to get some client

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1 input on your delivery system -- no
2 restrictions.

3 I would like to see that our local Board could
4 continue to decide what by means of
5

6 MR. Mc KEE: What do you think about Mr. DeMoss'
7 question that he put to Mr. Veany, though?

8 FROM THE FLOOR: Well, if you said me tomorrow,
9 that our -- that we would not be receiving -- the difference
10 between \$100,000,000. and \$241,000,000. -- yes, I would
11 say so what.

12 MR. HARVEY: Over here in the far corner -- yes?

13 MS. HUDSON: My name is Aretha Hudson, and I'm
14 a member of the Board of Directors of
15 Legal Services.

16 I'm an eligible client. I'm also a Regional
17 Representative of National Clients Region
18 4.

19 I have some concerns about what I've been
20 hearing for the last couple of days. I have a slightly
21 different perspective at this point.

22 I'm not -- I have a concern with the language
23 that I've been hearing from the attorneys who've made
24 various presentations here.

25 One of the things that I have -- I guess when

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1 the lawyers were talking to pay attention
2 to some of the little words that they not so much be
3 such glorious ones, that you cannot find, even in the
4 dictionary.

5 But some of the little words, like want and
6 need.

7 I sat here yesterday, and I listened to a
8 gentleman, I think, from the American Bar Association,
9 talk about what clients wanted.

10 And, it bothered me -- in fact, it outraged me,
11 to have a member, a distinguished member of The Bar,
12 talk about what eligible clients want.

13 I thought the spirit of Legal Services Corpora-
14 tion Act, was to guarantee that, what they had already
15 assessed, in terms of what the majority of poor people,
16 eligible poor people needed, -- that the spirit of The
17 Act, was to ensure that they got just that.

18 I had some problems with someone talking about
19 what I want, because I know -- and I've been all over this
20 country with this program; that some of the attorneys'
21 inside the Corporation, have a way of finding these clients
22 who are representing the individual wants, and never
23 really get to the heart of what so many of us really need.

24 Wants go on and on and on, needs have been
25 defined in this program, and I don't think I have to tell

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1 anybody in this room, what the majority of people living
2 in poverty, need, from the Legal Service program.

3 I've heard these comments so many times, you
4 know, they find these clients, and even if some of the
5 local program -- a person goes in there with something,
6 a real need -- only to come out of the program and have
7 been told what they really want.

8 You may go in there and say, I need some coun-
9 selling on custody of my child, have a lawyer tell you,
10 no, you don't need that -- what you want is a divorce.

11 And I've heard these kind of comments -- and it
12 bothers me, it bothers me a great deal.

13 You've had all kinds of representatives here
14 from the various support centers, and I can't speak about
15 whether or not there's a need for a lot of these centers.

16 The truth of the matter is, the majority of
17 eligible clients out here, don't even know that these
18 support centers exist.

19 They don't know what they do -- I've been to
20 a lot of their seminars, and whatever; and whenever I go
21 it's always a matter of joining some other coalition and
22 they never seem to tie these things in together.

23 I think I can safely say that some of the support
24 centers, and I think this Board of Directors has a problem
25 with some of the ways that you talk about -- you identify,

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1 and we've seen it too.

2 I've seen it all over this section. And, I
3 think the reason we see it, is simply because we have
4 lawyers out here, concerned with what lawyers need, or
5 really what the client wants, and I think it's factless.

6 I really think it's factless. And you never
7 get to solving any of the problems or the rest of the issues
8 that The Corporation has guaranteed as the needs of poor
9 people eligible for these services.

10 I can tell you how these organizations that
11 exist out here, use this Corporation's funds, for purposes
12 other than what's intended.

13 Clients never see some of this money. I've been
14 to seminars, where I've been told that the information
15 that I would learn, or that I would gather, I could take
16 back to my community and use it.

17 I've been in seminars where they had groups
18 of farmers teaching them how to farm. I don't even have
19 a back yard, I couldn't -- I couldn't see any sense of
20 a lot then.

21 And I know, for a fact, that some of these
22 organizations use these corporation funds. I'm on a Board
23 of Directors, and in the middle of all of this retrenchment,
24 and what-not, find myself being sued by some of these very
25 same attorneys who won't even let me decide or us decide

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1 amongst ourselves, we want to represent us.

2 They tell us that we don't need that, -- what
3 we want you to have.

4 And, we have a serious problem -- I have a serious
5 problem with the language and terminology.

6 There's a lot I could say about the private
7 attorneys involvement program, a lot that I won't say --
8 the gentleman that was speaking about -- that spoke about
9 class action suits, the fact that he said, I think, clients
10 don't want class action suits -- I thought that was ridi-
11 culous.

12 But, if he was referring to certain kinds of
13 class action suits, then I would agree with him. I could
14 even safely say I probably agree with Mr. Reagan, you know,
15 on some of these class action suits, and what they're
16 about.

17 We don't need, for example, class action suits
18 on homosexual rights and prisoners rights. The truth of
19 the matter is, the majority of people eligible for these
20 services, living in poverty, their needs are not for
21 prison reform, and homosexual rights -- we have other
22 needs, that have already been decided.

23 And, I have to agree with Mr. Reagan, in princi-
24 ple, on some of the waste; and I think that's why there's
25 so much confusion in the Legal Services Corporation,

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1 because I think the spirit of The Act has been violated,
2 we have attorneys who come -- travel all over this country,
3 to tell you and have told you -- this Board, what we want.

4 And I think if we concern ourselves -- if this
5 Board, concerns itself with what the majority of people
6 in this country need, living in poverty eligible for these
7 services; then, it may be effective.

8 And, that's what I would like to see from this
9 Board -- some national action, along those lines, to
10 concern this Board -- concern itself with what the majority
11 of the people really need, and not what they want.

12 Thank you.

13 MR. HARVEY: Thank you.

14 MR. McKEE: Thank you.

15 MR. HARVEY: Yes, ma'am?

16 MS. ELLIS: Good morning, Mr. Chairman, and
17 Board members. I'm Irene Ellis, from St. Louis. I'm
18 Missouri State Chairperson, and I'm not here with a com-
19 plaint.

20 I'm here with a plea and to reaffirm your
21 commitment, when appointed.

22 Your role, when appointed, was to serve your
23 client, give him quality service, to see that they receive
24 it, from everywhere.

25 On my right here, we have Annie Laurie Slaughter,

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1 whom I have known for about 30 years.

2 She's a beautiful worker -- she's a community
3 worker. She works with clients, and has been all her
4 life.

5 Here we have Josephine Worthy, another client.
6 I understand you only have two clients on your board.

7 Josephine has served the clients beautifully.
8 She has not done what we wanted her to do at all times,
9 but she has served us well.

10 Now, why would you not give quality services
11 to the clients, by seeing this woman removed from this
12 board?

13 I am pleading to you, for all clients, from
14 everywhere; to go to the White House, and request that
15 Ms. Worthy retain her seat on this board.

16 That is a plea. And, I don't want it said here
17 this morning, I made this statement and it's forgotten.
18 I want something in writing, and to your response, and
19 what you did about what I'm asking you. Thank you.

20 MR. HARVEY: Thank you, Ms. Ellis.

21 MR. HARVEY: Yes -- right here?

22 MS. HOLMES: Thank you. My name is Avis Holmes,
23 and I'm from Detroit, I'm on the Board of Directors of
24 Wayne County Neighborhood Legal Services, and also on the
25 Board of the Wayne County Clients Council.

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1 I want to briefly speak to a couple of things,
2 but I do have some difficulty in giving an intelligent
3 response to some of the proposals, because I have not had
4 the chance to review them.

5 So, I'm asking if it would be possible for
6 client councils, local and state client councils boards,
7 and boards of directors, to make a response to you on
8 some of these things, if we can receive copies of the
9 discussion papers.

10 I think -- I mentioned boards, and local boards,
11 because I think this is a resource that has not been pro-
12 perly utilized in the Legal Services Program.

13 The -- most of the boards are executive directors
14 dominated, and the Legal Services Corporation, in the past,
15 has dealt primarily with directors.

16 Now, this is well and good, but here we're
17 ignoring a valuable resource that does not cost you any
18 money, because boards do not receive any compensation.

19 I think we have -- at least in my community,
20 and my particular board, the board has tried to act respon-
21 sibly, and they have set up various committees to deal
22 with accountability, and other matters that had come to
23 our attention.

24 But these committees were disbanded, and over-
25 ruled by the Legal Services Corporation, because of staff

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1 direct complaints to The Corporation.

2 And, that brings me to a point of this new
3 Inspector General -- whatever -- enforcement division.
4 I think what we really need is a mechanism whereby local
5 boards can make complaints against the staff of Legal
6 Services, because we never really deal with the board,
7 we only deal with the staff.

8 And sometimes, the staff is influenced unjustly
9 by program staff, and by program directors; and so then,
10 the entire board and the community has to bear the blunt
11 for these -- I call -- unfair situations, and uneven
12 interpretation of various rules and regulations.

13 So, I think that is what is really necessary,
14 because you have plenty of room on enforcements and what
15 have you; but, the problem comes with how the various
16 staff people choose to address it.

17 You can have -- in one community a program with
18 good -- well, I'd say maybe good rapport with the -- region
19 or, you know, a part of their system -- they're getting
20 away with murder.

21 Another program is being defunded.

22 So, I think if both of us volunteered our ser-
23 vices, for some kind of mechanism that would give us
24 consideration.

25 On the positive side, responding to the issue

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1 of legislative action, here again, I think that your
2 boards can be very effective by directing to bring the
3 problem to me, or to our board, of leading to get to the
4 legislature; because then there's nothing to stop members
5 of that board, from talking to these legislators, because
6 we're not getting -- or is there -- we're not getting
7 paid.

8 So, let's take advantage, I would say, of these
9 resources, where we have problems with boards that are
10 not in compliance, then let's correct that.

11 But then let's use their expertise and their
12 goodwill, to effectuate some of these changes, and then
13 allow our lawyers to litigate, and do the things that
14 lawyers really have a license to do, and do that.

15 Thank you very much.

16 MR. McKEE: I have a question, please

17 MR. HARVEY: Thank you.

18 MR. McKEE: Will you receive a question? Ms.
19 Holmes, I just have -- we heard yesterday, that the In-
20 spector General, the Office of Compliance isn't necessary,
21 because anyone can go to the regional office and complain
22 and it would be taken care of.

23 Is that not your experience? Have you not been
24 helped by the regional office when you have a problem with
25 the staff?

1 MS. HOLMES: My problem is with the regional
2 office.

3 MR. McKEE: Oh.

4 (Laughter.)

5 MS. HOLMES: And that -- there is -- I thought
6 of an inbredness, within Legal Services; and ---

7 MR. EARL: First I heard of that.

8 MS. HOLMES: Well, maybe I shouldn't go accord-
9 ing to all ---

10 MR. EARL: That's alright.

11 MS. HOLMES: This is really a very -- long story,
12 but suffice to say that we have tried to bring this pro-
13 blem to the attention of the Legal Services Corporation,
14 and there's simply no mechanism there for boards.

15 You see, the boards are the forgotten part of
16 this whole thing. Yet, we are held responsible when
17 things go wrong -- they always say, get rid of the board,
18 you have too many clients on the board.

19 So, -- you're too active -- it's client dominated,
20 or various other reasons which, those who've been at Legal
21 Services a long time, know exactly what I'm speaking of.

22 And no, I'm not satisfied with the region, and
23 I'm not satisfied with the questions of staff decisions
24 from -- staff making individual spot decisions, and --
25 against one; and allowing others to violate all types of

1 regulations -- I'm not satisfied with it, I think we need
2 to do something about the entire structure of the Legal
3 Services Corporation.

4 Now, I want to say I support Legal Services,
5 with a small "l", I support that; but I think Legal Ser-
6 vices with a capital "L", needs some very serious reform-
7 ing, I really do.

8 I don't think it should be disbanded. I think
9 that they need money to continue, but I think there's a
10 serious problem. You should not try to ignore those pro-
11 blems.

12 MR. HARVEY: You have another question right
13 here, Ms. Holmes.

14 MS. SLAUGHTER: When you call to the regional
15 office, do they respond? You know, when you have problems
16 and you present them to the regional office, do you get
17 an answer?

18 MS. HOLMES: Well, this is -- I'm not speaking
19 of just a simple problem. I guess I'm thinking of some
20 very serious problems that we have had with the regions,
21 that have led to defunding -- or shortfunding -- inter-
22 ference by the region, you know, picking who's going to
23 sit on the board of directors; it's a long story, and it's
24 all -- I have it all in writing.

25 I have all the documentation, and the reason I

1 have these records is because I was chairperson at one
2 time, so I have authentic records of the -- what I say,
3 is unfairness, of the Legal Service Corporation, to a
4 certain board.

5 You see, you have to -- certain boards of direc-
6 tors of certain programs, have advantages that others
7 programs do not have.

8 MR. HARVEY: Ms. Holmes, one more question,
9 sorry ---

10 MS. HOLMES: Yes, sir?

11 MR. HARVEY: I ---

12 MR. HARVEY: You could clarify something for
13 me which I keep going through every time we have either
14 a sub-committee meeting, committee meeting, or board meet-
15 ing.

16 It seems that there are two groups of people
17 in the Legal Services community; there are those who in
18 one way directly or indirectly get money from The Corpo-
19 ration, and in most instances, in proposals that are at
20 even discussions, the Board is told in many ways, you
21 don't need to look at that, you shouldn't bother with
22 this, you should be concerned about other things.

23 Then there's another group who are clients and
24 local board members, who say yes, there are problems and
25 a lot of people don't want to even say that publicly, as

1 you have. They are worried about retaliation, which even
2 shocked me -- don't tell anybody I'm talking to you,
3 things of this sort; but there are a lot of problems.

4 We have two groups, one that says don't touch
5 anything, don't look at anything, everything is okay, the
6 rules are fine the way they are, the regulations are fine
7 the way they are; then the other side, who are the repre-
8 sentatives of people who the statute was designed to help,
9 who say, take a look at this -- we want the program im-
10 proved.

11 So, I was caught in that dilemma as to why all
12 of a sudden -- I thought this was to be a rather united
13 effort that clients, and those in the program are all
14 working towards the same goal.

15 It appears to me there have been a lot of
16 vested interests that have developed. And, you mentioned
17 the concern that you have about not being familiar with
18 3480, and the provisions of the statute.

19 I know that The Corporation provides it's true,
20 gosh, two, three, four million dollars in aggregate, you
21 might say, to various organizations, which theoretically,
22 and it's not lobbying, -- are supposed to keep the
23 or whatever -- clients and local boards informed as to
24 what's pending and what's going on, so that you would be
25 informed.

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1 MS. HOLMES: Alright, I would say that we do --
2 those of us with different opinions -- we do have the same
3 goal, because we all support Legal Services, and I personal-
4 ly feel it's a very noble purpose, and that's why I volun-
5 teer, I'm a volunteer, I don't get paid to work in the
6 program.

7 But, I think that we must discuss our short-
8 comings as whether that's effective. And, I'm not fear-
9 ful of any retaliation, because I have been through all of
10 that with Legal Services, and I survived.

11 (Laughter.)

12 MR. HARVEY: Several of us have, Mrs. Holmes.

13 (Laughter.)

14 MS. HOLMES: But I want the program to be what
15 it can be. Now, I have a very great criticism of training,
16 as it is practiced by the Legal Service Corporation, because
17 it does not, in my opinion, meet the tests of training.

18 You don't just get up and start talking, and say
19 I'm training you.

20 A training should be a structured thing, and
21 have some kind of a -- projected outcome, or measurement,
22 or some types of tests towards material or something.

23 And, much of it -- you know -- is not really
24 that. I think information is good to have, we all need
25 information, so I'm not against that dissemination of

1 information, but it's not necessarily training.

2 MR. De MOSS: You ought to come to our next
3 contracts meeting.

4 (Laughter.)

5 MR. HARVEY: Mr. Olson -- Ms. Holmes?

6 MR. OLSON: Not to prolong you too much further,
7 but I am just delighted personally, to be -- to hearing
8 some of the concerns of the clients.

9 And, with all due respect to client representa-
10 tives; but to finally talk to people directly and hear
11 specific concerns.

12 And, I think that you are going to find, with --
13 over the next months, that with regard to this Board, a
14 particular sensitivity to the exact same kinds of concerns
15 you've raised.

16 I think that -- at least speaking for myself,
17 of how we operate as a board.

18 It is terribly important that we know more about
19 that. If you do have -- I would -- I don't want to be
20 presumptuous, but I would say that if you do have specific
21 certain matters in writing, such that that would be appro-
22 priate to communicate with our Chairman or President,
23 any time.

24 MR. HARVEY: I'd be happy to see it, and if you
25 send it to me, I'll get it to every member of this Board.

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1 MS. HOLMES: Thank you. But, I want to emphasize
2 one thing -- I am, at least, for the services.

3 Now, I've heard something different about certain
4 people wanting to do away with Legal Services, but I am
5 for it.

6 But, I want to make it better.

7 MR. OLSON: I understand lots of things have
8 been said about lots of people, but the only way in which
9 people are going to be able to fairly decide, is for them-
10 selves, and on the basis of performance, and not the basis
11 of rumor and statement; and I think that that is the oppor-
12 tunity that I seek, at least, and I'm sure others -- and
13 I look forward to the future, to improve the program, and
14 to bring it to meet those noble concerns that you spoke
15 of before.

16 MS. HOLMES: Thank you.

17 MR. HARVEY: Howard?

18 MR. EISENBERG: Thank you. I'm Howard Eisenberg,
19 the Executive Director of National Legal Aid Defender's
20 Association.

21 I'm not going to talk about substance, but about
22 the process of your August 16th meeting.

23 I think it's very important that you give some
24 advance thought to how you are going to look at 3480,
25 and 2393, in terms of making sure that you get the maximum

1 amount of information for those people who are knowledge-
2 able enough, political as well as substantive history of
3 3480, how that came about.

4 Those of us who were on more or less the peri-
5 phery of the process in the last 18 months, know that
6 people who -- in the corporation were working on this,
7 are no longer on staff.

8 And I'm concerned that if you proceed without
9 a -- more people, or more information as you discuss the
10 individual prohibitions, and the individual restrictions
11 of 3480, that you may not be getting as full an informa-
12 tion, or as accurate an idea of where things are.

13 For example, I believe Mr. DeMoss' assumption
14 about restrictions tied to money, is not entirely true, in
15 the way he described it, because of the chronology of what
16 bill passed out when.

17 And if you have brought a discussion of what
18 the political history was of that, you may arrive at dif-
19 ferent conclusions than if you just look at the formal
20 legislative history.

21 Secondly, I think that you have to view the
22 process today, and the process you anticipate on August
23 16th, as sort of a public discussion of the settlement of
24 a lawsuit, which is not the best way to handle it.

25 I mean, ask representatives of the community

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1 would you rather have \$241 --- and restrictions x, y and
2 z; or \$100,000,000. and restrictions a and b, and probably
3 not going to engender the kind of response from a public
4 meeting, that you can have in discussion -- in different
5 types of discussion.

6 And, I would hope that the Board will give
7 sufficient flexibility to the staff, to work with the
8 Congressional Staff and the Members of Congress, to work
9 for the piece of legislation that is as positive to you
10 and as positive to the clients of Legal Services, as pos-
11 sible, recognizing that you cannot dot every "i", and
12 cross every "t" and answer every question in a public forum.

13 So, I'm saying first think about how you're
14 going to deal with each of the provisions, the substantiary
15 provisions of 3480, and secondly think of what direction
16 you're going to give your staff, after your meeting on
17 the 16th, so there is flexibility to deal with political
18 situations as they develop.

19 Thank you.

20 MR. HARVEY: Have a comment, please?

21 MR. Mc KEE: Did N.L.D.A. testify on 3480?

22 MR. EISENBERG: Yes.

23 MR. Mc KEE: Could you pry that to Dennis, so
24 we could look at your comments, or testimony?

25 MR. EISENBERG: Sure. I'm sure the Corporation

1 has it, but we'll give you everything.

2 In fact, I think N.L.D.A. probably has as much
3 material on these same restrictions going back 15 years.

4 I mean, none of these restrictions are new -- I
5 mean, they're all the same old issues that occurred since
6 O.E.O. was established, and we'll be glad to share with
7 the staff or the board, any material that we have, at any
8 time.

9 MR. HARVEY: Thank you. Ms. Crane?

10 MS. CRANE: Mr. Chairman, Members of the Board,
11 my name is Mary Crane and I'm on the staff of Legal Ser-
12 vices Corporation, Indiana.

13 Mr. DeMoss, I'm grateful at your evidence of a
14 real concern for a longtime survival of Legal Services.
15 I would like to give you my response to your question
16 though, because I also think it's too early to answer that
17 question.

18 The -- Howard is right, the bills came down at
19 different times, and it does cast a different light on it.
20 But, that's not the major issue.

21 The major issue is quality legal services for
22 all people, people who cannot afford it in the private
23 sector.

24 One witness said, she's afraid we're going to
25 be restricted to death, and that is exactly what can

1 happen. And I want to share with you, my worries and some
2 of the work that I've done, so that if you ever get to a
3 point where you have to make a hard decision, you'll have
4 a visceral understanding of what we've been trying to do,
5 so that you can make these decisions based not on
6 mythology, but on what you can do.

7 Let me tell you about one bill that I did lobby
8 on, for eligible clients in the Indiana General Assembly.

9 There's an Indiana statute that requires township
10 trustees to pay for the textbooks, school supplies of needy
11 children, as defined by the individual school corporation.

12 The statute was honored in -- was not honored
13 period.

14 There was a lawsuit brought against three school
15 corporations in Tippacano County, two school corporations
16 in Speakman County, by three different families; they
17 were represented by the Legal Services Program of Northern
18 Indiana, and their Lafayette office.

19 It was tried in Federal Court, it was a classic
20 case -- due process case, and there were no standards --
21 the family didn't know about it, the trustees were not
22 also following any other statutes, so it happens -- the
23 Constitution and the Indiana statutes.

24 What happened then, after the Plaintiff prevailed,
25 all the way up to the 7th Circuit, the Defendant went to

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1 the Indiana General Assembly, and tried to change the
2 State statute, which was partially the basis for this de-
3 cision.

4 Had we not been able to protect those same clients
5 who were the litigants in the lawsuit, in the Indiana
6 General Assembly; we would have lost three years, the
7 children would not have received the textbooks, they would
8 have been penalized in school, and all that effort and
9 time would have been wasted.

10 We have never represented ineligible clients,
11 in legislative advocacy in Indiana. The client goes in to
12 the attorney, the attorney discusses the possible alter-
13 natives and remedies, if the attorney thinks that there's
14 a need for state level administrative advocacy, or state
15 level legislative advocacy, it's discussed with the client
16 there, and a client retainer form is signed there.

17 Then, I am brought in, and asked to help. We
18 have not participated in Indiana General Assembly this
19 last year, because we thought that 3480 wouldn't have
20 passed, and that starting in January, we would not have
21 had the ability to represent our clients.

22 So, I left Legal Services, for almost four
23 months. Legal Services was not represented in the General
24 Assembly, and something dreadful did happen.

25 We represent a number of poor people in

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1 termination of parental rights.

2 Now, in some Indiana counties, there are well-
3 staffed county welfare departments, who are able to handle
4 a number of family issues.

5 In other counties, there are not. And so, you
6 have parental rights terminated, in some situations where,
7 were services offered to the family, the families could
8 remain intact, and children could be raised in the natural
9 family, and precious rights of parents to their children,
10 could be protected.

11 Through a fluke -- a bill was introduced, it
12 did not impact on the standards for parental termination.

13 In Indiana, we have a statute, which requires
14 the counties to show before parental rights could be ter-
15 minated, that the counties had offered the services to
16 help the families remain intact.

17 There was a statute introduced to try and take
18 this requirement away from parents who were incarcerated
19 for child abuse.

20 It was not intended to cover all other situations.
21 What happened in an accident, over in The House, the lan-
22 guage was rearranged, and it wiped out that basis for a
23 defense in parental rights terminations for all people.

24 And so, when we were there, we were able to
25 protect our clients. When we weren't there, we were not

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1 able to protect our clients.

2 This is a classic illustration of equal justice.
3 Our clients did not have the protection of equal justice,
4 the last four months.

5 And so Mr. DeMoss, I don't know what you're
6 going to do, when the gun is held to your head, but I want
7 you to understand, that this is a critical issue of equal
8 justice, and not some apostlizing -- for far-out issues.

9 They are basic issues, the right to families
10 to be protected.

11

12 (TRANSCRIPT CONTINUES ON NEXT PAGE, NO TEXT LOST.)

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1 MR. EARL: Ms. Crane, I think we all appreciate
2 this kind of testimony because I think it brings home
3 to us, as opposed to the vague generalities, that we
4 hear in other instances specific situations that need
5 to be reached and need to be protected.

6 But, I guess our question is: What would you
7 do in our shoes if you -- if we assume that there is
8 an increasing Congressional demand to do something
9 about the overly broad lobbying efforts? Can you suggest
10 language? Can you suggest a more effective Inspector
11 General Program to see that lobbying doesn't occur?
12 What should we be doing to protect the kind of specific
13 lobbying that you want? How can we do that? Do you have
14 any suggestion?

15 MS. CRANE: I think if an Office of Complaints
16 was established so that there was general trust in
17 the inspection process, I would certainly concur with
18 that. I have nothing to hide, and I am happy to share
19 my records.

20 Most of the people that I have worked with,
21 I think, have nothing to hide either; so that doesn't
22 bother me at all.

23 As far as the Congress is concerned, I haven't
24 been doing lobbying very long; and I made a number of
25 mistakes. I make mistakes every year. One of the

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1 earliest mistakes I made the first year I was lobbying
2 is to think that I had to trade off one thing for
3 another. What I have found in subsequent years is
4 that you make your case and it is up to the legislator
5 to make the final decisions. And if he is going to
6 go against me, then that is his choice. I have to lay
7 out the facts for him.

8 Now if I were in your place, I would continue
9 to lay out the facts that in cases of eligible clients
10 where the retention forms that Legal Services can
11 represent their clients. The lobby of the Indiana
12 General Assembly is filled with attorneys who are
13 representing their clients. The School Ma'rm
14 Association has attorneys representing them. The
15 Township Trustees in this last law suit were represented
16 by attorneys; so I think our clients can.

17 It may very well be, in the end, that you
18 are defeated on the issue; but I think you have to make
19 a strong case.

20 Now it would probably help psychologically if
21 you had an Office of Complaint; and I would be willing
22 to opt into that.

23 MR. EARL: Thank you.

24 MR. DANA: I have another question, Howard.

25 Had you been at the Indiana Legislature and

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1 you heard about this fluke that had just occurred in
2 the language, what would you have done, and who would
3 your client have been at that moment?

4 MS. CRANE: What I would have done is that
5 there are several -- there is a woman in the area office --
6 a woman in the Ft. Wayne Office and there are two
7 people in the Indianapolis Office who -- who happen to
8 have particular specialties in family law and represent
9 a lot of those clients. I would have shared that
10 information with those attorneys in case they had
11 any termination cases ongoing.

12 And, in fact, I know one of them in
13 Indianapolis has two right now. Had he had that
14 information at the time that this case was pending,
15 he would not have come up to the situation now where
16 in July he discovered as of September 1, he no longer
17 has a defense in this termination case which may open
18 in October.

19 So I would not have gone out to the client.
20 I would merely have shared that information with the
21 attorneys who probably would have had clients in that
22 area. Then, of course, they would have to talk with
23 their clients if the client was concerned enough about
24 the legislative ramifications.

25 MR. DANA: And the client would authorize them

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1 to authorize you ---

2 MS. CRANE: Would authorize the attorney to
3 -- the different programs have different retainer forms.
4 Some of the retainer forms specify both litigation and
5 legislation; and at the time the retainer form is
6 signed, if they want the legislation also, they circle it.

7 If I actually get called in on a case, then
8 I ask the attorney that is representing the client to
9 fill out a form for me and a copy of his client's
10 retention form --

11 And I usually, depending on the matter -- I
12 usually wind up talking to the clients, too; and in fact,
13 we did do client training on legislative issues and
14 brought the client to the statehouse and introduced
15 them to legislators from both parties. There was never
16 any attempt to be partisan. We thought these people
17 who were involved ought to understand how the process
18 worked; so that was part of our community education.

19 MR. MC KEE: Mr. Gunthal --- Don't stand up.

20 My concern in many of the restrictions, as Mr.
21 Earl's, has been a long time; not only the ones in 3480
22 but in others, is that effectively, a lot of them are
23 really depriving clients and eligible clients of basic
24 First, Fifth, and Fourteenth rights. The problem now is
25 that he who pays the piper calls the tune; and Congress

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1 says, "Fine. We'll give you this money, but then we
2 have the right to tell you how to spend it." And that
3 is the balance of the delimma. That's why it would be
4 nice if the bar associations would do what the "Code of
5 Ethics" says to do in terms of allotting representation
6 and not being choosey because of a cultural economic
7 background of people who walk in the door.

8 MS. CRANE: I understand that. I just think
9 that as a matter of principle, you have to set out the
10 principle first.

11 If circumstances force you to make compromises,
12 I understand that, too; but I think everyone should be
13 clear of what our basic principle is. And that is equal
14 justice for all people without fudging.

15 MR. CAPLAN: Let me just ask a question.
16 I think the kind of lobbying you have, I think, is very
17 helpful -- this illustration. The difficulty in
18 regulating that and the elicite side, controlling it,
19 I think is the outstanding problem. I don't know how
20 to address it and I don't know whether the Inspector
21 General notion is going to get us very far; so I, myself,
22 would see myself as open and troubled about how to
23 proceed in drawing a distinction as to how much of the
24 baby we would be throwing out with the bath as opposed
25 to what I view -- and you can call it lobbying, but it is

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1 outright politiking, partisan, political activity.

2 If you want to have a sense of what I mean,
3 some of the publications of the support centers read
4 like a more extreme version of the editorial page of
5 the "Washington Post". In a way, it has nothing to do
6 with lobbying or clients or anything. It's just sounding
7 off; and I think activities of that sort that begin
8 to blend into lobbying are the problem area; and how
9 well one can control them -- Self policing is the ideal
10 part, but that is something that has not worked in the
11 past; and so I think there is an attitude of frustration
12 in many quarters. They are saying, "Well, I just don't
13 know how to do it, --" so we might as well just have
14 an amputation here and say you can't do any of it.

15 And the problem I've had in my communications
16 is I hear all the examples which I am sensitive to; so
17 I hear your examples and maybe I had better rethink my
18 position; but I don't get a sense of how I get at this
19 other part which seems to me so clearly excessive and
20 inappropriate and furtive. It is very hard to get hold
21 of. It's not volunteer; and I have to sort of stumble
22 over it here and there. So it's not really -- It's a more
23 complex issue than this example of your highlights.

24 That, you women say, "Well, how many of those
25 do we have to sacrifice to get the program out of

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1 partisan political activity?"

2 MS. CRANE: Then, perhaps, it's the publications
3 that you should consult. There is also a difference
4 between setting out facts. And it is true that for a
5 couple of years we did send out a newsletter that digested
6 a number of bills in health, housing, and welfare.
7 We also sent out an analysis of the bills that
8 particularly affected our clients. Those analyses
9 also went to state legislators and members of
10 administrative agencies; and they were written in such
11 a fashion and contained such information as were
12 valuable to the legislators of both parties and adminis-
13 trative agencies in determining the impact.

14 Now, I don't think that they were flamboyant,
15 but I would be happy to shed that ---

16 MR. DANA: And that wouldn't be what I have in
17 mind.

18 MS. CRANE: No, I understand that; but I
19 also understand that when you are writing, yourself, it
20 isn't helpful because you know what you intended and
21 you don't review it as a third party. So I would be
22 happy if you wanted to discard that.

23 In each of those cases that I mentioned, we
24 didn't send out any state-wide importunations asking
25 people to contact their legislators on those issues.

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1 They were small issues that could be contained in
2 committees and so on.

3 So if it is a propaganda issue, attack the
4 propaganda; but don't attack the right to represent
5 clients.

6 MR. EARL: May I ask --

7 MR. CAPLAN: Is there anyone else who hasn't
8 spoken who wants to speak now?

9 FROM THE FLOOR: I've got to leave for the
10 airport, so if I could just say brief thing ---

11 MR. CAPLAN: Speaking of airport, you've
12 spoken the magic word! Go ahead.

13 FROM THE FLOOR: On the legislative advocacy,
14 in response to Mr. De Moss's question, I assume that
15 the Board is going to come down with a clear policy
16 on "grass-roots" lobbying if there is a problem out there
17 to speak of. I do not know of one now, but in case there
18 is some in the future.

19 The second point is, I think you can save
20 members of Congress on the committee that we have taken
21 this step, and that it is going to be limited to
22 an eligible client, verify it; or to a specific request
23 from the legislative body. You can come to Arkansas and
24 look at the file. There is either request from the
25 legislator or there is a specific retainer from a client.

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1 And we are talking about the same issues in Arkansas
2 that there is to talk about.

3 And I think you can say to Congress that
4 "grass-roots" lobbying has taken care of the propaganda.
5 I think you can do that. I think you can do it without
6 an Inspector General, in fact; because all you have to
7 do is come in there and look for the verification. If
8 it's not there, then you whip them in line. You say,
9 "No more until you get your act together." But I think
10 that is something of a political reward.

11 MR. DE MOSS: Would you comment on an --
12 Would Mary -- excuse me -- comment on your estimate of
13 the percentage of your normal workload that involves
14 some sort of legislative representation.

15 FROM THE FLOOR: Oh, it's less than a percent.
16 We have -- As in Indiana, we have a person who is our
17 legislative administrative advocate between jointly funded
18 six programs in Arkansas. And we have -- I don't know
19 how many staff we have and how many clients we have, but
20 it's thousands and thousands of clients in Arkansas; and
21 I mean, it is -- it's less than a half percent. I'm not --
22 you know -- I can't even tell you; but it is something
23 we do pretty effectively and efficiently. We are
24 talking about just basic issues for clients.

25 The legislature is only in session in Arkansas

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10 1 three months out of the year; and in between there,
2 there are some committee hearings that they are invited
3 to.

4 MR. CAPLAN: Howard?

5 MR. DANA: How would you feel about a program
6 that devoted 20 percent of their resources to legislative
7 advocacy?

8 FROM THE FLOOR: It would depend on the state.
9 It would depend on how often the legislature is in
10 session. If the Arkansas Legislature was dealing with
11 issues that affected my clients year around, et cetera;
12 and the issues that were cropping up, our clients were
13 asking us to represent them on; then I can see you would
14 do 20 percent.

15 MR. DANA: How about 100 percent?

16 FROM THE FLOOR: One hundred percent? I've
17 never even heard of that.

18 MR. DANA: Well, how do you feel about it?

19 FROM THE FLOOR: I've been in Legal Services for
20 12 years, and I've never heard of even 50 percent.

21 MR. DE MOSS: Would you draw any distinction
22 between the need for this right between state legislatures,
23 local legislative bodies, and the Congress?

24 FROM THE FLOOR: I would not. I would not.
25 If you've got a client with a problem -- I'll give you an

11

1 example. We've a low-income community right outside
2 Little Rock, which has never had sewer service. We
3 have to go to the county legislative body in regard to
4 that. They've asked us. It is a low-income community;
5 very poor; and all they have had is some septic tanks.
6 They want to enter the modern age. We have to get
7 approval for the development of the district.

8 They came to us to give them legal help on
9 that and an advocate to go to the county level. Under
10 3480, we'd say, "I'm sorry." It's important for your
11 health, and it's important for everything else in this
12 low income community, but we can't touch it. I would
13 not start making distinctions like that. I really
14 wouldn't.

15 MR. DE MOSS: Do you have in your experience
16 any ability if that situation developed -- Are there
17 any other agencies, political or whatever they may be,
18 to whom that problem could be referred?

19 FROM THE FLOOR: Well, in this community, it
20 has been tried for years to get sewer services and other
21 services that they have not been able to get; and
22 right now we are the only people, and it is a very poor
23 community. We are the only people legally that are
24 responding to them; and they tried for years, even before
25 we were established.

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1 MR. DE MOSS: Is there any ability to define
2 your legislative needs in terms of subject matter?

3 FROM THE FLOOR: Can you give me an example?

4 MR. DE MOSS: I'm reaching here. I'm --

5 FROM THE FLOOR: Do you mean certain things
6 you couldn't do?

7 MR. DE MOSS: That's right.

8 FROM THE FLOOR: I think that if it is an
9 elderly client and it is not a prohibited activity by
10 this Board, that that decision has to be made by the
11 local Board of Directors in regard to allocation of
12 resources under local policies; because they are the
13 ones that know the local lay of the land in regard to
14 clients.

15 MR. HARVEY: The problem with what you say,
16 in my mind, is that somehow, coming on the Board as I
17 do -- At least I think I'm coming on the Board -- that
18 3480 is not really 3480.

19 You said you had been in legal services for
20 12 years; and 12 years has produced 3480. This Board
21 did not. Now what is the condition to which 3480
22 is directed?

23 Howard Eisenburg said they are participants in it.
24 This is a most unrealistic representation it seems to me.
25 Truly it is. 3480 is there. There are restrictions

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1 there. Whence comes those restrictions and what is
2 the activity against which it is directed?

3 FROM THE FLOOR: On, I'd like -- On
4 legislative advocacy, it's some kind of "grass roots"
5 propaganda. I heard, and this is hearsay. Okay? I
6 heard that in one state somebody sent some flyers out,
7 a leaflet, propagand or something. Someone on some
8 staff sent it out; and I mean, I think that is the sort
9 of thing that people -- people do not like. And rightly
10 so. That's taxpayer's money propagandizing a community
11 about something; and that gets, I believe, Moorehead.
12 From what I heard yesterday, your staff is going to be
13 getting something on that.

14 That is what I hear when I talk to a
15 Congressman in Arkansas who asked me the same question.
16 We sat down and talked about it. "This is the type of
17 concern that my colleagues have expressed to me." I said.
18 He also wanted to know what we did in Arkansas; and I
19 told him exactly what I shared with you.

20 He said, "Well, that's no problem." -- heat
21 of the debate last year, I think -- Mr. Caplan's saying,
22 that they are throwing the baby out with the bath water,
23 or whatever the saying is; and that can happen before
24 the house.

25 Thank you all very much.

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1 MR. HARVEY: Yes. One more comment. Yes.

2 MR. COFFMAN: Richard Coffman from Detroit.

3 I would just like to say that I kind of caught on to the
4 idea of Mrs. Holmes relative to a trained Board members.

5 You talk about getting into the -- assuming that

6 this does come down the line, what is going to be the

7 alternative? I think you had your legislative advocates

8 who could, in fact, train the Board members; who, in

9 fact, -- and community people who would, in fact, hook

10 up with other lobbyists to go up and do some of these

11 things, even if you had to prep them up to the hour

12 before -- going before the legislative body.

13 You need this kind of training, which is going

14 to produce some of these thoughts; because, ultimately,

15 something is going to be passed and an all-out decision

16 is going to be made and given the way people are

17 reacting to Reaganomics, it's probably going to be the

18 implementation of waiting; so I'm saying that the Board

19 needs to be trained and there are some Board members who

20 are not, who could, in fact, do some lobbying -- pro bono

21 in behalf of clients.

22 And I think it is necessary, also, to untie the

23 hands of local Boards; to set up priorities. These

24 people might have, perhaps, come before the Board if it

25 creates that kind of reaction from the legislative body.

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1 In fact, what you are doing is biting the hand that is
2 feeding you, and then coming back to the hand and saying,
3 "Even though you are bleeding, give me some of your
4 money." And I'm saying that, you know, you have to
5 figure out, -- We want the best clients, wherever they
6 might be; and definitely we don't want children taken
7 away from the natural setting of the home. We don't
8 want people to have to pay for an education in the
9 United States when it is supposed to be free; but we
10 have to face reality; and you ought to be thinking about
11 alternatives, when you are thinking about spending this
12 money on alternatives.

13 When you are talking about spending this
14 money on training, rather than training somebody how
15 to grow corn on concrete, you ought to be teaching them
16 how to pound the concrete; go to the legislative body
17 and get some of the results you need.

18 Thank you.

19 MR. HARVEY: Thank you, Richard.

20 Before we conclude this item on our agenda,
21 there is a person who has not sought recognition, but I
22 would like to call upon him to stand. He's the Dean of
23 the Law School. Dean -- Dr. Jerrick, please stand.
24 Ladies and gentlemen, this is the host of this meeting,
25 I think we should all give him a round of applause.

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1 (Applause!)

2 MR. HARVEY: Mr. Dana?

3 MR. DANA: Yes. He can't do this, but on
4 behalf of the rest of us, we would like to thank Dean
5 Harvey and the Law School, and Indiana and Indianapolis
6 for a very, very worthwhile meeting. And we appreciate
7 it.

8 MR. HARVEY: Thank you, Howard.

9 (Applause.)

10 Members of the Board, we are at Item 8, on
11 future meeting dates; and Howard, I call upon you. That's
12 the subject.

13 MR. DANA: I believe that we will have a --
14 at least, let's jointly make this decision. It seems
15 to me that in view of this discussion, we ought to have
16 a meeting of the Board to discuss our position on
17 legislation.

18 MR. HARVEY: Okay.

19 MR. DANA: And we need a meeting of the
20 Presidential Search Committee to discuss what the -- again
21 to process our efforts at arriving at a selection of
22 a permanent President. And I would suggest that the 16th
23 and the 17th could be used for that effort.

24 MR. HARVEY: I strongly concur myself. In
25 Washington?

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1 MR. DANA: In Washington. And what I would
2 like to do is leave the time of day open because it
3 is important to maximize the Board participation; and
4 it may be that some Board members can only get there in
5 the afternoon.

6 MR. HARVEY: Yes.

7 MR. DANA: So we might check around with
8 everybody and check the calendars, and it may be we can
9 maximize Board participation by having the first meeting
10 in the afternoon on Monday; and going over until Tuesday.

11 MR. HARVEY: I quite agree.

12 MR. DANA: If a motion is in order, I would so
13 move.

14 MR. MC KEE: I second.

15 MR. HARVEY: Further discussion?

16 (No response.)

17 Hearing none, all in favor say, "Aye."

18 BOARD MEMBERS: Aye.

19 MR. HARVEY: Opposed, same sign.

20 (No response.)

21 Carried. Jerry, do you have another item?

22 Mr. Olson is the representative from the Legal
23 Services Board to the Administrative Conference of the
24 United States, recently appointed thereto; and has
25 attended, -- What? -- Bill? A meeting of the conference?

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1 MR. OLSON: Yes. A plenary session.

2 MR. HARVEY: A plenary session. And, Bill,
3 our last item will be a brief report from you on this
4 subject, please.

5 MR. OLSON: I'll just take a second, Mr.
6 Chairman.

7 Many people don't know what the Administrative
8 Conference of the United States is. I can't blame them
9 because that is the first question I asked when, having
10 heard about it, when Lawrence Smith was appointed or --
11 from many of us on the Board to be Chairman.

12 The Administrative Conference is an organization
13 created of representatives of various independent agencies,
14 departments of government, outside experts on regulatory
15 matters, and certain other public sector members who
16 were appointed to meet, share information, examine
17 procedural matters before independent agencies and
18 departments of government; and to make recommendations,
19 after having deliberated on those various procedural
20 issues, to the Congress or to the Judicial Conference,
21 or to various offices of government.

22 The main mechanism for consideration of these
23 changes in procedure or procedural improvements in
24 government; and this is very much the focus of much of
25 the regulatory reform efforts now going on, is to have

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1 these plenary sessions with up to 90 people present.
2 And it is sort of a great pleasure to sit there and
3 hear, say, Professor Walter Gelhorn from Columbia, and
4 Nina Scillia from the University of Chicago, and others
5 who have been at this for so long, debating great matters
6 of public policy.

7 The matters that -- unfortunately, I wasn't
8 able to attend the entire meeting, but the meetings were
9 the 17th and 18th; and among the items -- to give you
10 a flavor of what they do discuss -- one of the matters
11 was some changes in the B(4) exemption of the Freedom
12 of Information Act; the various dispute resolutions
13 in Federal Grant Programs; and the various proposals
14 now being put forward in Washington in the Change of
15 Venue Statutes with regard to appeals from Administrative
16 decisions; and some other matters, for instance, on
17 cancer-causing chemicals and things that don't have a
18 great deal to do with this organization, but it is
19 interesting, nevertheless.

20 I've been put on the Committee of Public Access
21 and Information; and we of Legal Services Corporation are
22 a liason member of the administrative process. We are
23 not a full participant. We are not in the statute. We
24 are not designated by the President. We are a liason
25 member much the way the Postal Rate Commission is and

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1 certain other agencies.

2 And the one restriction that is placed on
3 the members is that you cannot -- You are supposed to
4 speak your own ideas with regard to the proposals before
5 the body. You are not supposed to represent the group.
6 The reason they do that is because otherwise, no one
7 would have anything to say because very few agencies
8 in government have positions with regard to Federal
9 Venue positions and that sort of thing.

10 But in the future, I would, none the less,
11 like to circulate the agenda so that if any particular
12 issues -- ahead of time, so that if any particular issues
13 are of interest to anyone, that those concerns can be
14 expressed. We can participate fully, not vote, and that
15 is really the extent of it; so to the extent that I
16 speak for myself, you can disavow me in any respect.

17 If anyone would like to know anything further,
18 that's a brief capsule report.

19 MR. HARVEY: Thank you very much. I appreciate
20 it.

21 Any further business before the Board at this
22 time?

23 MR. DE MOSS: Let me just mention one thing.
24 Since I posed a hypothetical question in which many people
25 may think I seek some sort of Armageddon decision. I

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21 1 don't. I hope that doesn't come about, but -- And I
2 solicit what ever input any of the clients, organizations,
3 staff, grantees, anybody else may have to help us
4 address this question appropriately.

5 I would like to hear -- I mean, if you feel
6 that you can express yourself on the subject, I would
7 like to hear both the manner and means by which you
8 think the statutory provision could be tightened up and
9 still retain the area of lobbying representation that
10 is essential; and perhaps, whatever you can give in terms
11 of the quantum of that representation in your program.

12 The quantum is a two-way street; and we've
13 all got to recognize that; i.e. some may say, "Well, if
14 it is that small a program, it's not worth -- part of
15 your program, it's not worth having a battle over it."
16 On the other hand, the counter argument can be made
17 that the quantum of error and the quantum of injury
18 right now is very small. So I solicit input; and I
19 think the rest of the Board would join me in saying
20 we solicit input.

21 MS. WORTHY: May I say just one thing that
22 pertains to what Hal said.

23 I heard that some said that they had not
24 received a copy of this 3480, and did not know what
25 was in there. If there is anyway that, maybe, client's

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22 1 counsel or co-operation could get a copy of 3480 out
2 to Program Boards and clients that are sitting on that
3 Board so that when they do have a chance to write us
4 back, they will know what they have looked at. They
5 will be able to give us some answers; not just from
6 here what we talked about; but they will have that
7 document in front of them so that the clients can
8 have an input.

9 If you hear a document talked about, you just
10 take out certain parts. But if you do have it in front
11 of you so that the clients can deal with it and give
12 us some satisfactory answers and made some decisions
13 because they know what it is all about, I think it would
14 be better; that you would get a good response of how
15 effective it would be on clients.

16 MR. HARVEY: Mr. Vedee, perhaps if I may borrow
17 some of your phraseology, perhaps, after this meeting
18 has concluded, you will remember to send 3480 to some
19 of the clients on the Board?

20 Mr. Dorsey?

21 MR. DORSEY: Mr. Chairman, Mr. De Moss, I think
22 that we are not as convinced that discussions, about an
23 amendment about legislative advocacy at this meeting
24 It appears to me that there is some need for a mechanism
25 to get the information before this Board that Dick needs

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1 in part, to make a decision as to what, if anything,
2 you've got as far as legislative advocacy is concerned.
3 There is a great deal of information and misinformation
4 on legislative advocacy.

5 I've heard Jerry talk about it -- right? Political
6 activity; and I wish we would nail down what he
7 means by that and instances where that occurs.

8 MR. CAPLAN: I'll give you a one-liner from
9 the most recent issue of the National Youth -- whatever
10 that support center is called.

11 The lead article begins with the sentence,
12 "President Regan's budget has once again declared war
13 on the nation's youth." And then, it sort of takes
14 off from there.

15 MR. DORSEY: Well, editorial comment maybe?
16 But -- I don't think ---

17 MR. CAPLAN: It's no question that it's an
18 editorial comment. The question is is it Legal Services?

19 MR. DORSEY: I don't think it's mentioning that
20 too. What I would say-- recommend to this Board is that
21 -- that there are people that have been involved in
22 legislative advocacy around the country in their own
23 program which they have been doing for the past 12 years
24 with very little complaint from legislatures and a great
25 deal of compliments from our clients on what we have been

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1 able to accomplish.

2 What I am suggesting is that maybe the
3 appropriate subcommittee of this Board set up a time
4 when there can be a dialogue between people who are
5 knowledgeable in legislative advocacy before this
6 Board makes any decision as to what happens.

7 MR. HARVEY: Clarence?

8 MR. MC KEE: Mr. Dorsey, Mr. Stubbs's
9 subcommittee, which initiated the work by the staff
10 and Ms. Weiseman on lobbying and that whole subject
11 for the main purposes of our meeting in Minneapolis
12 the first part of August is to discuss that and have that
13 kind of a dialogue. And between the time of that meeting
14 and before anything is formally presented to the Board
15 on that subject, the persons who attend that meeting,
16 I am sure, would want to come and submit their views on
17 it.

18 But it's already -- in terms of the subcommittee
19 of the Board, the Board will get to that after the
20 subcommittee works on it and has a very thorough
21 discussion. That is why I wanted to commend Ms. Weiseman
22 and Jerry for putting together this document in a very,
23 very short amount of time because it is a very difficult,
24 complicated issue; and in terms of, for example, what
25 is an editorial comment and what is not an editorial

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1 comment, and in terms of a policy statement, I think in the
2 guidance of the Board will have to say what we think it
3 is, and then, what the people think it might be down
4 the line, whether we will be right or wrong. That is
5 something which Mr. Stubbs has initiated which will
6 be continued on for dialogue at the subcommittee level
7 and before Board level. Not only Mr. Stubbs, but I'm
8 thinking of another provision committee. There is
9 several committees working on it. It would mean so
10 very much to many people.

11 MR. HARVEY: Just think ---

12 MS. WORTHY: Maybe to answer Mr. Dorsey's
13 question about having dialogue. One of the things that
14 I recommended yesterday when I heard a one-sided
15 discussion is that we have a panel of legislative
16 advocates and clients to talk about that subject; how
17 it affects them. We take that and we put the restrictions
18 on it. How is it going to affect clients? How has the
19 advocate worked with clients? Have they been supported?
20 Is it something that is really needed? That type of
21 panel; and it will not be one-sided.

22 Okay. I'm hoping we will be set up to meet
23 with our committee. I also serve on that committee with
24 Mr. Stubbs. I'm sure that will take place.

25 MR. HARVEY: Bill?

26

1 MR. OLSON: Mr. Chairman, on this point of
2 view, I've always been on it from the other point of
3 view presenting views to administrative bodies, not
4 being on one. But I've often thought that people
5 over-estimate the importance -- not the importance but
6 the ultimate utility of oral presentations as opposed
7 to written materials.

8 I think written materials very often are so
9 much more useful, can be reviewed, reflected upon, and
10 reread, et cetera; and I would urge anyone -- You know,
11 we get a lot of mail, I think all of us do our very, very
12 best to read every page of every document that is sent
13 out; and if communications are made to the Chair or to
14 the President, or, indeed, to Mr. Stubbs as Chairman
15 of the relevant committee, they get circulated and they
16 get read and considered; and it -- To say that, perhaps,
17 you know, we should have some oral presentations, but
18 let's not underestimate the importance of anyone submitting
19 to us those kinds of comments in writing.

20 MR. HARVEY: Howard?

21 MR. DANA: Mr. Chairman, Charles, I do not
22 think that this Board is Chicken Little, running around
23 saying that the sky is falling, the sky is falling. I
24 believe that we have seen that there is substantial
25 evidence that it is raining very, very hard; and that we've

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27 1 got to do something in order to keep this program --
2 in order to save this program.

3 And the Moorehead Amendment, legislation that
4 has passed the House and the Senate, but not the same
5 legislation; and in many of the concerns that have
6 been expressed is evidence that this is an issue that
7 is -- that Congress, and the President, and the general
8 public is focusing very hard on; and to sit here and
9 say, "We have no problem. Everything we do is fine.
10 Our clients are happy, and you just shouldn't face it."
11 does not, in my judgment serve this program at all;
12 and I think that what we ought to do at our meeting
13 in early August and our meeting -- our Board meeting in
14 mid-August is develop a corporate position on much
15 of the legislation that is being presented in the House
16 and the Senate. And I would echo Mr. Olson's views
17 that anyone, be it client, or advocate, or member of
18 the public who could help us, in the next two to three
19 weeks, come to grips with what is an incredible issue
20 and issues, do so in writing; and then come to the
21 meeting if they are financially able to get to Washington
22 or to Atlanta.

23 Thank you.

24 MR. HARVEY: Minneapolis.

25 MR. DANA: Minneapolis. Excuse me.

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1 MR. HARVEY: Before we adjourn, ladies
2 and gentlemen, I want to thank the corporation staff
3 for a great job you have done, under the direction
4 of President Caplan. I think you have all done an
5 outstanding job and had very fine presentations.

6 I also want to thank again the witnesses
7 who appeared. I see Tom Ayers is still with us this
8 morning. I thought your presentations were excellent.

9 On behalf of the Board I want to thank
10 Norm Metzger and the Indianapolis Bar Association for
11 the marvelous reception we had on Friday; and the
12 administration of Indiana University for allowing us
13 to use these facilities.

14 I think our business is concluded. I will
15 be happy to receive a motion for adjournment.

16 MR. MC KEE: I so move.

17 MR. HARVEY: Seconded?

18 MS. WORTHY: Seconded.

19 MR. HARVEY: Hearing no opposition, the meeting
20 is adjourned.

21 (Whereupon, at 12:10 p.m. the meeting was
22 adjourned.)

23

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C E R T I F I C A T E

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3 This is to certify that the attached proceedings
4 of the Legal Services Corporation, Board of Directors
5 Conference, second day, held on July 18, 1982 at the Moot
6 Court Room of Indiana University Law School, Room 101,
7 735 West New York Street in Indianapolis, Indiana, were
8 had as herein appears and that this is the true and
9 accurate record thereof.

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