

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS MEETING

RETURN TO CORPORATION
SECRETARY ARCHIVES FILE

OPEN SESSION

June 25, 1990

RETURN TO CORPORATION
SECRETARY ARCHIVES FILE

9:32 a.m.

Hyatt Regency Washington
400 New Jersey Avenue, N.W.
Yorktown Room
Washington, D.C. 20001

Board Members Present:

George W. Wittgraf, Chairman
John F. Collins
Howard H. Dana, Jr.
Luis Guinot, Jr.
J. Blakeley Hall
Jo Betts Love
Penny L. Pullen
Jeanine E. Wolbeck

Staff Present:

Terrance J. Wear, President
Timothy B. Shea, Vice President & General Counsel
Maureen Bozell, Secretary
David Richardson, Comptroller & Treasurer
David Wilkinson, Inspector General

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P R O C E E D I N G S

1
2 CHAIRMAN WITTGRAF: The meeting will come to order.
3 It's now 9:32 a.m. on Monday, June 25, 1990. Before we begin
4 our formal deliberations, the Chair will ask one of our Board
5 members, John Collins, to share an invocation with us.

6 Mr. Collins.

7 (The invocation was given.)

8 CHAIRMAN WITTGRAF: Thank you, John. At this time,
9 we'll move to Item No. 1 on the agenda which is, in fact,
10 approval of the agenda.

11 MR. DANA: Mr. Chairman?

12 CHAIRMAN WITTGRAF: Mr. Dana?

13 MR. DANA: I would move the agenda with the following
14 deletions. I would delete Item 3C and Item 7, Item 7 being both
15 items I asked to be placed on the agenda. For different
16 reasons, I would ask that they be removed.

17 CHAIRMAN WITTGRAF: Unless there is objection, the
18 Chair will take the position that those items are removed.

19 (No response.)

20 CHAIRMAN WITTGRAF: There being no objection, they
21 are.

22 Mr. Guinot, did you have an item you wished to add?

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1 MR. GUINOT: Yes. Mr. Chairman, I'd like to request
2 that an item concerning the designation of the head of the
3 corporation for purposes of the inspector general report be
4 added to the agenda.

5 CHAIRMAN WITTGRAF: Would that be the final item,
6 renumbered Item 10?

7 MR. GUINOT: Mr. Chairman, I'll leave that to your
8 best -- whatever you feel fits the best.

9 CHAIRMAN WITTGRAF: Discussion of the designation of
10 the authority for the report or reports of the inspector general
11 of the Legal Services Corporation will be renumbered Item No. 10
12 on the agenda unless there is objection. Is there objection?

13 (No response.)

14 CHAIRMAN WITTGRAF: Hearing no objection, that will be
15 renumbered agenda Item No. 10. As indicated in the notice given
16 for the meeting, a portion of the meeting will be closed for the
17 purpose of dealing with certain matters pertaining especially to
18 personnel and to litigation. It will be the Chair's and the
19 Board's effort to go into Executive Session in connection with
20 or at the tail end of the lunch hour so as to inconvenience
21 everybody minimally.

22 Also, it's the Chair's understanding that Guy

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1 Molinari, one of the members of our Board who cannot be present
2 in person today, will be available. He believes in his office
3 between approximately 2:00 and 4:00 p.m. for purposes of taking
4 any votes.

5 The Chair, at this point, anticipates the
6 possibilities of votes in connection with the selection of an
7 interim president and the so-called Pullen Resolution. Unless
8 there is objection, it will be the Chair's intention to proceed
9 with the agenda in such a way as to ensure that those votes are
10 taken at approximately 2:00 p.m. so that Mr. Molinari can
11 participate as he has requested. Is there objection?

12 (No response.)

13 CHAIRMAN WITTGRAF: Hearing none, the Chair will
14 proceed on that basis. Further discussion regarding the agenda?

15 (No response.)

16 CHAIRMAN WITTGRAF: Hearing none, the Chair is
17 prepared to accept a resolution for its adoption or a motion for
18 its adoption.

19 M O T I O N

20 MR. COLLINS: So moved.

21 CHAIRMAN WITTGRAF: Second?

22 MS. LOVE: Second.

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1 CHAIRMAN WITTGRAF: It has been moved and seconded.
2 Further discussion?

3 (No response.)

4 CHAIRMAN WITTGRAF: Hearing none, those in favor of
5 the agenda as amended and as construed by the Chair, please
6 signify by saying aye.

7 (A chorus of ayes.)

8 CHAIRMAN WITTGRAF: Those opposed, nay.

9 (No response.)

10 CHAIRMAN WITTGRAF: The ayes appear to have it. The
11 ayes do have it. The agenda, as amended and as construed, is
12 adopted. We now move to Item No. 2, approval of Board minutes
13 of May 21, 1990. The Chair is prepared to receive a motion for
14 the adoption of the minutes.

15 M O T I O N

16 MR. HALL: So moved.

17 CHAIRMAN WITTGRAF: Mr. Hall moves that the minutes be
18 adopted as presented. Is there a second?

19 MS. PULLEN: It's been moved and seconded.
20 Discussion?

21 (No response.)

22 CHAIRMAN WITTGRAF: Hearing none, those in favor of

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1 the approval of the minutes as drafted, please signify by saying
2 aye.

3 (A chorus of ayes.)

4 CHAIRMAN WITTGRAF: Opposed, nay.

5 (No response.)

6 CHAIRMAN WITTGRAF: The ayes appear to have it. The
7 ayes do have it. The minutes are approved.

8 Next, regarding the Chairman's remarks and report, the
9 Chairman's remarks deal principally with the matter of the
10 activities of the Presidential Search Committee. As I think the
11 Board knows, but as some of you may not know, this Board has
12 been privileged to receive some 310 applications from men and
13 women interested in the position of the Legal Services
14 Corporation. Through meetings that were held on a closed basis
15 and by telephone on June 4 and 11, following our meetings on May
16 20 and 21, that list of 310 was reduced to approximately 24. As
17 of June 11, that list was reduced to 10. Ten of those
18 individuals were interviewed last weekend, Saturday and Sunday,
19 June 16 and 17, by the Presidential Search Committee -- Mr.
20 Dana, Mr. Molinari and Mr. Wittgraf -- who were joined for all
21 of the interviews by two other Board members, Mr. Hall and Ms.
22 Wolbeck.

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1 Following the interviews and the deliberations of the
2 three committee members and the two other Board members, it was
3 the committee's decision and it is the committee's
4 recommendation to the Board that four of that field be
5 interviewed by the Board for consideration for the President of
6 the Legal Services Corporation.

7 For those of you who might not have heard otherwise,
8 those four are: Robert L. Byrd, David H. Martin, John C. Rother
9 and Timothy B. Shea. It's the chair's understanding that the
10 Corporation Board's Secretary, Ms. Bozell, with the assistance
11 of other members of the staff, has prepared certain resume or
12 background materials regarding those four individuals. They are
13 available or soon will be available to anyone who is interested
14 in those materials.

15 The Board and those in attendance will recall our
16 discussions of the process on March 27th and again on April 30th
17 and May 21st to the effect that over the next four or five
18 weeks, background investigations or checks will be completed for
19 the Board by a private investigation firm for the purposes of
20 confirming the information contained in the resumes and the
21 questionnaires submitted by the four persons.

22 In turn, at its next Board meeting, the Board will

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1 interview the four candidates. Hopefully, then, at the
2 conclusion of those interviews and the Board's deliberations,
3 the Board will offer to one of those four the position of
4 President of the Legal Services Corporation.

5 There has been some discussion among and between the
6 Board members as to the best meeting date. Some of you may
7 recall the suggestion at our last meeting on May 21 that the
8 meeting would be on July 23. At this time, I'm going to poll
9 the Board and inquire as to what date or dates is or are best
10 for the members of the Board. Obviously, the Chair's concern is
11 with insuring participation of all 10 of our Board members, if
12 at all possible, throughout that interview process.

13 July 23 and July 30 are both Mondays, the fourth and
14 fifth Mondays of the month of July. Let's just go down the list
15 or go around the table regarding those two dates and see what
16 the availability of the Board members is on those dates.

17 Mr. Collins, are you available on either or both of
18 those dates?

19 MR. COLLINS: Both of those dates.

20 CHAIRMAN WITTGRAF: Ms. Love, are you available on
21 either or both of those dates?

22 MS. LOVE: Yes, but Ms. Wolbeck had obligations to go

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1 to the field on the 30th of the month.

2 CHAIRMAN WITTGRAF: Ms. Wolbeck you say? Okay, I'll
3 get to her in a minute. But you could be here on either the
4 23rd or the 30th?

5 MS. LOVE: Yes, but I think it's unfair for her not to
6 go to the field.

7 CHAIRMAN WITTGRAF: Mr. Dana, are you available on
8 either or both of those dates?

9 MR. DANA: Either.

10 CHAIRMAN WITTGRAF: And both?

11 MR. DANA: Correct.

12 CHAIRMAN WITTGRAF: Mr. Guinot?

13 MR. GUINOT: I'm only available on the 30th.

14 CHAIRMAN WITTGRAF: Mr. Hall?

15 MR. HALL: Either day is fine.

16 CHAIRMAN WITTGRAF: Ms. Pullen?

17 MS. PULLEN: I'm available on either day. I'm
18 somewhat concerned about a comment you made a week or two ago
19 about the possibility of having to extend into the following
20 day. I do have problems with the 24th.

21 CHAIRMAN WITTGRAF: I made that comment, I'm sure,
22 only as a precaution. I think that was during our telephone

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1 conference on June 11. It's certainly my hope that the
2 principal focus of the Board's business on July 23rd or 30th
3 will be the interviewing of the candidates.

4 The Chair has no way of knowing how long the
5 discussion will last following. Certainly, it would be the
6 Chair's intention, if at all possible, to conclude the
7 deliberations regarding the Office of the President on the same
8 day. The 24th would be a problem, you say, Ms. Pullen?

9 MS. PULLEN: Yes, but not either of the two Mondays
10 and not the 31st.

11 CHAIRMAN WITTGRAF: Ms. Wolbeck?

12 MS. WOLBECK: I had made plans to go to the field on
13 the -- what is it? -- that Monday.

14 CHAIRMAN WITTGRAF: The 23rd or the 30th?

15 MS. WOLBECK: The 30th. But considering if he cannot
16 get out of his commitment, I guess I can skip that. I
17 definitely prefer the 23rd.

18 CHAIRMAN WITTGRAF: Mr. Wittgraf can be available on
19 both dates. Ms. Bozell, do you have any information regarding
20 the availability of either Mr. Molinari or Mr. Suarez on the two
21 dates?

22 MS. BOZELL: I've not heard back from either one of

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1 them. Mr. Molinari was available on the 23rd originally, but
2 I've not heard back.

3 CHAIRMAN WITTGRAF: The president has indicated to the
4 Chair that he believes Mr. Molinari probably can be available on
5 either or both dates. It would seem that the only conflict we
6 have is regarding the schedules of Mr. Guinot and Ms. Wolbeck.
7 The Chair is willing to defer to the consensus of the two of
8 them as to which date we choose.

9 There is one other factor, I believe -- Ms. Bozell, if
10 you wouldn't mind coming forward a moment -- Ms. Bozell has
11 visited with the four individuals I've named. Is the Chair
12 correct in his understanding that one of the candidates would be
13 returning from abroad on the 23rd?

14 MS. BOZELL: That's correct. One of them will not be
15 in the country until the evening of the 23rd. He requested, if
16 at all possible, if the 23rd was to be the meeting date, that he
17 be interviewed on the 24th.

18 CHAIRMAN WITTGRAF: Then that poses a problem for Ms.
19 Pullen. Do we know if any of the other candidates have
20 conflicts on either of the dates?

21 MS. BOZELL: The other candidates are fine for either
22 date.

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1 MR. COLLINS: Mr. Chairman, a question.

2 CHAIRMAN WITTGRAF: Mr. Collins?

3 MR. COLLINS: It's interesting that one of the
4 candidates finds it difficult to curtail a trip by one day. His
5 enthusiasm could be suspect. May I ask the two members of the
6 Board whether or not it's possible for either of you to adjust
7 your schedule?

8 MS. PULLEN: I'll adjust.

9 MR. COLLINS: Can you?

10 MS. PULLEN: Yes, I will.

11 MR. COLLINS: That would be wonderful if you could.

12 MR. GUINOT: Thank you. I'm glad that you asked her
13 first.

14 CHAIRMAN WITTGRAF: I guess without inquiring of which
15 of the candidates, then, had the conflict --

16 MR. COLLINS: I don't want to know.

17 CHAIRMAN WITTGRAF: He apparently has been taken out
18 of that awkward position. It is the Chair's understanding,
19 then, that it is most convenient for the Board to meet next on
20 Monday, July 30, for the purpose of interviewing the four
21 candidates for president. The Chair will ask Ms. Bozell to
22 proceed on that basis.

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1 MR. GUINOT: Mr. Chairman?

2 CHAIRMAN WITTGRAF: Mr. Guinot?

3 MR. GUINOT: I would like just to ask you if you would
4 give us a little more detail as to how you see the procedure on
5 the selection of the next president. As I understand it, Board
6 members will be able to interview all four candidates during the
7 meeting of the 30th. I assume that that will be the whole Board
8 at one time rather than individually with each of them; is that
9 correct?

10 CHAIRMAN WITTGRAF: Yes, sir. It's the Chair's
11 expectation, subject to any suggestions from the Board, that we
12 will ask the candidates to be available on Monday, July 30, at
13 approximately two hour intervals, based on our experience of
14 last weekend, it's the Chair's expectation that the interviews
15 will run at least 90 minutes in length. I hope that we can keep
16 them to no more than 90 minutes in length. The entire Board
17 will be present in closed session.

18 We are required, I think, by the Sunshine Act or law,
19 to record our proceedings. I'm not sure that we're required at
20 this point in time to have a certified reporter present. It's
21 also the Chair's expectation that no staff members will be
22 present, none of the Legal Services Corporation staff members

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1 but only the Board members and the tape recorder. Then it will
2 be possible for all of the Board members to interview the
3 candidates.

4 Again, based on our experience of last weekend, I
5 think it's probably only fair and proper that we attempt to ask
6 the same questions of each and every one of the candidates.
7 Then, obviously, there will be some questions that will be
8 unique to the individual candidates.

9 The Chair's hope is that we can begin by having each
10 of the members of the Board ask a question, getting into an area
11 in which he or she is particularly concerned; that we would go
12 through the Board one time. We would then open up to more
13 general questioning. We would also, obviously, give an
14 opportunity for opening and closing statements or remarks by the
15 candidates.

16 MR. GUINOT: The second question I had was, again, if
17 you would elucidate on it a little further, inasmuch as the
18 investigations will be performed and finished by the next
19 meeting and, given the fact that we will interview these four
20 candidates on that day, is it unreasonable to suppose that the
21 Board will vote on the new president at the end of that meeting?

22 CHAIRMAN WITTGRAF: The Chair thinks it is reasonable.

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1 That is the Chair's hope and expectation.

2 MR. GUINOT: That would mean that we would ask the
3 individual to assume his duties when?

4 CHAIRMAN WITTGRAF: Our experience from interviewing
5 the 10 perspective candidates last weekend was that each and
6 every one has different circumstances, different obligations. I
7 believe -- and Ms. Wolbeck, Mr. Dana or Mr. Hall can correct me
8 -- that we found a range that extended from immediately
9 available to the end of October or the first of November.

10 I think it's fair to say that with the four
11 candidates, we'll have to discuss that. That's one of the first
12 things we probably want to discuss. I think that each and every
13 one of the candidates indicated some flexibility, but different
14 ones had different responsibilities that it was necessary for
15 them to wind up prior to assuming full-time responsibility as
16 president.

17 MR. GUINOT: The reason for my question is that I'm
18 trying to narrow down the amount of time that we will have an
19 interim president. To the extent that we will vote on a new
20 president on the 30th of July, and that person, whoever he may
21 be, accepts, it will go a long way as to be able to realize how
22 long we'll have an interim presidency.

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1 I would imagine that having selected a new president,
2 even though he's not on Board, the issues made by the staff
3 would be done with prudence inasmuch as we will have somebody
4 shortly, either immediately or 30 days or whatever thereafter.
5 That's really the reason why I wanted you to mention whether or
6 not there was a possibility that we could vote on that on the
7 30th and get it done and then have a man identified.

8 CHAIRMAN WITTGRAF: Again, that is the Chair's hope
9 and expectation. Barring an irreconcilable deadlock among the
10 members of the board, we will be prepared to offer the position
11 sometime early or late on July 30 to one of the four candidates.

12 Are there any other comments or suggestions regarding
13 the interview process?

14 (No response.)

15 CHAIRMAN WITTGRAF: Let me make one comment and give
16 you a moment to consider that. It is certainly the Board's hope
17 and expectation, as well I believe, that with the four
18 individuals now named and about whom you will have the
19 opportunity to learn more if you don't know something about them
20 already, that any interested persons, parties, organizations
21 will share their thoughts about these candidates with the
22 members of the Board.

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1 I think it's fair to say the Board is probably more
2 interested in hearing uplifting or affirmative things about the
3 candidates than we are in having anybody enter into any
4 character assassination, either directly or by innuendo. If
5 there is any need for the checking of character or the checking
6 of criminal records, I think it's the Board's hope that that
7 will be accomplished through the investigative process.

8 Certainly, I think we, as members of the Board, are
9 interested in receiving comments regarding the strengths of the
10 candidates or knowledge that anyone has regarding the
11 candidates. In that process, I would encourage anybody who is
12 going to put something in writing, either to make it available
13 to all 10 Board members or to make it available to the Board's
14 Secretary, Ms. Bozell, so that it can be distributed to all of
15 the Board members accordingly.

16 Does anybody have any comments, questions or concerns
17 about the process at this point?

18 (No response.)

19 CHAIRMAN WITTGRAF: Hearing none, we will proceed on
20 that basis. It is the Chair's expectation that most of our
21 meeting on Monday, July 30, then, will be spent in Executive or
22 Closed Session. The chair is willing to entertain a motion at

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1 this time with the Board assembled, that a portion of our
2 meeting on Monday, July 30, 1990, be in Executive or Closed
3 Session for the purpose of interviewing and deliberating upon
4 the choice of presidential candidates and of president.

5 M O T I O N

6 MS. PULLEN: I so move.

7 MR. COLLINS: Second.

8 CHAIRMAN WITTGRAF: It's been moved and seconded. Is
9 there discussion?

10 (No response.)

11 CHAIRMAN WITTGRAF: Hearing none, those in favor will
12 signify by saying aye.

13 (A chorus of ayes.)

14 CHAIRMAN WITTGRAF: Those opposed, nay.

15 (No response.)

16 CHAIRMAN WITTGRAF: The ayes appear to have it. The
17 ayes do have it. A portion of our meeting on Monday, July 30,
18 will be closed for the purposes mentioned.

19 At this time the chair recognizes the president, Mr.
20 Wear, for any remarks that he wishes to make, and for any report
21 that he wishes to make.

22 Mr. Wear.

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1 PRESIDENT WEAR: Thank you, Mr. Chairman. Just one
2 thing that I would mention to the board, the United States
3 Supreme Court decided a case on June 4, 1990, that I believe is
4 going to have a substantial impact on the Legal Services
5 program. That case is captioned Keller v. State Bar of
6 California. It's reported at 58 Law Week, 4661. The date of
7 that report in Law Week is June 5th, 1990.

8 In that case, Mr. Chairman, the Supreme Court found
9 that compulsory dues to finance political and ideological
10 activities with which the petitioners in this case disagreed,
11 violates those petitioners first amendment rights to free speech
12 when the expenditures are not necessarily or reasonably incurred
13 for the purpose of regulating the legal profession or for
14 improving the quality of Legal Services.

15 The action was brought by a group of plaintiffs who
16 disagreed with the use of funds for things that they deemed to
17 be political or ideological in nature. The case, I think, is
18 significant, Mr. Chairman, because you may recall, or may not
19 recall, in the National Center for Youth Law presentation that I
20 made to the California IOLTA Commission approximately a year
21 ago, I mentioned at that time that I thought that the use of
22 IOLTA funds, for example, and in that case to finance abortion

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1 litigation or to finance cases promoting or facilitating
2 abortion, was going to cause a backlash; that there were a
3 significant number of attorneys whose firms are involved in the
4 IOLTA program who would object to that sort of activity.

5 I think that this sort of objection has manifested
6 itself in this case. I think it's going to have an impact on
7 the use of IOLTA funds on the state commissions that make grants
8 of these IOLTA funds. I think that prudence would dictate that
9 the state IOLTA commissions would put some limitations on the
10 use of those funds in these particular areas.

11 So I wanted to bring that case to the attention of the
12 board here this morning. Mr. Chairman, we'll be glad to
13 distribute copies of that opinion to any of the board members
14 that wish to have it.

15 CHAIRMAN WITTGRAF: In light of your comments, Mr.
16 President, I think at your and the staff's convenience to
17 distribute the case to the board members would be appropriate,
18 and I ask that you do so. Thank you.

19 Thank you, Mr. President.

20 At this point the chair believes that we will proceed
21 to discussion or further consideration of the Legal Services
22 Corporation's access to employment verification and accounting

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1 or EVA files, as such are maintained by the corporation's
2 grantees.

3 Mr. President.

4 PRESIDENT WEAR: Thank you, Mr. Chairman. If I may,
5 Mr. Chairman, I'm going to ask that Emilia DiSanto and Susan
6 Sparks come up to our table and brief the board on the status of
7 that particular issue.

8 MS. DiSANTO: Good morning. For the record, my name
9 Emilia DiSanto. I am the director of the Office of Monitoring,
10 Audit and Compliance.

11 As many of you know, several weeks ago Susan Sparks
12 and I accompanied Mr. Wear and Mr. Shea to New York to meet with
13 Mr. Molinari. Mr. Molinari had called us together to meet with
14 De Miller, who is the executive director of Legal Services of
15 New Jersey, Linda Pearl of NLADA, and Dwight Loines, vice
16 president of the legal division of district 65 of the UAW, to
17 discuss the EVA grant condition.

18 During that meeting, we continued our efforts to
19 resolve the concerns surrounding the EVA condition. Last week
20 we reached an agreement. Specifically, we agreed to delete five
21 items from the EVA file. These five items include employee
22 resumes, performance evaluations, staff grievances,

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1 documentation regarding acknowledgements, reprimands,
2 suspensions or other types of disciplinary actions, and an
3 employee's letter of resignation.

4 We agreed that prior to requesting unrestricted access
5 to these five items, LSC would first determine that the
6 information is needed because there are indications of a
7 violation or a deficiency that is not minor or trivial. Second,
8 the material sought would reasonably appear to have a direct
9 relationship to the violation or to the deficiency.

10 It was also agreed that LSC would continue its
11 practice of requesting sample copies of these documents, and of
12 asking questions about these documents. I am confident that
13 these revisions will satisfy the programs, as well as both union
14 and nonunion employees regarding their privacy concerns.

15 From our perspective we are confident that these
16 revisions will not adversely affect the integrity of the
17 monitoring process. Indeed, I learned during our meeting with
18 Mr. Molinari that in many ways concerns over the EVA condition
19 were related to perceptions about how the information would be
20 used as opposed to concerns on how the information was, in fact,
21 used over evaluating programs over the past three years.

22 However, in an effort to address any remaining

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1 perceptions, I plan to send a memorandum to all executive
2 directors explaining the purpose of the revised condition, the
3 ways in which the information is typically used, and the fact
4 that MAC remains available to work with programs regarding any
5 specific concerns that may arise either prior to, during or
6 after an on-site review.

7 Thank you.

8 CHAIRMAN WITTGRAF: Thank you, Ms. DiSanto. Thank you
9 for the efforts that you made two weeks ago.

10 Mr. Miller, would you care to be heard at all?

11 MR. MILLER: I would just second everything that
12 Emilia said in terms of our support for the agreement. I think
13 it met -- it was a process that was helpful to both parties, I
14 think, in terms of reaching a greater understanding about the
15 process, as well as the concerns and we're thoroughly in support
16 of the agreement.

17 CHAIRMAN WITTGRAF: Mr. Loines, your timing was good.
18 Is there anything you'd like to add at this point?

19 MR. LOINES: Unfortunately, I didn't hear the
20 presentation.

21 CHAIRMAN WITTGRAF: We thought it would be better that
22 way, Mr. Loines.

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1 (Laughter.)

2 MR. LOINES: The only thing I would say is that it was
3 a good experience for all of those involved. This is not the
4 kind of document that, frankly, I would have signed as a
5 contract. However, it's something that I think we all are
6 prepared to try to live with. I think the key thing here is
7 that everybody will attempt to, in good faith, live up to this
8 agreement and attempt to work with each other as situations
9 arise. So I think it was a good experience in that sense.

10 Thank you.

11 CHAIRMAN WITGRAF: Thank you, Mr. Loines. The chair
12 certainly commends Mr. Loines and Mr. Miller, as well as our
13 staff members, in particularly our fellow board member Mr.
14 Molinari, for having brought some differing minds together.

15 I guess at least speaking as one board member, I hope
16 that the example set by Mr. Molinari and by our staff and by the
17 other interested parties in this instance regarding the EVA
18 files will be an example that will be utilized by us when other
19 disagreements regarding procedures and other matters arise.

20 PRESIDENT WEAR: Mr. Chairman.

21 MR. COLLINS: I trust that board members who
22 participate as Mr. Molinari did, will not find it necessary to

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1 almost take themselves to bed with chest pains as a result of
2 the experience. Congratulations to all.

3 CHAIRMAN WITTGRAF: We'll trust that Mr. Molinari's
4 chest pains were only coincidentally related to his serving as
5 lead negotiator and mediator in the process. I think at least
6 based upon how Mr. Molinari was feeling last weekend, that he is
7 feeling better and will be available to serve again when called
8 upon.

9 Mr. Wear.

10 PRESIDENT WEAR: Mr. Chairman, I'd just like to add
11 that as an observer at the meeting with Mr. Molinari, I got a
12 very good appreciation of his negotiating skills and I know that
13 the Borough of Staten Island is in good hands.

14 He has indicated to me that he does this sort of
15 meeting negotiating style on a regular basis up there and this
16 was something that he took right in stride. So I think that we
17 were very fortunate to have Mr. Molinari on the board and to
18 have his involvement in this particular issue.

19 Also, Mr. Chairman, I'd like to commend Emilia and
20 Susan for their hard work on this. It became readily apparent
21 in the meeting that they had the facts on this tied down very,
22 very well. We were able to work with Mr. Miller and the rest of

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1 the people at the meeting.

2 I thought Mr. Miller did an outstanding job as well,
3 and we were able to get these clarifications that were needed
4 and to go forward. I think it's a good agreement, and I'm glad
5 that we've got it.

6 MR. GUINOT: Mr. Chairman.

7 CHAIRMAN WITTGRAF: Mr. Guinot.

8 MR. GUINOT: This, of course, was an issue that I was
9 very concerned about very early on. I'm extremely happy that
10 everyone came out on the right side. I certainly would like to
11 add my congratulations to both parties and also to Mr. Molinari.
12 It certainly makes me feel much easier now going over what our
13 able staff does when they look at these files.

14 Perhaps this is just the first of many agreements that
15 we will be able to have in the future that will set a new tone
16 for the Legal Services Corporation staff of the board and the
17 recipients of our grants. So everybody should commended.

18 Thank you, sir.

19 CHAIRMAN WITTGRAF: Mr. President, the chair at least
20 has a question, perhaps it's a question in the minds of some of
21 the other board members, we have had two or three notices sent
22 over your signature suggesting defunding in connection with

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1 failure to comply with the EVA requests.

2 Will you tell us or clarify for us, please, exactly
3 what the status of those initiatives is now?

4 PRESIDENT WEAR: Mr. Chairman, I think that's not
5 quite accurate. We didn't threaten to defund anybody. The
6 programs were not eligible for funding. That isn't the problem.

7 CHAIRMAN WITTGRAF: Excuse me, Mr. President.
8 Defunding was an inappropriate word for me to use, but certainly
9 threatened their continued funding.

10 PRESIDENT WEAR: The problem, Mr. Chairman, was that
11 the programs were not eligible for funding under the conditions
12 that we had at that time.

13 It's my expectation that the revised grant conditions
14 will be acceptable to those programs that are involved. If it
15 is, they will agree to those grant conditions and their funding
16 will continue. I do not anticipate that there is going to be
17 any interruption in the funding of the three, I believe it is,
18 programs that are involved in this.

19 CHAIRMAN WITTGRAF: So at this point in time, nobody's
20 funds are either cut off, nor have they specifically -- are they
21 being threatened to be cut off, presuming their compliance with
22 the new requirements?

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1 PRESIDENT WEAR: That's correct.

2 CHAIRMAN WITTGRAF: Thank you.

3 Further discussion regarding the matter of the so-
4 called EVA files?

5 (No response.)

6 Hearing none, the chair is prepared to move to
7 renumbered agenda item 7, the matter of the California Rural
8 Legal Assistance grantee and the proposed reduction in funding.

9 PRESIDENT WEAR: Mr. Chairman, I'm not sure that all
10 of the participants are here just yet. I anticipated that that
11 would happen this afternoon. I know there is a Mr. Romberg
12 coming from California. I would ask if Mr. Romberg is here.

13 Mr. Chairman, it doesn't appear that Mr. Romberg is
14 here yet. If I may, I'd suggest that we go on to the other
15 items and come back to this one when he is here. It will avoid
16 having to bifurcate the presentations of the California Rural
17 Legal Aid representatives and Mr. Romberg.

18 CHAIRMAN WITTGRAF: The chair has no objection.

19 Mr. Padilla, is that acceptable to you? You're able
20 to be with us for at least several more hours are you?

21 MR. PADILLA: Yes, as long as it's not too late, we
22 have flights.

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1 CHAIRMAN WITTGRAF: What time would that be, Mr.
2 Padilla?

3 MR. PADILLA: Five o'clock.

4 CHAIRMAN WITTGRAF: Five o'clock?

5 MR. PADILLA: Yes.

6 CHAIRMAN WITTGRAF: I don't think that should be any
7 problem. Thank you very much.

8 At this point the chair is prepared to move to
9 renumbered agenda item 8, the staff report regarding grantees
10 representation of drug dealers and residents of drug-dealing
11 households.

12 Mr. President.

13 PRESIDENT WEAR: Thank you, Mr. Chairman. At this
14 time I'd like to ask Mr. Kenneth Boehm to come forward.

15 During the course of the last board meeting the board
16 adopted a resolution asking the staff for some research and
17 recommendations. Mr. Boehm was charged with supervising and
18 preparing that research and recommendations, and I'd like to ask
19 him to report to the board at this time.

20 MR. BOEHM: Thank you, Mr. President.

21 The board should have received a weighty booklet that
22 included our memo with the recommendations for action by the

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1 board, along with the discussion of the range of options that
2 the board has in handling this issue. I won't recap it,
3 presumably you all have copies. If not, staff has additional
4 copies of the four or five page memo.

5 In a nutshell, the board basically has three different
6 ways they can approach the problems related to drug related
7 activity in public housing units. First, through resolution,
8 secondly through regulation, and third through legislative
9 action.

10 Now in terms of resolution, the board does have the
11 ability and frequently exercises to put itself on record on
12 public policy issues. This is clearly one that's received a lot
13 of attention lately.

14 Many of you may have seen this morning's New York
15 Times, Washington Times, or seen the morning TV shows, but the
16 involvement of Legal Services in going against HUD's drug
17 eviction program is again in the news today, getting a
18 restraining order against the HUD program in something like 23
19 cities.

20 The resolution that you could adopt we'll get into
21 later, but let me just say that you should know that a
22 resolution can't do anything more than put you on public record.

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1 You can't attempt to regulate through a resolution. As with the
2 matter of regulations, this board is precluded from adopting or
3 putting into effect regulations because of the language in the
4 appropriations riders from last year.

5 That is, in fact, the key deterrent to doing a
6 regulation, at least at this time, that it wouldn't be effective
7 until October 1st of this year. So that would rule out the
8 regulatory route.

9 The third route is legislative remedies and usually
10 this would not be a factor for a board, because it's cumbersome.
11 Of course the board does not have direct legislative authority
12 anyway, you can only urge appropriate action on Congress, but
13 for other reasons it may be the most appropriate way. I think
14 it's a way that should be seriously considered by this board if
15 it wants to finally stop the problem.

16 The reason is this. We have reauthorization process
17 underway right now. This will be, if it's successful, the first
18 reauthorization of Legal Services since 1977. There is some
19 question as to whether it will go forward. The reason is there
20 is not companion activity on the behalf of the Senate, on the
21 Senate side, and also this is a busy legislative year. As
22 present, there are no hearings scheduled in the full committee.

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1 The other way to go would be as a rider on our
2 appropriations. The timing with that is also fairly soon.
3 Congress has a legislative work period that ends, a district
4 work period, that ends September 4th. Our appropriation would
5 be up most likely in the month of September. This would be
6 appropriate language -- this would be an appropriate issue to
7 put on a rider on our legislative appropriations.

8 This has been done before. In fact, it's the normal
9 course of events with programs that have not been reauthorized
10 in some time, that a number of riders attach themselves.

11 So we have two legislative opportunities and the final
12 recommendation for your consideration would be that if the board
13 is interested in going on record on this, what you could do
14 would be to have a resolution that, in fact, cites the board's
15 concern, perhaps urges the programs to redirect their resources
16 elsewhere and also endorses an appropriate legislative remedy
17 for the Congress, then, to consider when they take up the
18 reauthorization bill and also the appropriations process. So,
19 that sums it up.

20 The other thing that's included in your booklet are a
21 series of letters, newspaper articles, and other information,
22 all reasonably current, all within the last six months or so,

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1 all pointing towards this problem. And what's happened in the
2 last week, as I mentioned earlier, is that HUD has a
3 demonstration project underway in 23 cities, Lease Forfeiture
4 Program. It has a very high standard.

5 It involves proof beyond a reasonable doubt in the
6 minds of the authorities going forward, and it also involves two
7 different felony drug crimes, not just one. There is now a
8 temporary restraining order in effect, and the story in this
9 morning's New York Times mentioned that this may be challenged
10 in court today. So, this is very topical.

11 And one final point that should come into
12 consideration is the House of Representatives, the full
13 Committee on Banking, Finance and Urban Affairs, just considered
14 a housing bill, a federal housing bill, that involved the issue
15 of drugs in public housing, and the issue of what about innocent
16 third parties, what about other family members, came up.

17 And the reason it was struck down in full committee--
18 and Congressman Bruce Morrison of Connecticut was the person,
19 who in fact was the moving party on this -- is it was pointed
20 out by people in housing authorities that if you had a special
21 class of rights for individuals being evicted because of drug
22 problems, they would, in effect, have superior rights in

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1 eviction proceedings to everyone else who was being evicted.

2 A person, for example, being evicted for nonpayment of
3 rent doesn't have that extra consideration, or a person being
4 evicted for perhaps vandalism or damage to the unit, or any
5 other of the range of reasons, doesn't have that extra
6 consideration.

7 A specific example would be one family member is
8 responsible for whatever the harm is; the other family members
9 are all evicted. The eviction takes place of all the people in
10 the unit, and if you don't have this extra protection for the
11 innocent or noninvolved family members for all these other
12 areas, why have it for drugs? And that argument was persuasive.

13

14 The full committee of the House of Representatives did
15 delete the protective language, if you will. And that happened
16 just a little over a week ago. And that's going to be what's
17 going to be considered by the full House on the floor shortly.

18 So, the issue is very topical. It's the Board's
19 decision whether to have a resolution or not, and how to
20 proceed, but it is an issue of some concern, both up on the
21 Hill, as I mentioned, as well as in the media.

22 Thank you.

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1 MR. COLLINS: Mr. Chairman?

2 CHAIRMAN WITTGRAF: Mr. Collins.

3 MR. COLLINS: You may recall that we discussed this at
4 some length at a recent meeting, and I think it's very, very
5 important that we address this matter now, while Congress is
6 considering this sort of legislation.

7 There is no question whatsoever that the stories that
8 are reflected in today's paper, where the United States
9 Marshals, recognizing the plight of poor tenants in public
10 housing authorities who are seeking to live in peace, but who
11 are terrorized by drug dealers and drug pushers making
12 repetitive sales out of public housing authorities, they were
13 going to evict them by seizing their leasehold rights.

14 A legal services lawyer, in a case entitled Richmond
15 Tenants Organization v. Jack Kemp, Secretary of Housing,
16 succeeded in obtaining a restraining order, which it is my
17 current understanding the judge, then, in the exercise of his
18 wisdom, made a national restraining order. Now, I'm not
19 entirely sure how the Judge was able to extend a local case to a
20 national restraining order, but he has sought to do so.

21 Also, it seems to me that on this question of those
22 directly involved, Mr. Boehm is entirely correct. If we begin

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1 to split hairs by saying it is the son who is the crack dealer
2 and other people will have to be evicted, and we extend
3 particular additional rights to the drug dealers, rights which
4 do not exist in any other person residing in a public housing
5 authority, we will find an additional influx of drug dealers
6 into our housing authorities.

7 So, I would like to offer a resolution, if it's
8 timely, Mr. Chairman?

9 CHAIRMAN WITTGRAF: Do you have copies, by any chance,
10 Mr. Collins?

11 MR. COLLINS: I had a copy of this, but I asked to
12 amend it to reflect that current condition. Do you have an
13 amended one?

14 CHAIRMAN WITTGRAF: No, I put together a quick
15 paragraph that would reflect that.

16 MR. COLLINS: I'll read the resolution and then, when
17 I get to the point where you are inserting the paragraph I
18 suggested, will you please do so?

19 CHAIRMAN WITTGRAF: Okay. Sure.

20 MR. COLLINS: "Whereas, the drug problem in our
21 country has had a devastating effect on the poor, especially
22 those who live in public housing; and

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1 "Whereas, the Board of Directors of the Legal Services
2 Corporation is concerned about reports of LSC grantees
3 representing persons involved in drug related activity, in drug
4 related eviction, and other housing proceedings involving
5 publicly funded housing; and

6 "Whereas resources available to legal services
7 programs to provide legal representation to the poor are
8 limited, and should be used in the most effective manner and
9 only for meritorious cases;"

10 Is this the point or the next point?

11 CHAIRMAN WITTGRAF: Yeah. And then, "Whereas, Legal
12 Services grantees have opposed recent actions by the Department
13 of Housing and Urban Development aimed at evicting drug dealers
14 despite government standards, that authorities have proof beyond
15 a reasonable doubt that the leaseholder committed at least two
16 felony drug crimes and will face prosecution, and despite the
17 fact that the presence of drug dealers in public housing brings
18 misery to many thousands of poor tenants; "

19 MR. COLLINS: "Be it therefore Resolved, that the
20 Board of Directors of the Legal Services Corporation, urges all
21 legal services grantees to refrain from representing persons
22 involved in drug related activity, in drug related eviction and

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1 other housing proceedings involving publicly funded housing and
2 "Be it further resolved that the Board of Directors
3 for the Legal Services Corporation, urges Congress to seek a
4 legislative remedy, which would prohibit LSC grantees from
5 representing persons involved in drug related activity, in drug
6 related eviction at other housing proceedings, involving
7 publicly funded housing."

8 Can we reproduce the amended --

9 CHAIRMAN WITTGRAF: Sure.

10 MR. COLLINS: -- thing and get it around quickly?

11 While we're waiting for that, I was interested, as I
12 know all of you on the Board will be, as to the burden that the
13 Marshals would have to overcome in order to mount this. And it
14 amounts to beyond reasonable doubt, which is the burden in a
15 criminal case, and also requires almost specifically that there
16 be at least two buys by undercover police before this action is
17 taken. It seems to me to be a reasonably effective procedure.

18 CHAIRMAN WITTGRAF: Mr. Collins, at this point, I
19 don't know if you've moved your resolution or not. I guess
20 while it's being reproduced, which I think would be appropriate,
21 particularly if I'm understanding it, we have both a
22 recommendation to legal services grantees, and an recommendation

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1 to the Congress.

2 I think it would be good for all of us to have
3 something that we can look at and review. The Chair, with your
4 and the Board members' consent, would be prepared to move to
5 another agenda item, and then to come back to this item when
6 your resolution's been drafted, or been reproduced, I should
7 say.

8 Are there other comments or concerns regarding this
9 agenda item at this time, pending distribution of the Collins
10 resolution?

11 MR. COLLINS: How long will it take, by the way?

12 CHAIRMAN WITTGRAF: Maureen just went to have it
13 xeroxed, so it shouldn't take long; 5, 10 minutes maybe.

14 CHAIRMAN WITTGRAF: Ms. Pullen?

15 MS. PULLEN: Mr. Chairman, I'd just like to mention
16 that although this tome intimidated me when it arrived, because
17 of it's length, I was able to get at it on the plane yesterday,
18 and after I arrived, as well. And I would like to thank those
19 staff members involved with preparing it, because I think that
20 they've crystallized the issues very well, and provided us a
21 great deal of backup by which to make some decisions.

22 MR. DANA: Mr. Chairman.

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1 CHAIRMAN WITTGRAF: Mr. Dana.

2 MR. DANA: I too, enjoyed these materials, and I had a
3 companion resolution, or another resolution, which may be
4 consistent with John's recommendation, and I would offer it as a
5 suggested addition to his resolution. And it reads as follows:

6 "The Board of Directors of the Legal Services
7 Corporation urges all its grantees, A, to adopt policies
8 discouraging representation on behalf of tenants in public
9 housing evictions involving drug related activities, and to
10 assist eligible tenant organization, resident management
11 organizations, and individual clients in anti-drug activities."

12

13 It seems to me that, short of legislation, one of the
14 things that we can and should do is to urge our grantees in
15 their priority setting process to consider the problem that
16 drugs causes in public housing and in the neighborhoods of this
17 country. And this addresses the priority setting and it
18 encourages them to take this into consideration in that process,
19 and to affirmatively encourage grantees to assist tenant
20 organizations and tenant management groups to get help through
21 Legal Services.

22 MR. COLLINS: Mr. Chairman.

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1 CHAIRMAN WITTGRAF: Mr. Collins.

2 MR. COLLINS: I think that would be a helpful
3 amendment. I'd like to suggest, however, Mr. Dana, that you
4 consider broadening it to -- housing eviction cases aren't quite
5 enough any longer. Because if you've noticed, it has been
6 necessary for the Marshals and others to move in different ways
7 other than eviction sometimes, because eviction is so time
8 consuming, and the neighbors suffer during the year or more that
9 it can be postponed.

10 So, "other housing related matters," I think, is the
11 way I'd put it. But I agree completely with the thrust of what
12 you're suggesting.

13 CHAIRMAN WITTGRAF: Thank you, Mr. Dana. It would be
14 the Chair's impression that once we have, each of us, a draft or
15 a copy of a draft of Mr. Collins' resolution and he moves it,
16 that you may want to move your amendment there, too.

17 Is there further discussion pending Board members
18 having copies of these materials.

19 MS. PULLEN: Can we get copies of Mr. Dana's, as well?

20 CHAIRMAN WITTGRAF: Sure. Unless --

21 MR. COLLINS: Can we get Mr. Dana's into the mix at
22 the same time?

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1 CHAIRMAN WITTGRAF: Unless there is further discussion

2 --

3 MR. McLAUGHLIN: Mr. Chairman, my name is Henry
4 McLaughlin.

5 I have request and a comment. I am the project director of the
6 program that was referred to, in Richmond, Virginia. There have
7 been statements made that are misinformed on what we did in this
8 case, and I would like an opportunity to be heard.

9 CHAIRMAN WITTGRAF: Okay. I don't think the Board or
10 the Chair in particular has any problem with that, sir. I'm
11 wondering if you wouldn't mind waiting until we have the
12 resolution and are prepared in a slightly more formal way to
13 proceed to discussion. But you can and will be heard,
14 certainly.

15 MR. COLLINS: And Mr. Chairman, I've also asked that
16 the restraining order be reproduced, so we may have it in our
17 possession, so there be no indecision about what was said.

18 CHAIRMAN WITTGRAF: Thank you, Mr. Collins.

19 MR. McLAUGHLIN: I have copies.

20 MR. COLLINS: Well, we're in the process of getting
21 them. But, if you have them, we'd like to have them.

22 MR. McLAUGHLIN: Yes, sir. In fact, I can hand out to

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1 you papers. I have in here some papers from the court papers,
2 including the affidavits involved in the order, two orders by
3 the Court. They are not all the papers, but I believe that you
4 will find that they are relevant papers.

5 CHAIRMAN WITTGRAF: At this time, if there are some
6 materials -- you certainly appear to have some materials -- if
7 there are some materials you want to distribute, please do.

8 MR. COLLINS: In finite numbers.

9 MR. McLAUGHLIN: I have a copy for every member of the
10 Board.

11 CHAIRMAN WITTGRAF: Yes, sir. Thank you. Sure.

12 MR. McLAUGHLIN: I would like to have a copy of LSC's
13 report.

14 CHAIRMAN WITTGRAF: Yes.

15 MR. McLAUGHLIN: We were not asked to comment on
16 this.

17 CHAIRMAN WITTGRAF: Mr. Boehm, are there extra copies
18 available at this time?

19 MR. BOEHM: Yes.

20 MR. McLAUGHLIN: May I approach the members of the
21 Board?

22 CHAIRMAN WITTGRAF: Certainly. Certainly.

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1 MR. McLAUGHLIN: I would also like to hand a law suit
2 we filed seeking help for tenants against drug violence.

3 CHAIRMAN WITTGRAF: You have that with you?

4 MR. McLAUGHLIN: Yes, sir.

5 CHAIRMAN WITTGRAF: Yes, certainly. Certainly. Leave
6 one for Mr. Guinot, there, where the glasses are, yes.

7 MR. McLAUGHLIN: We've taken very seriously our duty
8 to try to do our part in the war on drugs. That is the suit
9 that was referred to. This paper is relevant to the suit we
10 filed seeking injunction against drug violence -- security
11 against drug violence -- public housing.

12 CHAIRMAN WITTGRAF: Yes, sir. Thank you.

13 The other additional materials pertaining to the
14 agenda item under discussion regarding LSC grantees'
15 representation of drug dealers and residents of drug dealing
16 households, the chair is prepared to move to amended agenda Item
17 9, "Consideration on Increase and Compensation of LSC Board
18 Members."

19 MR. COLLINS: Moving to what, Judge? I didn't hear
20 that.

21 CHAIRMAN WITTGRAF: Amended agenda item number 9. We
22 do have a memorandum from David Richardson, dated June 20, in

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1 this regard. Mr. Richardson, perhaps you would be good enough
2 to summarize the contents of your memorandum for us at this
3 time.

4 MR. RICHARDSON: Thank you, Mr. Chairman.

5 CHAIRMAN WITTGRAF: Thank you.

6 MR. RICHARDSON: My name is David Richardson. I'm the
7 controller of the corporation. I'll give you a brief overview
8 as to the compensation history.

9 The compensation at this time is set at a GS schedule
10 15, 1985 level, and that's \$261 a day. The Board, for its own
11 reasons, has in '86 through '89, not discussed nor increased the
12 daily per diem for the attendance. There was in '83 a rider to
13 our appropriation that limited it to the GS-15 schedule that has
14 since not been retained since 1986.

15 At present, we're still at the '85 GS-15 level. It
16 could increase upon your action today, to the GS schedule 5, and
17 could go to \$300 a day.

18 At the present time, we give you a per diem for
19 attendance at Board meetings and committee meetings. All this
20 is outlined in this particular memo. I'd be glad to address any
21 additional questions you have at this time.

22 CHAIRMAN WITTGRAF: Are you aware, Mr. Richardson, of

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1 any specific substantive or other reason why the so-called
2 inflation adjustment hasn't been made? You indicated that other
3 boards, for their own reasons had not. Are you aware of any
4 specific reasons?

5 MR. RICHARDSON: I do not, sir. It was discussed, not
6 in a meeting, but each one of the directors knew of the
7 increases that could be addressed, and they chose, for whatever
8 reason, not to increase it during their tenure on the Board.

9 MR. COLLINS: So, Mr. Chairman, if we --

10 CHAIRMAN WITTGRAF: Mr. Collins.

11 MR. COLLINS: It becomes clear to me that Congress
12 wants to be absolutely certain that we are not overpaid, and the
13 only discretion that is available to us is to increase it
14 between \$261 and \$300. I'm not entirely sure that the world
15 would come to an end whether or not we take action, but I'd like
16 to hear what anybody else thinks.

17 CHAIRMAN WITTGRAF: Are you making a motion, or you're
18 just opening the subject for discussion?

19 MR. COLLINS: I'm not making a motion.

20 CHAIRMAN WITTGRAF: Okay. Discussion.

21 MR. COLLINS: Well, if there's no discussion, let me
22 ask those of you who've made field visits, do you think that it

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1 would be fair for you to be compensated on a per diem basis for
2 visits to the field?

3 CHAIRMAN WITTGRAF: Mr. Richardson, would that be
4 beyond the scope of what's allowed under the rider that you
5 alluded to?

6 MR. RICHARDSON: At this point, the rider has--
7 it's no longer valid at this point.

8 CHAIRMAN WITTGRAF: It is no longer valid?

9 MR. RICHARDSON: No, sir. The recommendation that we
10 have put forth in the document was that you be paid for the
11 Board meeting and the committee meetings. As far as the visits
12 to the field, the Bar Association meetings, that's not a part of
13 the recommendation. That's certainly up to your discretion.

14 MR. WEAR: Mr. Chairman.

15 CHAIRMAN WITTGRAF: Mr. Wear.

16 MR. WEAR: Mr. Chairman, under the bylaws that govern
17 this and it's -- indeed, the discussion shows up at page three
18 of the memorandum dated June 20, 1990, caption "Compensation for
19 LSC Board Members." The regulation talks about compensation
20 for members' services on the Board or on any committee thereof.

21

22 The earlier regulation was drafted differently to

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1 permit compensation for some of these other things. The earlier
2 regulation paid Board members, for example, for their travel
3 time and their preparation time. And, indeed, Mr. Dana may have
4 some recollection of that earlier regulation.

5 As a result of that, some things that occurred--
6 indeed, I think, during the course of Howard Dana's previous
7 membership on this Board, the Board changed that rule and
8 decided not to pay for, for example, program visits or other
9 things.

10 It would be my recommendation, Mr. Chairman, that if
11 the Board wants to broaden that again, that it is probably going
12 to take an amendment to the bylaws dealing with this, rather
13 than a simple resolution to the Board.

14 MR. DANA: Mr. Chairman.

15 CHAIRMAN WITTGRAF: Mr. Dana.

16 MR. DANA: As the Board is aware, I and the other
17 members of my board, back in 1982, were the subject of a
18 Controller General Report, which is attached to the material
19 that was distributed to you.

20 I, for one, believe that it is healthy and in the
21 corporation's best interest to encourage Board members to put in
22 as much time as possible. I want to warn my fellow Board

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1 members that the risk in doing that is that the Board would come
2 to understand the programs, become knowledgeable about the
3 programs, their strengths, their weaknesses and might even turn
4 into advocates for the program.

5 So if it is your interest to keep yourself ignorant,
6 then you probably should not encourage the expenditure of money
7 on Board involvement.

8 I believe that it is important for the corporation to
9 have a Board that puts in a lot of time, studies the issues; and
10 for some people, that may require compensation. And to the
11 extent that that's the result, I would favor doing so. I think
12 there are serious political risks in doing so. I see no problem
13 in -- no significant problem in giving ourselves a cost of
14 living pay raise.

15 I think, going back to the situation where we could be
16 described in the same way we were described back in '82, which
17 was quite painful, I think being recessed appointees not
18 confirmed would be somewhat politically risky in view of the
19 fact that Legal Services and all governmental agencies are
20 hurting right now, and so I would urge caution.

21 But on the merits, I think it is very healthy for this
22 corporation and for the grantees to have a board that is

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1 actively involved and spends whatever time is necessary to learn
2 about the programs, and if that requires compensation, then I
3 favor that.

4 MR. COLLINS: Mr. Chairman.

5 CHAIRMAN WITTGRAF: Mr. Collins.

6 MR. COLLINS: I think this has been a very interesting
7 discussion, and I don't believe it is necessary or desireable
8 that we take action today, but I would suggest to my esteemed
9 colleague, Mr. Dana, that Board members who find it difficult or
10 impossible to be educated by or on occasion brainwashed by local
11 service providers are not necessarily ignorant. Education, Mr.
12 Dana, as you know, emanates from a variety of sources.

13 CHAIRMAN WITTGRAF: Further discussion?

14 MR. HALL: Mr. Chairman.

15 CHAIRMAN WITTGRAF: Mr. Hall.

16 MR. HALL: I mean, is there a motion proposed or
17 something?

18 CHAIRMAN WITTGRAF: There is not. If the Chair
19 understands the discussion, the Chair would receive a motion to
20 increase the Board's attendance fee to the level consistent with
21 the 1990 level 5 executive pay on a per day or per diem basis.

22 MR. HALL: I have no motion. I didn't know if we were

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1 discussing one or not.

2 CHAIRMAN WITTGRAF: There is no motion.

3 MR. COLLINS: There is no motion, and I move that we
4 pass on to the next agenda item. For a \$30 raise, we don't want
5 to be the subject of editorials in the New York Times.

6 CHAIRMAN WITTGRAF: Is there further discussion?

7 Mr. Hall.

8 MR. HALL: Just a brief word. You know, if somebody
9 is going to make a special trip, and it takes a long ways to go,
10 or something, maybe there could be some kind of provision that
11 they might -- I hate to say apply -- but there might be some way
12 to finance that particular trip, if need be.

13 You know, I don't know if the answer is for us to
14 start being paid for every trip we take. You're just going to
15 get criticized every time you do. I don't think anybody is
16 going to take any more or less trips, whether they're paid or
17 not.

18 MR. WEAR: Mr. Chairman.

19 CHAIRMAN WITTGRAF: Mr. Wear.

20 MR. WEAR: Thank you, Mr. Chairman. In response to
21 Mr. Hall's comment, it's the corporation's policy now to
22 reimburse people for expenses on trips and things of that

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1 nature. So, that is already covered. I guess the issue here is
2 whether or not the individual would be paid a per diem rate.
3 The regulations in my view don't permit that now. There's no
4 reason, though, that the Board couldn't amend those regulations,
5 if it chose to do so.

6 CHAIRMAN WITTGRAF: Further discussion?

7 (No response.)

8 CHAIRMAN WITTGRAF: Hearing none, the Chair is
9 prepared to move to renumbered agenda item 10.

10 Mr. Guinot?

11 MR. GUINOT: Thank you, Mr. Chairman. Basically this
12 is -- the reason for my request is a rather simple one and one
13 that can be taken care of very quickly. There seems to be a
14 difference of opinion from reading the GAO report and what OMB
15 has designated previously as to who, what person or entity
16 should be the head of the corporation for purposes of the
17 Inspector General Act.

18 I have no words of wisdom concerning who that
19 individual should be. Obviously my concern is that OMB has got
20 to come up with a designation very quickly. The last time they
21 were late in doing so. I would imagine that it is the
22 responsibility of this board to designate someone.

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1 One thing that I do want to express very strongly is
2 that whomever that individual is, it should be by decision of
3 the board itself, whether it is a chairman of the board who is
4 designated or individual of the board itself. I just wanted to
5 bring that to the attention of the board members before more
6 time elapses.

7 CHAIRMAN WITTGRAF: We do have materials that were
8 presented to us as members of the board at our May 21st meeting,
9 materials or a memorandum dated May 4, 1990, prepared by Mr.
10 Wear. We took no action at the May 21st meeting then other than
11 discussing the need to consider or reconsider the matter of the
12 designation.

13 Do you have a motion, Mr. Guinot?

14 MR. GUINOT: Not at this point. I would like to hear
15 a discussion from some of our other board members.
16 Understanding that there is a difference of opinion between DAO
17 and OMB as to who the head should be, certainly my only concern
18 is to get somebody designated, one, and secondly that the
19 designation come from a decision of the board as opposed to an
20 assumption of OMB as to, you know, who we think might be the
21 individual.

22 CHAIRMAN WITTGRAF: Is there a discussion?

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1 MR. WEAR: Mr. Chairman?

2 CHAIRMAN WITTGRAF: Mr. Wear?

3 MR. WEAR: Thank you, Mr. Chairman. Under the
4 Inspector General Act Statute the agency heads that are not
5 identified in the enabling statute for that agency are left to
6 the determination of the Office of Management and Budget. The
7 Office of Management and Budget looks at the facts and
8 circumstances and makes a determination. That determination is
9 made annually.

10 When this issue first came up, the Corporation's
11 general counsel prepared a memorandum trying to analyze both the
12 purposes to be served under the Inspector General Act Statute
13 and under our statute and forwarded a memorandum to the -- or I
14 should say the Corporation in a letter under my signature
15 forwarded the memorandum to the Office of Management and Budget.

16

17 That memorandum was distributed to board members some
18 months ago. I wouldn't expect anybody to have it or to really
19 remember much about it now.

20 We attempted to analyze the statute to try to figure
21 out what would work best. There was no purpose to try to skew
22 it one way or another, whether it should be the president or

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1 whether it should be the board, or some other choice, I guess,
2 that OMB might make.

3 The memorandum recommended that the president be
4 designated the head for the purposes of the IG Statute,
5 principally because of the reporting requirements that are in
6 the Inspector General Act Statute and the requirement that the
7 head be available to the Inspector General on a pretty much
8 intermittent basis is my recollection anyway.

9 The board is certainly free to do whatever it wants to
10 do on that issue, however. I don't know what the Office of
11 Management and Budget is going to do this time around. They may
12 act or not act regardless of what the Corporation says on the
13 question.

14 CHAIRMAN WITTGRAF: Further discussion?

15 MR. GUINOT: The main issue is that there is a
16 difference of opinion between the OMB and GAO. I cannot address
17 myself to what the position of OMB would be toady as to who the
18 new head of the corporation should be.

19 However, it is my understanding that they would pretty
20 much follow the GAO report. Again, I don't have any direct
21 indication of that.

22 However, having said that, it would seem to me that

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1 all power should emanate from this board. I have no problem at
2 all with anyone being designated, so long as the board does so.
3 This is really basically the only reason why I bring this up.
4 We should do it. It should not be done by OMB or at least they
5 follow our -- or at least they should know what our opinion is.

6 The board has two choices. It can designate itself or
7 it can designate one of us. If it designates itself, I believe
8 that that will be an unwieldy type of resolution. Perhaps in
9 the interest of administrative clarity it should designate one
10 of its members.

11 I would like to hear what the other members have to
12 say about this. If they do not, I would be willing to move that
13 the board designate the chairman as the head of the Legal
14 Services Corporation for the purposes of the IG Statute.

15 MS. PULLEN: Mr. Chairman?

16 CHAIRMAN WITTGRAF: Ms. Pullen?

17 MS. PULLEN: I think that Mr. Guinot's last comment
18 may be somewhat premature, because the OMB has not made a
19 designation as to agency head. So, I don't think the board can
20 delegate that designation at this point.

21 CHAIRMAN WITTGRAF: They have. They have and that is
22 what the GAO report criticized.

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1 MS. PULLEN: No. I mean they are -- it is anticipated
2 that they are going to be issuing a new designation. That
3 currently the designation is the president of the Corporation.

4 CHAIRMAN WITTGRAF: Correct.

5 MS. PULLEN: It is anticipated that OMB is in the
6 process of reconsidering that designation and making a new
7 designation. The GAO report recommended that it be either the
8 board or the board's chairman.

9 CHAIRMAN WITTGRAF: Right.

10 MS. PULLEN: Without making a recommendation as
11 between the two.

12 CHAIRMAN WITTGRAF: Right.

13 M O T I O N

14 MS. PULLEN: It seems to me that it would be
15 appropriate for the board if we wished to comment on this before
16 OMB makes a decision to be commenting to OMB on those choices.
17 Then if the OMB were to designate the board, it would be timely
18 at that time for the board to make a decision as to whether it
19 wishes to delegate IG matters to one member representing the
20 board, who could be the chairman or someone else, whomever we
21 decide at that time.

22 But my understanding of where we are today on this is

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1 that we are anticipating a review of designation by OMB. Well,
2 we are anticipating a new designation because they have had this
3 under review for the past couple of months. And if the board
4 wishes to have any input to OMB on the matter, that this would
5 be the appropriate time to do that as between the chairman or
6 the board.

7 I suppose we could also recommend, if we so choose,
8 that it would be the president, though we would, of course, be
9 disagreeing with the GAO, which we are free to do.

10 I would make a motion, Mr. Chairman, if -- well, I
11 would make a motion, which then would open discussion on that
12 motion I guess, to go on record as stating to the Office of
13 Management and Budget that the board believes that the Board of
14 the Corporation would be the appropriate head of agency inasmuch
15 as we are the policy making body for the Corporation.

16 CHAIRMAN WITTGRAF: It is the Chair's understanding
17 that Ms. Pullen has moved that the board advise the Office of
18 Management and Budget that it believes that the Legal Services
19 Corporation Board of Directors should be designated by the
20 Office of Management and Budget as the agency head for purposes
21 of the Inspector General Act.

22 MS. PULLEN: That's my motion.

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1 CHAIRMAN WITTGRAF: Okay. Is there a second?

2 MR. DANA: I will second it.

3 CHAIRMAN WITTGRAF: Mr. Guinot?

4 MR. GUINOT: Yes. Ms. Pullen, does your motion
5 preclude the possibility of the board then designating one of
6 its own or a group of its own to be the head?

7 MS. PULLEN: No, it doesn't.

8 MR. GUINOT: In other words, by voting for your motion
9 we are not binding ourselves later on just to say that it is the
10 complete board. I just think it is unwieldy to have the whole
11 board. That's why I am asking you that. I would like to vote
12 for your motion is what I am saying.

13 MS. PULLEN: Well, the board would be the official
14 head, but the board would have the authority to delegate these
15 matters to a member of the board or a subcommittee of the board.

16 MR. GUINOT: Is that possible under the law, Mr. Shea?

17 MR. SHEA: Well, if I may, let me speak briefly to
18 that. It is my understanding that OMB and GAO have resisted
19 delegations of the authority as a head, in principle anyway.
20 Nevertheless, I don't think that they are in a position really
21 to regulate the workings of the board. It seems to me boards
22 can and do typically work through committees or councils within

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1 the board.

2 As long as it was authorized by the board it seems to
3 me that may well be appropriate. What would need to be done, I
4 think, would be some system in place whereby the board, in
5 effect, would adopt a procedure that would permit either perhaps
6 a committee or something like that to deal with these matters.

7 I don't know whether a delegation, I don't know
8 whether it should be styled as a delegation. That may require
9 some attention. But the motion at least as I understand it
10 doesn't address that particular issue. I think that once the
11 authority is lodged properly with the board, if it is, indeed,
12 properly lodged with the board, then the board can deal on its
13 own with how to administer the matter. It may very well be
14 along the lines that you suggest.

15 MS. PULLEN: I should clarify it if I may, Mr.
16 Chairman. By delegation, I do not myself mean delegating
17 authority. But assigning a member of a subcommittee to deal
18 with the day-to-day matters that might arise while the board
19 would retain the authority.

20 MR. SHEA: Correct. Correct. I think that can be
21 properly the subject of attention once the decision has been
22 made by OMB.

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1 MR. DANA: Mr. Chairman?

2 CHAIRMAN WITTGRAF: Mr. Dana?

3 MR. DANA: May I ask a question of Mr. Shea. Tim, how
4 is it contemplated that this would work? Does the -- if we
5 adopt this resolution, does the inspector general then report to
6 the board and, if so, how frequently, and how would that work?

7 MR. SHEA: The short answer to that is your resolution
8 wouldn't answer the question. The board have to decide the
9 board or the committee. However, it was once -- first of all,
10 OMB would have to make a decision. As it is now, as of today,
11 the only decision, extant decision by OMB, is that the president
12 is the head within the meaning of the Inspector General Act as
13 amended.

14 If OMB were to change that designation and make the
15 board the head, then the board would have to decide from its
16 point of view how it would proceed. It is likely I think we
17 would do that by forming some, either a member or some committee
18 to deal with it on a day-to-day basis.

19 Actually, as you know, the inspector general is -- the
20 position is intended to enjoy considerable discretion in the
21 exercise of his authority. I don't know that -- there may be
22 genuine issues about how much day-to-day supervision an

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1 inspector general requires to be perfectly honest. But that is
2 left -- that will be left. Once OMB makes any such decision
3 then it will be left for the board to decide how to administer
4 that.

5 MR. DANA: I am concerned about lodging a
6 responsibility that has sort of day-to-day, to use a -- coin a
7 phrase, responsibilities in an 11, now 10 member board. I am
8 wondering if the mover of this motion would accept an indication
9 that the inspector general should operate through the board
10 chair or communicate with us through our chair. So, in effect,
11 he or she doesn't have to, in effect, communicate with all ten
12 of us every time he or she needs to talk to the boss.

13 MS. PULLEN: Well, as I have said earlier, I would
14 contemplate. First of all, I believe that this is the most
15 appropriate designation because from my readings it is supposed
16 to be the policy making head and that is us.

17 MR. DANA: Right.

18 MS. PULLEN: It is not one member of the board and it
19 is not the professional administration.

20 In terms of this motion, this is to make a
21 recommendation to OMB and I don't think that it would be
22 appropriate to include in that anything formal or official

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1 indicating how we would manage that. I think the question is,
2 is the board the appropriate designee and what I am proposing is
3 that we should say that that is the case.

4 My comments earlier indicated that I would not--
5 first of all, it would be up to the board at a later time to
6 determine how we would manage it. We could have this discussion
7 then. But that I would not contemplate that it would mean that
8 large chunks over every board meeting would be taken up with
9 reports by the inspector general to the entire board. But that
10 either we could decide to have a subcommittee or we could decide
11 to designate a member who could well be the chairman to be the
12 person who does the day-to-day receiving of reports and
13 consultation with the inspector general.

14 And that person or committee, subcommittee, would
15 communicate to the board. I don't think we need to decide today
16 who that person or those persons are. We can leave that battle
17 to another day if it has to be a battle.

18 MR. DANA: I guess that is the area where I have some
19 misgivings. I would be interested in -- my concern is that if
20 we designated, I am not sure that we have the authority to take
21 the monkey off our back and put it on one of our shoulders
22 unless -- and if that is our intention I would think that we

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1 should do so up front so that the OMB or the IG knows what we
2 are intending to do. Hence, I am concerned about the idea of
3 moving it from one person to a full board with the intention of
4 then putting it back in the hands of one person and not telling
5 anybody.

6 MS. PULLEN: Well, I don't think we would be putting
7 it back in the hands of one person because the board would
8 retain authority and would receive reports as necessary from
9 whoever we assign just in terms of the management of our
10 business. Just as we have a presidential search committee to
11 more neatly take care of the early screening process for the
12 next president. But the board retains authority in that
13 decision.

14 MR. GUINOT: Mr. Chairman?

15 CHAIRMAN WITTGRAF: Mr. Guinot?

16 MR. GUINOT: I believe that an inspector general by
17 its own definition of the term and also by the scope of the work
18 that he or she is supposed to perform should be given all the
19 latitude and discretion possible. I don't believe that any--
20 that's why -- I should say that's why I have concern about
21 having the president be the designated head.

22 So, to the extent that designating the whole board

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1 gives the IG more latitude of discretion and more room to
2 operate, I am for it.

3 However, I am also cognizant of -- as I stated before
4 and Mr. Dana, I think, is echoing what I am saying, that it is a
5 little bit cumbersome to have this person reporting to a group
6 of ten, hopefully 11.

7 To the extent that what Ms. Pullen is saying, that the
8 board retains the power, the designation, however
9 administratively it nominates or names someone, or a group to be
10 the contact with the inspector general, I think I can live with
11 that. Assuming Mr. Shea tells us that that is within the scope
12 of the statute.

13 MR. SHEA: I think it is.

14 CHAIRMAN WITTGRAF: The motion before the board is to
15 the effect that the Legal Services Corporation Board of
16 Directors advise the Office of Management and Budget that it,
17 the board, believes it should be designated as agency head for
18 purposes of the Inspector General Act. Is there further
19 discussion?

20 (No response.)

21 CHAIRMAN WITTGRAF: Hearing none, those in favor of
22 the motion, please signify by saying aye.

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1 (Chorus of ayes.)

2 CHAIRMAN WITTGRAF: Those opposed, nay.

3 (No response.)

4 CHAIRMAN WITTGRAF: The ayes appear to have it. The
5 ayes do have it.

6 As best the Chair can tell, at this time we have most
7 of the materials before us that we are going to have at this
8 time in connection with the earlier subject, amended agenda item
9 8 pertaining to LSC grantees representation of drug dealers and
10 residents of drug dealing households.

11 A motion was offered by Mr. Collins orally with some
12 supplementation by Mr. Boehm. We now have before us a typed
13 copy of a resolution with four "whereas" or introductory
14 paragraphs and two resolution paragraphs.

15 Is this, Mr. Collins, the entirety of the resolution,
16 including the supplementation by Mr. Boehm?

17 MR. COLLINS: Yes. The handwritten material there, if
18 you have it --

19 CHAIRMAN WITTGRAF: Additionally, there is a copy of a
20 resolution which could become an amendment by Mr. Dana, which is
21 in his hand. Everybody has copies of those two pages?

22 Mr. Collins, would you care to speak at this time to

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1 your resolution?

2 MR. COLLINS: Well, I know that you have all received
3 the copy from Congressman Chester Atkins suggesting that he has
4 been a long-time supporter of Legal Services. His second
5 paragraph states the matter very well.

6 He says, "I am particularly concerned about the use of
7 Legal Service lawyers and resources to litigate public housing
8 eviction cases where a preponderance of evidence supports
9 allegations of drug trafficking as the root of the complaint.

10 "This policy essentially has federal dollars working
11 at cross purposes. On the one hand, HUD is seeking to evict the
12 drug dealer from federally subsidized housing. On the other
13 hand, federally funded lawyers attempt to keep the client in the
14 unit.

15 "Most importantly, these cases have a debilitating
16 effect on public housing. As an elected official, I frequently
17 visit housing projects and meet with tenants. There is nothing
18 so tragic as hearing the pleas of tenants who wish only to rid
19 their building of drug dealers, only to find that Legal Services
20 is blocking the eviction proceeding. This is no way to fight a
21 way on drugs."

22 He then goes on to speak about some local programs and

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1 praises the policy of the Boston Legal Services Board, which
2 seeks to set up policies similar to those which we have
3 suggested.

4 Mr. Dana has offered what I consider to be a friendly
5 amendment and it has been written into the typed copy. Do you
6 care to read your amendment, Mr. Dana, or would you prefer I do
7 it?

8 CHAIRMAN WITTGRAF: Excuse me just a minute. Mr.
9 Collins, if I understood your last statement correctly, you are
10 saying that his wording has been typed in it? It has not been,
11 has it?

12 MR. DANA: No.

13 MR. COLLINS: No. It has been written in.

14 CHAIRMAN WITTGRAF: The Chair recognizes that Mr. Dana
15 for purposes of -- well, I don't know that we have had the
16 motion offered.

17 M O T I O N

18 MR. COLLINS: I offer the resolution.

19 CHAIRMAN WITTGRAF: Okay. The resolution has been
20 offered. Is there a second?

21 MS. PULLEN: Second.

22 CHAIRMAN WITTGRAF: And seconded. Mr. Dana?

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1 MR. DANA: Mr. Chairman, I would offer as a friendly
2 amendment the following: In the first "resolved," delete the
3 words "refrain from representing" and substitute the words
4 "adopt policies discouraging representations of" in substitution
5 of the words "refrain from representing."

6 Then insert a second -- in between the two resolves,
7 insert the resolve that appears on the handwritten version and I
8 will read it.

9 "Be it further resolved, that the Board of Directors
10 of the Legal Services Corporation urges all Legal Services
11 grantees to assist eligible tenant organizations, resident
12 management organizations and individual clients in anti-drug
13 activities." Then it would continue. That would be an
14 insertion between the two resolves.

15 CHAIRMAN WITTGRAF: Is there a second?

16 MR. GUINOT: Wait just a second. In keeping the third
17 resolve, Mr. Dana?

18 MR. DANA: Yes.

19 MR. GUINOT: So there will be three then?

20 MR. DANA: Correct.

21 CHAIRMAN WITTGRAF: Is there a second?

22 MR. HALL: Second.

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1 CHAIRMAN WITTGRAF: It's been moved by Mr. Dana and
2 seconded by Mr. Hall that the five words read by Mr. Dana be
3 substituted for the three words in the second and third lines of
4 the first resolution paragraph. Then his handwritten sheet
5 become a second of three resolutions as part of the Collins
6 resolution as a whole.

7 Discussion on the Dana amendment?

8 (No response.)

9 MR. COLLINS: Mr. Chairman?

10 CHAIRMAN WITTGRAF: Mr. Collins?

11 MR. COLLINS: It's slightly less direct language with
12 respect to -- my original motion said they should refrain from
13 representing persons. Mr. Dana says adopt policies discouraging
14 representation of. I don't want to quarrel about it. I think
15 that that conveys the idea. It's laudatory language but
16 slightly less severe. The insertion under the "be it resolved"
17 clause is certainly fine.

18 MR. WEAR: Mr. Chairman?

19 CHAIRMAN WITTGRAF: Mr. Wear?

20 MR. WEAR: Mr. Chairman, just as a point of
21 information so that the Board members know, the local programs
22 do their priority setting usually on a two to three year basis.

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1 They set priorities and then get back to them probably in about
2 three years. So the effect of this change may slow down the
3 extent to which programs look at that, because they don't adopt
4 these policies except over a two to three year time frame.

5 MR. DANA: Mr. Chairman?

6 CHAIRMAN WITTGRAF: Mr. Dana?

7 MR. DANA: As the president and the Board, I hope,
8 know, the way we interact with the grantees is through contract
9 regulation or urging. I take this to be an urging resolution.
10 I suggest that whether we urge them to refrain or urge them to
11 adopt policies, it would be, I think, this Board's hope, that
12 they would not wait around and that they would get right about
13 amending their policies.

14 It is their policy or their priority setting which
15 decides what cases they take. It's not what we say at any given
16 Board meeting. In order to have an affect on the kinds of cases
17 that are taken by our grantees, you have to get into their, at
18 least as envisioned by the statute, policy-making process. I
19 would hope that this exercise would take place immediately. I
20 suspect that it might.

21 MS. PULLEN: Mr. Chairman?

22 CHAIRMAN WITTGRAF: Ms. Pullen?

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1 MS. PULLEN: I'm wondering whether the gentleman would
2 accept a small amendment to put the word immediately in before
3 the word adopt so that it would be clear that we don't mean when
4 they next get around to their formal adoption of priorities.

5 MR. DANA: No problem.

6 CHAIRMAN WITTGRAF: Where is that, Ms. Pullen?

7 MS. PULLEN: Just before the word adopt. So it would
8 be "Legal Services grantees to immediately adopt policies."

9 CHAIRMAN WITTGRAF: How about to adopt immediately?
10 You don't want to split an infinitive; do you?

11 MS. PULLEN: To adopt policies immediately?

12 CHAIRMAN WITTGRAF: Right.

13 MS. PULLEN: Kilpatrick says that it doesn't matter if
14 you split infinitives, but if it makes you feel better, Mr.
15 Chairman, that's fine.

16 CHAIRMAN WITTGRAF: Who is Kilpatrick?

17 MS. PULLEN: James Jackson Kilpatrick.

18 CHAIRMAN WITTGRAF: I didn't have him in college. I
19 had somebody else. I see. I've split my share. I'm glad to
20 know.

21 MS. PULLEN: To adopt policies immediately to
22 discourage or that discourage representation.

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1 CHAIRMAN WITTGRAF: Fine. Unless there is objection,
2 the Chair will find that the change proposed by Ms. Pullen is
3 made.

4 (No response.)

5 CHAIRMAN WITTGRAF: There being no objection, it is
6 made. We're now on the Dana amendment to the Collins
7 resolution. Further discussion?

8 (No response.)

9 CHAIRMAN WITTGRAF: The Chair hears none. Those in
10 favor of the Dana resolution --

11 MR. McLAUGHLIN: I understood that I was going to be
12 given an opportunity to respond before --

13 CHAIRMAN WITTGRAF: That's correct. I guess I didn't
14 -- the Chair certainly could be wrong here. The Chair was
15 presuming that you really didn't have any particular objection
16 to the Dana amendment to the Collins resolution.

17 MR. McLAUGHLIN: I'm sorry.

18 CHAIRMAN WITTGRAF: When we move to discussion of the
19 Collins resolution, certainly. The Chair has not forgotten.
20 Those in favor of the Dana amendment to the Collins amendment,
21 please signify by saying aye.

22 (A chorus of ayes.)

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1 CHAIRMAN WITTGRAF: Those opposed, nay.

2 (No response.)

3 CHAIRMAN WITTGRAF: The ayes appear to have it. The
4 ayes do have it. The Dana amendment to the Collins resolution
5 is adopted. Mr. Collins, the Chair has one question of you. In
6 the fourth introductory or preliminary paragraph where you begin
7 "whereas Legal Services grantees have opposed," do you have any
8 sense of the number you're talking about? There were some 325
9 Legal Services grantees.

10 Are you painting them all with the same brush or are
11 we talking about, to your knowledge and belief, a relatively few
12 or somewhere in between?

13 MR. COLLINS: The number that sticks in my mind is 80
14 or 90 at a minimum. That was a very preliminary figure. I
15 think that there is a significant number of cases taken across
16 the country. I have not been able to specifically link each
17 case with each grantee. It is not a rare occurrence.

18 CHAIRMAN WITTGRAF: What is the source of the number
19 80 or 90?

20 MR. COLLINS: The press and, to a considerable extent,
21 this book (indicating).

22 CHAIRMAN WITTGRAF: I have only skimmed the yellow

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1 book, I confess. Do you recall where in the yellow book that
2 point was made?

3 MR. COLLINS: No, no. The Chairman will have to dig
4 through it the same way the rest of us do. I'm sure somebody
5 can help us.

6 CHAIRMAN WITTGRAF: Thank you, Mr. Collins. Yes, sir,
7 Mr. Wilkinson?

8 MR. WILKINSON: The Board will recall that three or
9 four months ago, the Legal Services Corporation, namely the
10 Office of Communications and Policy Development, sent a survey
11 to all of the grantees. I emphasize, this was not done with the
12 cooperation or even the knowledge of the Office of Inspector
13 General.

14 But when those results came back, OCPD allowed the
15 Office of Inspector General to review, more than review, to
16 analyze in detail those results. Those results showed that
17 there were some 216 cases, not all of them identified by case
18 number or by style of the action, but, nevertheless, 216 cases
19 which the grantees identified themselves, where they became
20 involved in drug-related eviction actions from public housing.

21 Of those 216 cases, there were some 30 grantee
22 programs involved. I forget the number of states, but it was

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1 something like 15 or whatever. This is just raw data that is
2 available in the offices of the Legal Services Corporation.

3 CHAIRMAN WITTGRAF: Thank you, Mr. Wilkinson. Before
4 we move to additional discussion, the Chair will recognize--
5 yes, sir, Mr. Guinot?

6 MR. GUINOT: In following up what you have just stated
7 concerning the wording of the first sentence of the fourth
8 "whereas," Legal Services grantees, I gather that you were
9 looking for a specific number. I think the language here
10 doesn't paint everybody with the same brush.

11 I mean, it is a fact that some Legal Services grantees
12 have done this. It's a fact that everyone has done it, but
13 that's not what the wording implies, at least in my
14 understanding of it. I would be satisfied with the way it
15 appears right now, if that will make you --

16 CHAIRMAN WITTGRAF: I didn't have any number in mind.
17 The record is more clear now thanks to Mr. Wilkinson. I
18 appreciate that. With so many grantees on any question, some do
19 things and some don't do things. I guess I wanted to clarify
20 it. Some would strike me as making more sense, but we
21 understand that we're talking about roughly 30 out of 325 or
22 some 10 or 11 percent. I don't have strong feelings. Mr. Dana?

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M O T I O N

1
2 MR. DANA: Mr. Chairman, I would move that we insert
3 the word "some" before Legal Services grantees.

4 CHAIRMAN WITTGRAF: Is there a second?

5 MR. HALL: It's been moved and seconded that the word
6 "some" be added between the whereas and Legal, the first line of
7 the fourth paragraph. Discussion?

8 (No response.)

9 CHAIRMAN WITTGRAF: Hearing none, those in favor,
10 signify by saying aye.

11 (A chorus of ayes.)

12 CHAIRMAN WITTGRAF: Those opposed, nay.

13 (No response.)

14 CHAIRMAN WITTGRAF: The ayes appear to have it. The
15 ayes do have it.

16 At this time, before we move to further Board
17 discussion, the Chair has been advised that there are four
18 individuals present who would like to be heard, relatively
19 briefly, in regard to this resolution. The Chair would ask that
20 those four individuals come forward at this time. The Chair is
21 uncertain as to whether or not these individuals have had a
22 chance to coordinate their efforts in terms of their comments.

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I'll look to Mr. Houseman for better or worse as the coordinator of this effort, a designation that he would perhaps just as soon not have. Familiarity does do certain things. To the extent possible, I think it would be helpful for all of us if the four individuals who are present -- and we appreciate their presence -- can avoid duplication in their remarks, if that is possible.

MR. HOUSEMAN: I think it will be. We would like to go in the following order: Henry McLaughlin, who you've heard already; then we have two other people that I'll let introduce themselves. Then if there's anything else to be said, I'll add a word or two. Henry?

MR. COLLINS: Mr. Chairman?

CHAIRMAN WITTGRAF: Mr. Collins?

MR. COLLINS: Just before we start this, is somebody going to make a summary statement to tell us what the purpose of these disparate presentations are? Would somebody make an introductory statement?

MR. HOUSEMAN: There are several purposes for this presentation. In the first place, there have been statements made about the Richmond case that I think are highly misleading.

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1 Before you vote on a resolution that in part may be premised on
2 a flawed understanding of the Richmond case, I think it would be
3 appropriate to hear from the attorney in the Richmond case, one
4 of your grantees, who can talk about both the Richmond case and
5 the activities of that grantee in trying to deal with
6 drug-related problems in public housing.

7 In addition, there have been statements made by
8 Secretary Kemp and by members of the LSC staff about Georgia.
9 The director of Georgia Legal Services, one of your grantees who
10 nobody has contacted from LSC, is here to put a bit of
11 perspective and clarify the facts as to the Georgia cases.

12 In addition, from Ann Arbor is a tenant leader who has
13 been involved in Ann Arbor and has been involved in the
14 forfeiture question which was at the heart of the Richmond case
15 and has some perspectives and insights about it that may help
16 you better understand.

17 If necessary, I will add a word or two of context at
18 the end to address some of the issues that have been coming up
19 and statements that have been made about what and what not Legal
20 Services is or is not doing. That's the purpose of the
21 presentation; to provide factual information to you before you
22 vote on this issue.

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1 MR. COLLINS: Mr. Chairman?

2 CHAIRMAN WITTGRAF: Mr. Collins?

3 MR. COLLINS: I thank Mr. Houseman for that statement,
4 but I point out to him that this resolution was discussed at our
5 last meeting. It is not based upon that which happened in
6 Richmond. It just happens that that which occurred in Richmond
7 brought it to a contemporary status within the last day or two.

8 CHAIRMAN WITTGRAF: Thank you, Mr. Collins. Mr.
9 Houseman, I think at this time it is your preference that Mr.
10 McLaughlin begin? Thank you, Mr. McLaughlin.

11 MR. McLAUGHLIN: I'd like to start by saying I'm sorry
12 I interrupted your meeting twice. I was mistaken about what was
13 happening the second time. I didn't mean to be interrupting.

14 CHAIRMAN WITTGRAF: No problem, I don't feel that your
15 views are prejudiced by that.

16 MR. McLAUGHLIN: If Europe can tear down the Berlin
17 Wall and the East and West can dismantle the Cold War, I submit
18 to you that the LSC Board and LSC staff and LSC field can get
19 together in the war on drugs. There is an enormous job to be
20 done to get rid of this drug trafficking in public housing.

21 The field goes to the client groups. We go to the
22 meetings of the client organizations. This is the number one

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1 concern by the client organizations. They want drugs out of
2 public housing. If you can settle a matter that I heard was
3 settled when I was here earlier this morning, we can get
4 together on this issue, but we've got to talk together.

5 This resolution came in on a briefing book that I've
6 never seen that talks about the program that I'm project
7 director of. There were statements made about what happened.
8 Our program was never asked to talk about this, to answer
9 anything. The matter came on without us being consulted at all.

10

11 I would like to issue at the very beginning an
12 invitation for every member of this Board to come to Richmond
13 and to meet with us and help us try to do our part in the war on
14 drugs. Different organizations and groups have a different part
15 in this. The number one priority of the tenants is to get rid
16 of drugs. The number one priority of the housing authorities,
17 in my opinion, is also to get rid of the drugs.

18 Naturally, they see it from a different perspective.
19 The housing authorities tend to emphasize the duty of the
20 tenants to do something about the war on drugs. The tenants
21 tend to emphasize the duty of the housing authority to do
22 something about the war on drugs. That is a natural thing for

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1 the two to emphasize.

2 They both have a role to play, but they both need
3 representation. The tenants need to be represented in a fair
4 and balanced way in confronting the landlord with its
5 obligations. I have handed out to you a document which is a
6 proposed amendment Bill of Complaint having to do with a Bill of
7 Complaint which was filed last week on behalf of the tenants in
8 Richmond, seeking an injunction from the court for the kind of
9 supplemental foot patrols that are now provided in Baltimore to
10 be provided in Richmond for lighting, for better lighting,
11 including the kind of bulbs that resist vandalism.

12 For better doors; a bullet can come through the door,
13 hit the wall, go into the child's shoulder, that sort of thing.
14 We want better locks. We want an architectural review to
15 curtail secluded areas. I hope that you will take the time to
16 read this document because it shows you one of the kinds of
17 efforts that can be, and in this case is being, made in the
18 field to try to do our part in the war on drugs.

19 You will see in the exhibits to the Bill of Complaint
20 letters that were written on behalf of the Tenants Organization
21 to the landlord asking, why is it that you are trying to change
22 this lease to water down your obligation to provide security

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1 against drug violence?

2 You will see a letter back from counsel for the
3 housing authority freezing any meetings on it until after
4 comments are in from the tenants. You will see the letter from
5 the housing authority proposing changes in the lease which
6 would, in fact, water down, we believe, the landlord's
7 obligation to provide security against drug violence.

8 This is important to the tenants. It's an important
9 effort being made by the tenants. We think that this is one of
10 the things that Legal Services grantees can do. But we don't
11 want to all be inventing this wheel 200-some, however many
12 different programs.

13 I would suggest to you that it makes sense for you to
14 increase the appropriation to the national backup center, the
15 national housing law project which only, I understand, has four-
16 and-one-half lawyers. I got some help from them, but this is
17 something that, in my understanding, congress called upon all
18 the Legal Services community to help in the war on drugs, to
19 help the tenants get rid of drugs in public housing.

20 We took that very seriously, even though it wasn't
21 effective until this year, I understand. We immediately went to
22 work in our office. We had meetings with public officials, with

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1 the bar association, with our client counsel. Our client
2 counsel almost came out of their chair when we started talking
3 about, what can we do to get rid of drugs?

4 We had meetings with our staff. We had meetings with
5 our boards. We met with the housing authority. You will see
6 that also in this exhibit because it's in one of the letters
7 which details those things. There are many things that can be
8 done. One of the things that can be done is talk to the tenants
9 about, how can you turn in a drug dealer without facing violence
10 in return? It's a serious problem within the projects.

11 If you call and say that something is going on. Is a
12 police vehicle going to appear in your front door within five
13 minutes and people know that you are the one who did it and your
14 life be in danger? We've got to have ways. One of the things
15 that we talked about doing is, our office would try to do a
16 brochure explaining to tenants how they can turn someone in
17 without endangering the lives of themselves and their families.

18 One of the things we've talked about is, we've
19 discussed with the housing authority, what about increasing the
20 rewards for anonymously turning in drug dealers? These are a
21 few things. There are more. There has to be unity among client
22 groups, unity among -- of course, I don't mean to say

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1 uniformity, but there should be an opportunity for people to
2 work together to work on this problem. But the landlord has a
3 responsibility, too.

4 The answer that we get back through, in this case, the
5 media is, we would have to take this money from somewhere else.
6 Currently, the housing authority in Richmond budgets zero on
7 labor costs for security. Baltimore provides supplemental foot
8 patrols. We think this is the sort of thing that is reasonable
9 for the housing authority and the tenants to be involved in and
10 for the tenants to have representation.

11 Now the landlord had proposed to change the lease.
12 This was one of the things that was being proposed. If you
13 look, you will see that we wrote a letter saying, while you're
14 doing this, we want to meet on this. We want our meeting to be
15 only on the subject of how to prevent drug violence. We got an
16 answer back that says, "Writing in response to your letter," so
17 forth and so on, "to discuss removal of paragraph 6(p)."

18 Paragraph 6(p), and I can quote it almost verbatim,
19 "management agrees to make every reasonable effort to maintain
20 security in the premises, buildings, grounds," and so forth. It
21 goes on to say we would prefer to wait to meet with you until
22 after you've given all your written comments, 30 days later. We

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1 don't understand why there can't be a meeting about that.

2 We then later got the answer that they would meet with
3 me but would not meet with the tenant representative. What kind
4 of an answer is that. Then we were told there was a statement
5 in the media that they didn't want to meet with us because we've
6 threatened litigation.

7 In the midst of this, I went to a tenant's meeting to
8 talk about the lease. There are other issues involved in the
9 lease. There are also issues having to do with, what are the
10 tenants' responsibilities? The landlord has proposed some
11 strengthening of the tenants' responsibilities.

12 The tenants have taken a position that some cases are
13 in favor of that and some cases opposing it. In the cases they
14 have said they oppose it, they say they do not want guilt by
15 association. The tenants ought to have representation on that
16 subject; guilt by association is something that runs counter to
17 something that we all believe.

18 You have case-by-case issues about guilt by
19 association. Does someone know that something is going on?
20 What are the implications of that? These are issues that
21 require people getting together and looking at the details of
22 it.

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1 I went to one of these tenant organizations and there
2 was a notice being passed out. The notice that was passed out
3 by the landlord threatened tenants with immediate eviction. It
4 had a number to call HUD. I called that number and asked about
5 this. I wasn't satisfied by the response.

6 I talked to our backup center, the National Housing
7 Law Project, and I was advised that someone had been to a
8 briefing about this matter which said that there would be no
9 notice evictions, even in cases in which suspected drug activity
10 was not by the person whose name was on the lease; that it was
11 not -- and I heard this information about beyond a reasonable
12 doubt as you have. But I was told that this was not the case;
13 that in this briefing, it was preponderance of the evidence.

14 We received an affidavit from someone who attended
15 this meeting as a representative of the American Bar
16 Association. She did not give the affidavit as a representative
17 but on her own behalf. That affidavit is in the papers I have
18 passed to you.

19 It was one of the declarations under oath given to the
20 court; that this was not to be confined to cases involving
21 notorious use, people walking in and out of a crack house. It
22 was not to be confined to cases in which a suspect activity was

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1 by the person whose name was on the lease. most of our tenants
2 are women, single-family mothers.

3 It was perfectly clear that there would be no notice
4 seizures and evictions in cases of mothers -- it seemed to us
5 clear to make proper inference from what we had heard -- that if
6 a teenage son was involved in drug activity that the mother
7 might not know about, her first opportunity to talk about this
8 and do anything about this and to be heard on this would come
9 after she had been evicted.

10 It has subsequently occurred at the American Bar
11 Association has condemned this, as I understand, very strong
12 terms. We didn't have the benefit of that at that time, but
13 this didn't seem fair. I don't understand the suggestion that
14 was made this morning; that defense to this kind of "no notice"
15 evictions places people in cases involving drugs and some
16 superior condition to those who don't pay their rent or
17 something like that. That is no so, ladies and gentlemen.

18 I mean, if you have a case involving someone who
19 hasn't paid their rent, they get notice. If the person who is
20 the main tenant doesn't pay the rent, they evict her and they
21 evict the rest of the family. That is correct. There is a
22 stronger law having to do with drugs. That law is the seizure

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1 law. It's the anti-drug seizure law. I don't have the exact
2 words for you, but I think you all know what it is.

3 What it says is that you can go in and seize the
4 property which is being used for drug dealing. There it is a
5 much more expedited thing. It's a much quicker thing than where
6 you're talking about someone who didn't pay the rent. The
7 question is not, should it be quicker; the law makes it very
8 clear that there is a more expedited proceeding if it's drugs.

9 The question is, should there be any notice at all,
10 any opportunity at all for someone to say, I'm not guilty. I
11 didn't do it. If my teenage son did it, I didn't know about it,
12 some prior opportunity to be heard. That is the issue. That is
13 where the bar association has said that this should not go
14 forward.

15 It was on that basis that we asked the court not to
16 stop seizures but to allow some opportunity for hearing. In
17 doing that, we represented the innocent. For us to go in and
18 represent people to say we're going to help you get rid of
19 drugs, do our part on the war on drugs, are we supposed to say
20 to those who are innocent that we're not going to protect your
21 interests?

22 If there is some suggestion that someone you didn't

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1 know about was involved in something, I don't understand why
2 that makes sense for anyone whose job it is under the law to
3 represent people who do not have representation who are low
4 incomes.

5 So we went to court in Richmond U.S. District Court
6 and you will see that there are affidavits here which will be
7 discussed in more detail by others here today. You will see
8 that there was a document presented by the U.S. Attorney's
9 Office which included a whole harmless agreement.

10 You will see in that whole harmless agreement that if
11 they came into the premises, the U.S. Marshall, and seized the
12 premises, no opportunity for anyone to be heard, that was to be
13 something to be presented to the named tenants therein, that
14 they would waive any claim against the government having to do
15 with the manner in which the government came in for anything
16 negligent, anything intentional. The court enjoined it.

17 I have some difficulty understanding why anyone on
18 behalf of the Legal Services community would take and find any
19 fault whatever in our office going in and getting an injunction
20 against the government getting a waiver with no -- you know,
21 circumstance in which someone has no notice at all, someone
22 comes in and says this apartment now has been seized by the

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1 government. Sign here that you will not sue us for the way we
2 did this.

3 Having said all of that, I would like to repeat one
4 more time that I would urge you to come to our program. This by
5 the way is in the 11 -- since 1981, I have been in a position to
6 approve or disapprove class actions. This is the only one I
7 have approved.

8 It was only because I was advised that there was--
9 that either our program bought this or there wasn't -- we had a
10 meeting of the tenants organization scheduled that night. Our
11 tenants were ongoing in representation about this matter of
12 trying to get help against drug violence. I was told that our
13 office was the appropriate one to bring this, that time was of
14 the essence, and it turned out that that was so.

15 We have -- and so, finally I would say that it turns
16 out that a court has ruled that people are entitled to kind of
17 notice. The court you will notice made an exception for exigent
18 circumstances and the court did not stop seizures, didn't stop
19 walk through, but it did stop putting people out on the street
20 without some opportunity to be heard.

21 Thank you for your attention.

22 CHAIRMAN WITTGRAF: There may be some questions or

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1 some comments. Let's go through all of the presenters first.
2 That would be fine. Thank you.

3 MR. COLLINS: Let's establish at some point a
4 reasonable time limit. While I am very much interested in the
5 details of Richmond, we certainly don't want to reinvent the
6 wheel. That whole problem has been addressed all across the
7 country. It has been addressed year after year after year.
8 There is a wealth of knowledge about it and I do agree with you
9 that we should learn what happened in Richmond and you should
10 learn what happened elsewhere.

11 CHAIRMAN WITTGRAF: Thank you, Mr. Collins.

12 MS. COLLINS: Good morning, ladies and gentlemen.

13 CHAIRMAN WITTGRAF: Ma'am, will you introduce
14 yourself, please?

15 MS. COLLINS: Yes. Okay.

16 CHAIRMAN WITTGRAF: Thank you.

17 MS. COLLINS: I am Elmira Collins from Ann Arbor,
18 Michigan. I am a public housing tenant. I do have an opening
19 statement to read, please.

20 CHAIRMAN WITTGRAF: Please.

21 MS. COLLINS: I am here to declare war on ignorance
22 and to fight for America. I share your desire to declare war on

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1 drugs. You wish to halt the activities of nameless, faceless
2 drug dealers.

3 I am here today to introduce you to a living,
4 breathing, public housing tenant, who has a face and a heart and
5 a family, who has been brutally victimized by a policy that
6 forgets I do have a face. I am terrified that a well-
7 intentioned idea leads me closer to homelessness than
8 citizenship.

9 I am greatly concerned about taking legal services
10 away from some cases dealing with public housing tenants. I am
11 a tenant representative of South Maple Tenant in Ann Arbor where
12 I live. I am also an officer for the City-Wide Ann Arbor Public
13 Housing Tenant Organization.

14 Unity is against drugs. We have stated this very
15 strongly throughout the United States since the seizures. Some
16 examples of that is as of today we do have several of our
17 tenants in rehabilitation treatment programs who have come to us
18 for help.

19 We have gone to the city council and asked them for
20 help in dealing with drug dealers and from out of that meeting
21 with the city council people and the mayor, they set up what is
22 called a two-man crime unit. I call them foot soldiers, because

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1 they actually get out of their cars and patrol our community
2 throughout the day and night.

3 We do have police officers who patrol our area
4 throughout the day in cars. We went to the housing commission
5 authorities and we asked for their help in dealing with drug
6 dealers in our community. With their efforts and our efforts
7 together we came up with what is called "The Criminal Activity
8 Policy, Felony Policy." That is to help rid our community of
9 drug dealers.

10 On April 27th of this year, ladies and gentlemen, four
11 of our homes in my community were seized by the Federal
12 Government. It was like a war zone in my community. The men
13 wore ski masks. They came with machine guns and shotguns.
14 There was helicopters flying above our community.

15 When they arrive there was the Ann Arbor Police
16 Department with them, city detectives, channel 7, channel 2,
17 channel 4 news, the locksmith, all the newspapers in our area.
18 They surrounded our community. We have 30 units, five buildings
19 in my community. At the time only 17 of the buildings were
20 occupied, 17 families. We were defenseless. They actually
21 seized the community, not only the four homes, but all of us. I
22 am not a drug dealer. I do not support drug dealers.

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1 As a result of this seizure that happened on April
2 27th of this year, I, along with several of my residents are in
3 counselling every week in order to deal with the trauma of what
4 happened to us by the Federal Government.

5 I asked one of the TV reporters why was he in our
6 community. He said that the United States Government gave him a
7 call and told him that they were going to bust a major drug
8 kingpin in my community of 17 families. I told him that was
9 outrageous. We have no air strips, no mansions. We don't even
10 have money.

11 There was no drugs found. There was no guns found.
12 They took four defenseless women out of their homes with their
13 children. I cannot begin to describe to you how brutal the
14 attack was. That is exactly what it was, an attack against our
15 community.

16 Please bear with me a minute.

17 The first person that I could even -- I couldn't get
18 my thoughts together during all this because so much was
19 happening. But the first person that I thought to call was our
20 legal aid director, Bob Gillette. Thank God for Legal Aid and
21 Bob Gillette. They came immediately to our side.

22 The needs of public housing tenants are greater, but

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1 due to cutbacks in Legal Services we as public housing tenants
2 are suffering greatly each and every day.

3 Unity as a tenant organization in Ann Arbor needs
4 lawyers on both of these issues. That is to protect us against
5 Federal Seizures Act that are brought forth on us without due
6 process and also to help us win the war on drugs in our
7 community.

8 In contrast, I want to reflect back just for a brief
9 moment. In 1987, next door to my home the Arbor Police
10 Department along with what they call LAWNET, it is Livingston
11 County Jackson police officers and Arbor police officers, they
12 did a raid next door to me. From that raid they took twelve men
13 who were from Highland Park, Michigan and Detroit, Michigan and
14 Ypsilanti, Michigan. They took guns. They took cars. And
15 \$25,000 of crack/cocaine out of that household.

16 This time when the Federal Government seized the homes
17 there was no drugs found, no guns, no cars, and no money. Right
18 today these four families are fighting for due process that they
19 weren't allowed before the Federal Government seized their
20 homes.

21 You must understand, ladies and gentlemen, that as of
22 right now today no criminal charges have been brought forth

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1 against either of these families. No charges. They have yet to
2 be arrested. They have -- they are in court now, in Federal
3 Court in Detroit, but it is because of the seizures. So, they
4 were found guilty before they were even put through the process
5 of being guilty.

6 Justice is life blood of America and if we are denied
7 protection of the constitution, ladies and gentlemen, and denied
8 access to the criminal justice system, then my community and
9 millions of Americans will be at grave risk.

10 What happened at South Maple should never be allowed
11 to happen any place else in the United States. Not only on
12 public housing tenants, it shouldn't even happen to private
13 members of society that own their own homes. It was a terrible
14 thing to do that day.

15 The tears of our children are the tears of citizens
16 without justice.

17 I want to leave you with a last thought, please. A
18 citizen without justice is like a body without blood.

19 Thank you for listening to me.

20 MR. COLLINS: Mr. Chairman?

21 CHAIRMAN WITTGRAF: Thank you, Ms. Collins. Mr.
22 Collins?

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1 MR. COLLINS: I would be as outraged as you as you
2 describe the situation. May I with the chairman's permission
3 read you the criteria which HUD and the Department of Justice
4 are supposed to follow.

5 CHAIRMAN WITTGRAF: Mr. Collins?

6 MR. COLLINS: Yes. HUD and the Department of Justice
7 developed case criteria which go beyond statutory requirements
8 for public housing authorities and U.S. attorneys to use sa
9 guidelines when selecting cases. Then there is a parenthesis.
10 Weight to each criteria is determined on a case-by-case basis.

11 Number one, the violator should be the leaseholder of
12 the property. The term "violator" refers to the person whose
13 actions give rise to forfeitures.

14 Two, compelling evidence should be developed that the
15 violator participated in at least two felony drug offenses.
16 Parenthesis again, drug purchases by undercover law enforcement
17 officials from individual notorious drug dealers or evidence
18 obtained pursuant to a search warrant would satisfy this
19 criteria, end parenthesis.

20 Number three, where appropriate the violator should be
21 prosecuted by local, state or federal authorities for drug
22 activities.

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1 Four, the property should be in open and notorious
2 site of drug distribution.

3 Five, careful consideration should be given to factors
4 involving family members of the violator and other registered
5 occupants of the property. Those involved in this effort will
6 seek to minimize the impact of the government's action on minors
7 and/or the elderly should they be affected by the action.

8 Appropriate human resource services support. That is
9 child welfare emergency shelter, et cetera, should be
10 prearranged when minors or elderly are affected. That criteria
11 should have been applied and it is clear that law enforcement
12 officials are not perfect any more than the rest of us. But I
13 appreciate you calling that gross violation to our attention.

14 MS. COLLINS: Thank you, sir.

15 CHAIRMAN WITTGRAF: Ms. Holman? Will you introduce
16 yourself, please, too?

17 MS. HOLMAN: Thank you, Mr. Chairman. My name is
18 phyllis Holman. I am the direct or of Georgia Legal Services,
19 which is one of the Corporation's largest grantees.

20 The resolution that is before you today as I
21 understand it is based in some substantial measure on some
22 allegations that were made about activities undertaken by one of

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1 the offices in my program at least month's board meeting.

2 Unfortunately, I was never informed of those
3 allegations by anyone at the Corporation or anyone on the board,
4 either before that meeting or since that meeting. I have not
5 had an opportunity to see the materials that have been placed
6 before you this morning and I don't know whether there are more
7 inferences in those materials about activities undertaken by my
8 program or not.

9 Frankly, as Mr. Collins just stated, as law
10 enforcement officials make mistakes, we all make mistakes.
11 Housing authorities make mistake and I appreciate the
12 opportunity to speak to this board before it makes a mistake as
13 well based on a misapprehension of the facts.

14 Indeed if one of my lawyers came to me proposing an
15 action, having analyzed the facts on one side of a question, but
16 not the other. I would be appalled. And very disappointed in
17 that lawyer and consider taking other more severe action as
18 well.

19 Frankly, this board has heard from the adverse parties
20 to our clients. It has heard from Secretary Kemp. It is heard
21 from housing authority directors. In fact, it has gone to the
22 press. But it has not heard from its grantees until this

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1 morning, nor has it heard from any of the clients that we serve
2 and that you serve until this morning.

3 Action taken this precipitously I would suggest to you
4 is just that, precipitous and ill-advised.

5 MR. COLLINS: May I just interrupt, Mr. Chairman.
6 Just a moment. Please give us credit for the fact that we have
7 been in touch with and talked with a variety of other agencies.
8 We have seen the evidence submitted by Chester Atkins about the
9 problems in the Merimak Valley. This is not something that we
10 just thought up overnight.

11 MS. HOLMAN: Mr. Collins, with all due respect, I
12 understand at the last meeting there were several allegations
13 made about my program and no one has asked me about those
14 allegations.

15 MR. COLLINS: I don't remember anything about your
16 program. Does anybody here on the staff remember that to which
17 she is referring?

18 MS. HOLMAN: Macon, Georgia.

19 CHAIRMAN WITTGRAF: I do think a reference was made by
20 Mr. Albright if I recall correctly.

21 MR. COLLINS: It wasn't made by me. Mr. Albright is
22 on the --

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1 CHAIRMAN WITTGRAF: But in fairness it was a
2 presentation made to the board and Mr. Albright was invited by
3 Mr. Wear or Mr. Wooten or someone to come and appear.

4 MR. COLLINS: Why don't we paraphrase what Mr.
5 Albright said, if anybody remembers?

6 CHAIRMAN WITTGRAF: I was trying to find Mr.
7 Albright's materials actually. He was I think at a little bit
8 of a loss on specifics and was going to get back to us. I don't
9 know that we have more materials from Mr. Albright, do we? Mr.
10 Boehm, Mr. Wooten, have you received more materials from Mr.
11 Albright? Do you know? He was going get back to us.

12 He had an example from Broward County, Illinois. I
13 think we mentioned to him that Broward County was in Florida and
14 not in Illinois. I think there was a reference to Macon. Okay.
15 We all agree that Broward County is in Florida.

16 Was there anything further about Macon, Georgia? I do
17 believe it was Mr. Albright who referred to Macon, Georgia.
18 Somebody correct me if my recollection is incorrect.

19 I think it was just an oral statement and I am not
20 sure that you and Mr. Collins --

21 MR. COLLINS: It is obvious it didn't have much impact
22 on us. Whatever Mr. Albright said no one can remember.

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1 MR. DANA: Mr. Chairman?

2 CHAIRMAN WITTGRAF: Mr. Dana?

3 MR. DANA: In the materials that we were provided last
4 week by our staff and which I gather were not provided to you,
5 on page 9 it says in Macon, Georgia, people in the drug
6 community have been referring their associates to Legal Services
7 with the understanding that Legal Services can prolong their
8 evictions from public housing.

9 This image is somewhat inaccurate given the fact that
10 Macon County housing has been successful in 100 percent of its
11 drug related evictions when Legal Services attorneys represent
12 the defendants.

13 Delays in evictions can only serve the purpose of drug
14 dealers by encouraging continued drug activity in the housing
15 project.

16 Then over on page 11, 12 of this 20 page report that
17 we got last week, it reads in Macon, Georgia, the Macon Housing
18 Authority spends between \$5,000 and \$7,000 for each drug related
19 eviction in spite of the fact that the housing authority has
20 been successful in 100 percent of its drug related evictions,
21 Macon Legal Services, Inc. continues to represent people in drug
22 related evictions.

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1 Both tenants and the housing authority have been
2 opposed to what they feel have been unreasonable delays in
3 evicting drug dealers and users from public housing.

4 Then on page 14 of this 20 page piece, it reads John
5 Hiscock, Director of the Macon Housing Authority, said there has
6 not been a case in which an innocent third party has not been
7 adversely affected by their drug related activities. I am not
8 sure to whom he was referring.

9 On page 18 of this 20 page piece it reads the Macon,
10 Georgia Housing Authority has recently presented with a
11 situation indicative of this problem. A 17 year old grandson
12 had been convicted on several drug related charges. After
13 returning back to the home the housing authorities contacted the
14 grandmother leaseholder and told her that she would have to
15 remove the grandson from the house because of his continued
16 involvement in drug related activities.

17 After several failed attempts at controlling her
18 grandson she knew that she faced possible evictions from her
19 house. The housing authority then worked with her to have her
20 transfer custody of the grandson over to juvenile services, the
21 drug activity stopped in the public housing community and the
22 grandmother was able to stay in her unit.

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1 As harsh as the custody transfer must have been, the
2 Macon Housing Authority is certain that if she had not been
3 required by the law to control those living under her roof she
4 would have never decided to transfer custody and the grandson
5 would still be dealing drugs from the housing project today.

6 That completes the references to your program in the
7 document that we were given last week.

8 MS. HOLMAN: Thank you very much, Mr. Dana.

9 CHAIRMAN WITTGRAF: Ms. Holman, the reference, perhaps
10 for the benefit of at least me, if not all of us, you indicated
11 that you are Director of Georgia Legal Services.

12 MS. HOLMAN: That's correct.

13 CHAIRMAN WITTGRAF: Maybe you want to make a specific
14 tie with Macon if you would.

15 MS. HOLMAN: Macon is one of 14 offices that Georgia
16 Legal Services operates around the State of Georgia. We serve
17 154 counties in the state. All of the counties outside of the
18 metropolitan Atlanta area.

19 CHAIRMAN WITTGRAF: Thank you. Go ahead, please.

20 MS. HOLMAN: I must say that I have trouble
21 controlling myself hearing some of those allegations. In fact,
22 I think some of the border on libelous. To allege that my

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1 program is tied in with whatever the drug community is in Macon
2 leaves me almost speechless.

3 But let me tell you what I know about what my office
4 in Macon has done with respect to alleged drug cases. We have
5 been involved in five cases, five eviction cases brought by the
6 Macon Housing Authority in which various drug activities were
7 involved. In none of those cases was our client alleged to be a
8 drug dealer.

9 Contrary to the facts that you have before you, two of
10 those five cases were dismissed. Two of those individuals were
11 evicted. One case is still pending.

12 One of those cases involved a mentally impaired client
13 with a representative payee, that is to say she is incapable of
14 managing her own affairs, who was apparently supposed to control
15 drug activity that was going on in the street in front of her
16 apartment. That case was dismissed as soon as the housing
17 authority lawyer began the deposition of that client.

18 In another case the client's son, who was not a
19 residence of her apartment, was arrested for loitering. In that
20 situation another individual was subsequently arrested for some
21 alleged drug activity. But our client's son was not charged
22 with any drug activity. That case is still pending.

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1 Once again, there was no drug activity alleged by our
2 client or her family member, non-resident family member. We
3 evaluate the merits of each case under the terms of the lease.
4 The Macon Housing Authority lease is a 16-page document, legal
5 size pages, single space typing. It is difficult for even me to
6 read and I have been through law school.

7 Our clients want the drug dealers out of their housing
8 authority -- housing projects as much as you do and as much as
9 our society does. I would echo the comments that have been made
10 earlier by my fellow panelists. But our clients do not want
11 innocent people swept out of their homes in the wake of efforts
12 to get drug dealers. This is a complex problem and a very
13 emotional one.

14 I would submit that the solutions have to be locally
15 drawn. Resources for families vary dramatically and the facts
16 of each case vary dramatically.

17 One of the issues that we deal with repeatedly is
18 where does the responsibility end. Can the housing authority
19 simply make allegations that there is some drug activity? If
20 there is drug activity going on in the street, is the tenant
21 responsible for that? Is a single mother supposed to go out in
22 the street and break up what looks like to the police a drug

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1 deal? Is our tenant responsible for activities that go on off
2 the housing authority property by people she may not know? How
3 far can this go? These responsibility issues have not been
4 addressed. It is a very complex issue.

5 Furthermore, just as we here today have an interest in
6 a fair process and being able to respond to factual
7 inaccuracies, our clients have an interest in a fair process and
8 being afforded an opportunity to respond to factual inaccuracies
9 and allegations about them that may not be true.

10 That opportunity to be heard on the facts cannot be
11 minimized. People do make mistakes. The Federal Government in
12 Ann Arbor made a big mistake. The housing authority in Macon
13 has made mistakes.

14 Otherwise we are facing tactics like those in Ann
15 Arbor. The housing authority can allege drug activity in any
16 case and we are automatically, under your resolution, precluded
17 from mounting any factual response to that case.

18 We need the authority, the ability, the flexibility to
19 help our tenants deal with their problems. As Mr. McLaughlin
20 said, "Help tenants figure out ways to dealers in, to get the
21 people out of the projects that they too want out of the
22 projects.

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1 "To help our tenants find rehabilitation services and
2 treatment services. We need the authority and the ability and
3 the flexibility to do those things. We don't need, as lawyers,
4 to be precluded from representing clients in cases where we see
5 meritorious defenses."

6 I urge you not to pass this resolution.

7 Thank you for your time.

8 CHAIRMAN WITTGRAF: Thank you, Ms. Holman.

9 Mr. Houseman?

10 MR. HOUSEMAN: I want to make three brief points.
11 First, the facts are not necessarily always those that you are
12 presented with or even orally discussed. The facts are often
13 quite different.

14 It seems to me before you act on either of these
15 resolutions or either part of this resolution that you ought to
16 know the facts on which you are going to operate.

17 As you have seen today the facts are not as you have
18 heard or been presented. I could go on countless times of
19 factual errors, some of which have been pointed out to this
20 point when we find out about them, some of which haven't,
21 because we haven't seen them, we have had no opportunity to
22 review. No lengthy document that apparently exists as an

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1 attachment to a cover memo.

2 Before you act, I urge you to allow an opportunity to
3 look at these facts and to act not on the basis of charges, but
4 on the basis of reality.

5 Secondly, much more important, what is at stake here
6 is the right of tenants to due process, constitutional rights.
7 Tenants have a due process right to notice and a hearing before
8 an impartial decision maker before they can be evicted from
9 public housing.

10 That due process right has been upheld on every
11 occasion that a court has faced this issue. It comes from the
12 famous Goldberg v. Kelly decision that had to do with welfare
13 benefits, but it has been picked up on numerous other decisions,
14 including the NTO v. Kemp case.

15 I have copies of that opinion if you would like to
16 read it. You should know that the NTO versus Kemp case and
17 there is two, but the first one to which there has been
18 reference previously was a case involving constitutional due
19 process principles.

20 Now, what is at stake here is not about between
21 regulatory rights and regulatory enforcement. On the contrary,
22 what is at stake here is the constitutional rights and those in

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1 the ability to effectively enforce those rights. Either of
2 these resolutions will have a consequence on the ability of
3 tenants to enforce those rights.

4 The first one would pressure programs not to provide
5 representation to innocent clients wrongfully accused of drug
6 related activity. The second would urge Congress to take steps
7 to prevent the effective enforcement of constitutional rights.

8 That is what is at stake in this proceeding. Third,
9 the question is what is the role of Legal Services attorneys?
10 What is the role of Legal Services programs? Legal services is
11 not premised on representation of only those poor people who are
12 deemed to be worthy. Nothing in the LSC Act. Nothing in the
13 statement of purposes to the LSC Act. Not one word in the
14 legislative history or otherwise suggest that Legal Services
15 should decide whom to represent on the basis of the allegations
16 made against the person seeking assistance.

17 To make such distinctions would deprive such persons
18 of equal access to justice and undermine the very principles
19 that led to the LSC Act in the first place.

20 The consequences of the vote in favor of either of
21 these resolutions would be frankly to deny Ms. Collins and other
22 like her to be represented in court and to deny their rights to

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1 be effectively enforced.

2 I urge you not to do that.

3 Thank you.

4 CHAIRMAN WITTGRAF: Mr. Houseman, just a question. I
5 hear you and the others at least speaking to the resolution as
6 it having probably a more binding authority than I suspect it
7 does. It is certainly a sense of concern resolution and it is
8 not binding as you certainly understand upon the grantees.

9 Putting aside your three points, all of which to me
10 seem to be pretty well taken, what would be your general
11 reaction to the first paragraph of the resolution as amended. I
12 am trusting that you have got a copy of that where we are
13 talking about generally discouraging representation in such
14 cases.

15 This is a resolution. It is a sense of the board
16 resolution. What is the practical effect, Mr. Houseman, really
17 of the resolution?

18 MR. HOUSEMAN: I think it is better for Henry to speak
19 to that because he is the person on the line, not myself.

20 CHAIRMAN WITTGRAF: Well, I mean everybody is,
21 obviously Mr. McLaughlin is in particular. But certainly -- go
22 ahead.

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1 MR. McLAUGHLIN: The problem -- the thing that you
2 need to be careful about I submit is guilt by association and
3 trial by family. We have been through this in our country and
4 we have come out very clearly in favor of individual
5 responsibility. That is one of the important values of our
6 country.

7 Just, for example, in our program, I don't believe
8 there has been a single case that our representation of someone
9 to prevent an eviction had to do with someone who was themselves
10 guilty of a drug related offense.

11 It seems to always come down to a question of how much
12 responsibility does a mother have for something done by her
13 teenager son. In the rest of America the sense is -- I should
14 say in those areas in which people are well off, if a teenage
15 son gets involved with drugs the prevailing reaction of the
16 community is to have sympathy for his mother.

17 That should not be public house as such. And if a
18 teenage son gets involved in drugs you are going to evict the
19 mother and all of her children absently showing of some
20 culpability on her part.

21 So, to have the kind of open net that you have in the
22 language, drug-related evictions. There should be something in

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1 whatever you do that says where a person is not meritorious.
2 The issue is one of merit. If someone is involved with drug
3 dealing or has been put on notice that there is a problem with
4 that child and hasn't taken proper action or is hearing in the
5 benefits of it. Then there is not merit there. If there is not
6 a merit there, legal aid has got too many other things to do to
7 represent other people.

8 But you do not want -- I submit it is not fair for the
9 legal aid community to come down as a matter of policy in
10 something that can be interpreted as guilt by association and
11 trial by family. This is what is the real issue that is going
12 on on the ground in the community.

13 CHAIRMAN WITTGRAF: I am not sure and, Mr. Houseman,
14 help me if I am naive here. But I am not sure that what Mr.
15 McLaughlin just said regarding the handling of cases that come
16 to his grantee is necessarily inconsistent with even the sense
17 of this resolution.

18 I may be looking at the resolution differently than
19 the author of it, but I am not sure that in listening to Ms.
20 Holman or Mr. McLaughlin that I view what they have said as
21 inconsistent with the resolution or that their agency's actions
22 are inconsistent with the resolution.

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1 I mean I think we are in agreement and I am a little
2 concerned particularly where we are not dealing with a
3 regulation, that while on the one hand I certainly agree that
4 you need to educate us just as we need to share our concerns
5 with you or help educate us. I am not sure that we are really
6 apart at this point. I am not sure that this resolution poses a
7 serious problem for either Ms. Holman's agency or for Mr.
8 McLaughlin's agency, but tell me where I am missing the boat if
9 I am.

10 MR. McLAUGHLIN: Well, first of all I have just seen
11 this wording. Second, there is no doubt that this --

12 CHAIRMAN WITTGRAF: I will agree with you that this is
13 evolving rapidly. Go ahead.

14 MR. McLAUGHLIN: There is no doubt that this would be
15 viewed by many programs as pressure if not downright -- way
16 beyond strong encouragement, that they are not to get involved
17 in representation of public housing tenants when there is an
18 allegation by the public housing authority that they are going
19 to be evicted because of drug related activity. That is what we
20 are talking about here.

21 MR. GUINOT: Well, that is what you are talking about.

22

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1 MR. McLAUGHLIN: Now, if you want to change the -- it
2 says drug related activity. I think that is the way this would
3 be read and understood. If it is meant to be read much
4 differently, if it is meant to be read that unless there is a
5 charge the person who has sought to be represented are
6 themselves involved in drug related activity that may be a
7 different, completely different context than what we are talking
8 about here.

9 But I have heard statement after statement made that
10 we are not just focusing on drug dealers or people who are
11 involved in drug related activity themselves.

12 But we are focusing on family members, we are focusing
13 on allegations that someone in the household, someone outside of
14 the household, someone involved in the household, somebody maybe
15 not involved in the household that came by the household. That
16 if there is an allegation to evict based on that, that Legal
17 Services cannot be involved in that representation. That is the
18 way I think this would be read.

19 If it was not meant to be that, it should be clarified
20 and it could be clarified quite easily.

21 MR. DANA: Mr. Chairman?

22 CHAIRMAN WITTGRAF: We have five minutes until we have

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1 to recess. Mr. Collins?

2 MR. COLLINS: No.

3 CHAIRMAN WITTGRAF: Mr. Dana?

4 MR. DANA: Anybody on the panel, my -- I have a--
5 based upon what you have indicated, I have three concerns. Some
6 of which I think can be amended, can be addressed through
7 additional amendments and let me suggest one.

8 In the final "whereas" there is the HUD standard that
9 Mr. Collins read. It is short-circuited, but it is referred to.
10 If we build that HUD standard into the resolution that be it
11 therefore resolved resolution as follows, would that address
12 your concerns if we added after the -- at the end of that
13 resolution the phrase "where beyond a reasonable doubt the
14 prospective client has committed at least two felony drug
15 crimes," so that the whereas -- so that that is what we are
16 talking about?

17 In other words, it seems to me that that makes it
18 clear that we are dealing with this whereas in reference to the
19 HUD standards is to be read.

20 Secondly, I think it is important to realize that this
21 resolution -- well, let me leave it at that. Would that
22 addition assist in limiting the focus of this resolution to

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1 meritorious situations?

2 MR. COLLINS: Mr. Chairman, before Mr. Houseman
3 answers the question.

4 CHAIRMAN WITTGRAF: Mr. Collins?

5 MR. COLLINS: Let me simply suggest that we are merely
6 using oratory language suggesting that the local services
7 providers adopt policies to control their activities with
8 respect to defending drug dealers. We are not prohibiting it.
9 It is up to the local organizations and it is terribly important
10 that we also report to Congress our concern about this. Because
11 if we do not, it is not a question of an allegation of somebody
12 ordinarily doing something out on the sidewalk, it is wide open
13 crack houses running in housing authorities, jeopardizing the
14 lives of everybody who lives in there.

15 CHAIRMAN WITTGRAF: Mr. Houseman, we have about 90
16 seconds before we have to recess. Would you care to respond to
17 Mr. Dana's question?

18 MR. HOUSEMAN: Well, as a process matter it is very
19 hard to negotiate for a rule in this kind of context. I will
20 say two things about it. One, the reason without standard is to
21 our understanding is not contrary to what you had, the operating
22 principles of HUD. Mr. McLaughlin pointed that out earlier and

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1 he pointed it out again.

2 Secondly, this does not talk about when these drug
3 crimes were committed and relationship to this particular
4 eviction or not. So that if we are going to add that phrase, I
5 think we have to at least qualify it by drug related activity is
6 part of the eviction or there have been a leaseholder committed
7 at least two felony drug crimes, et cetera.

8 MR. McLAUGHLIN: I just would like to say that I don't
9 believe that as a Legal Services Corporation grantee in this
10 country that I would be very surprised if there is any legal
11 services lawyer who has ever represented anyone who has been
12 involved in two felony convictions and there is evidence beyond
13 a reasonable doubt. I don't believe there is a single case. I
14 don't know, but I am confident that these 30 program that you
15 are talking about, the overwhelming number of these cases have
16 to do with guilty by association.

17 The concern we have that is very great is these
18 "whereas clauses" at the beginning saying that you have heard
19 that we are representing people in drug related activity. Where
20 have you heard this and where is our opportunity to defend?

21 M O T I O N

22 MR. COLLINS: Mr. Chairman, if we have discussed this

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1 enough, I move the question.

2 CHAIRMAN WITTGRAF: Mr. Dana?

3 MR. DANA: I would move. I mean at some point we are
4 going to come back to this and I would -- I have several
5 problems with this resolution and I would like to -- I gather we
6 are about to go to lunch.

7 CHAIRMAN WITTGRAF: The Chair declares the board to be
8 in recess at this time. The Chair thanks the four panelists
9 very much.

10 We will be having a closed or executive session as
11 indicated this morning for the purposes of discussing the matter
12 of an interim president and pending litigation. The Chair's
13 best guess is that we will reconvene in open session at
14 approximately 2:00 p.m. We will be reconvening in here in
15 closed session at approximately 1:15 p.m. Thank you.

16 (Whereupon, at 12:35 p.m., the proceedings were
17 adjourned, to be resumed at 2:00 p.m., this same day.)

18 * * * * *

19

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

(4:30 p.m.)

CHAIRMAN WITTGRAF: The Board of Directors has come out of Executive or Closed Session. It's now 4:30 p.m. on Monday, June 25, 1990. Most of the discussion in Executive or Closed Session has been devoted to the matter of the selection or election of interim president for the Legal Services Corporation. At this time, the Chair is prepared to entertain any motion in that regard.

Mr. Guinot?

M O T I O N

MR. GUINOT: Thank you, Mr. Chairman. I propose that the name of Ms. Emilia DiSanto to act as interim president until the new president arrives and is sworn in.

MR. HALL: Mr. Chairman, I would second that with a brief comment, if I may.

CHAIRMAN WITTGRAF: Mr. Hall?

MR. HALL: I had supported and had asked Tim Shea if he would take that position. He told me he would be available if I wanted him to. However, at that point in time, he became a very serious candidate for the presidency. I had talked to you all about my support for Tim prior to that, but after he became

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1 a candidate for the presidency, I felt like it might be an
2 unfair advantage or give the appearance of unfairness.

3 I had asked Tim if he understood if I therefore
4 withdrew my support for him. He most graciously accepted that.
5 So, having said that, I do second Mr. Guinot's motion and urge
6 that we all favor it.

7 CHAIRMAN WITTGRAF: Thank you. Is there further
8 discussion?

9 MR. DANA: Mr. Chairman?

10 CHAIRMAN WITTGRAF: Mr. Dana?

11 MR. DANA: Meaning no disrespect, I'm going to have to
12 vote against it.

13 CHAIRMAN WITTGRAF: Further discussion? Mr. Collins?

14 MR. COLLINS: There was discussion of another
15 candidate in addition to Tim Shea who was remarkably well
16 qualified, but the Board was somewhat closely split on the
17 matter. Therefore, we think that the motion made and seconded
18 should be approved.

19 CHAIRMAN WITTGRAF: Further discussion?

20 (No response.)

21 CHAIRMAN WITTGRAF: Hearing none, those in favor of
22 the motion to elect Emilia DeSanto interim president of the

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1 Legal Services Corporation, please signify by saying aye.

2 (A chorus of ayes.)

3 CHAIRMAN WITTGRAF: Those opposed, nay.

4 (Mr. Dana voted nay.)

5 CHAIRMAN WITTGRAF: The ayes appear to have it. The
6 ayes do have it. Ms. DeSanto has been elected interim president
7 of Legal Services Corporation.

8 At this point, the Chair is prepared to return to the
9 matter that was under discussion when the lunch recess was taken
10 prior to our beginning our Executive or Closed Session. That is
11 the resolution offered by Mr. Collins, as amended by Mr. Dana.
12 Is there further discussion?

13 (No response.)

14 CHAIRMAN WITTGRAF: Hearing none --

15 MR. DANA: Mr. Chairman, the question has been called.
16 If I may explain my vote --

17 CHAIRMAN WITTGRAF: Mr. Collins, are you willing to
18 let me Dana speak?

19 MR. COLLINS: Of course.

20 CHAIRMAN WITTGRAF: Mr. Dana?

21 MR. DANA: I'm going to vote against the resolution in
22 its current format. I saw most of it this morning for the first

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1 time. There are several aspects of it that give me pause.
2 Rather than spend precious time describing those, I'll just
3 indicate that's my position.

4 MR. COLLINS: Fair enough.

5 CHAIRMAN WITTGRAF: Further discussion?

6 MR. COLLINS: I just want to say one thing. This does
7 not direct anybody. This does not mandate anything. This
8 suggests policy changes in what I think is the appropriate
9 direction for the country. We rely on the good judgment of
10 those who are, in fact, making policy and the Congress.

11 MR. HALL: Mr. Chairman?

12 CHAIRMAN WITTGRAF: Mr. Hall?

13 MR. HALL: I will speak in favor of the motion with
14 the understanding that it gives the recipients great latitude to
15 set just what the policies may be and to determine in which
16 cases that merit shouldn't get involved in. With that
17 understanding, I'm going to vote for it. As I understand it,
18 that's what it says.

19 MR. COLLINS: I'm not going to characterize it beyond
20 what it says. I think it's quite a reasonable thing and not
21 worth much more time than we've already devoted to it.
22 Question, Mr. Chairman.

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1 CHAIRMAN WITTGRAF: Those who are in favor of the
2 resolution as amended previously, please signify by saying aye.

3 (A chorus of ayes.)

4 CHAIRMAN WITTGRAF: Those who are opposed, nay.

5 (Mr. Dana votes nay.)

6 CHAIRMAN WITTGRAF: The ayes appear to have it. The
7 ayes do have it. The resolution, as amended, is adopted.

8 We now return, as indicated by the Chair this morning,
9 we would to agenda Item No. 5, a resolution offered or to be
10 offered by Ms. Pullen. Ms. Pullen, perhaps before you speak to
11 the resolution, you could refer us to it. It's the same
12 resolution that was before the Board and then withdrawn from
13 consideration by you on May 21 of this year?

14 MS. PULLEN: It's the same resolution on which we
15 postponed consideration until this date.

16 CHAIRMAN WITTGRAF: Aside from the wording, it's the
17 same draft that was circulated on the morning of May 21st?

18 MS. PULLEN: Yes, Mr. Chairman.

19 CHAIRMAN WITTGRAF: Does everybody have a copy of
20 that? Ms. Pullen, if you'd like to speak to your motion,
21 please.

22 MS. PULLEN: Mr. Chairman and members of the Board, as

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1 the resolution states, this Board has heard, over the past
2 several months repeatedly, testimony and has been supplied with
3 documents that have brought to our attention problems concerning
4 some practices of some of our grantees.

5 It has been stated repeatedly, and I agree with this
6 from what I understand of it, that these problems are not
7 characteristic of the Legal Service providers that are funded by
8 LSC, but that the exceptions to that rule have been repeated and
9 have cast doubt upon the validity of the Federal Legal Services
10 Program and have caused a good deal of controversy over the
11 years and, because of the controversy, a well-spring of public
12 opposition to the Federal Legal Services program.

13 We have had visits from members of Congress
14 personally, which I think is rather unusual, outlining some of
15 these problems and some of the solutions that they propose. I
16 believe that it is important that the Board go on record as
17 recognizing the difficulties that these abuses, if that term
18 isn't too harsh -- and I don't think it is -- are causing for
19 the Legal Services Program and for the taxpayers of the United
20 States as well as for the client population.

21 There are proposals in the Congress that are well
22 known and circulated in a historical sense and in an ongoing

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1 sense. These proposals would seek to correct the problems or
2 at least take some steps to correcting the problems. I believe
3 that the Board should take cognizance of that and should
4 encourage the Congress and indicate to Congress that we are
5 aware of the problems in our own program and that we desire
6 legislative remedies, especially at this point when this Board
7 has no current authority to adopt any kind of regulations by
8 which we could seek remedies ourselves. In any case, I think
9 that legislation is more likely to be adhered to than
10 regulation.

11 It has been suggested that the reference to the chief
12 sponsors of the reform legislation in the first resolved clause
13 be deleted so that it would not be as specific because this
14 resolution is intended to endorse the reform proposals in
15 principle. Although that resolved clause does state that we
16 would be reserving judgment on the specific details of the
17 proposals, I can see that deleting the phrase made by
18 Congressmen McCollum and Stenholm would tend to imply specifics
19 while then we say we are reserving judgment on specifics.

20 So I would be amenable to leading that phrase so that
21 the first resolved clause would read, "Resolve that the Legal
22 Services Corporation supports in principle the proposals for

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1 reform, reserving judgment on the specific details of these
2 proposals until such time as individual Board members have had
3 an opportunity to study revisions made by their legislative
4 sponsors in response to comments made by members of the Board,
5 other interested parties or members of the general public."

6 M O T I O N

7 Other than that change that I would propose, Mr.
8 Chairman, I would move adoption of the resolution as it was
9 presented in May.

10 MR. COLLINS: Second the motion.

11 CHAIRMAN WITTGRAF: The resolution has been moved and
12 seconded. Ms. Pullen, the Chair, at least, is a little bit
13 unsure as to what your motion is on because you talked about
14 some changes in wording. Is your motion for the resolution as
15 presented on May 21st?

16 MS. PULLEN: As presented on May 21st with the
17 exception of removing in the first resolved clause the phrase
18 "made by Congressmen McCollum and Stenholm." So that resolved
19 clause would read as I read it a moment ago rather than as it
20 was written on May 21st.

21 MR. GUINOT: So, how would it read now?

22 MS. PULLEN: It would read, "Resolved that the Legal

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1 Services Corporation supports in principal the proposals for
2 reform, reserving judgment on the specific details of these
3 proposals until such time as individual Board members have had
4 an opportunity to study revisions made by their legislative
5 sponsors in response to comments made by members of the Board,
6 other interested parties or members of the general public."

7 CHAIRMAN WITTGRAF: Do you have a draft, Ms. Pullen,
8 that could be reproduced?

9 MS. PULLEN: You can take this one.

10 CHAIRMAN WITTGRAF: Mr. Dana has had a suggestion.

11 MS. PULLEN: I brought along my copy from the PAG
12 newsletter and that's what I've been going from because they did
13 faithfully reproduce the draft that I proposed in May. Mr.
14 Wear's Secretary is now going to get that copied for you, Mr.
15 Chairman. I apologize that I didn't bring more copies.

16 CHAIRMAN WITTGRAF: It is, I believe, contained in the
17 minutes of May 21 at pages 7, beginning near the bottom, 8 and
18 9. If we could all turn to that, perhaps you could tell us what
19 changes you just made, Ms. Pullen.

20 MR. COLLINS: Just strike the reference to the names
21 McCollum and Stenholm.

22 MS. PULLEN: In the first resolved clause.

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1 MR. COLLINS: In the first resolved clause.

2 MS. PULLEN: It would be on page 9 at the very top in
3 lines 2 and 3, from the word "made" to the comma. So it would
4 be "proposals for reform, reserving judgement."

5 CHAIRMAN WITTGRAF: Is there discussion on the Pullen
6 resolution as presented?

7 MR. DANA: Mr. Chairman?

8 CHAIRMAN WITTGRAF: Mr. Dana?

9 MR. DANA: This room is not a good room for me. This
10 is the second meeting of the Legal Services Corporation that
11 I've had in it. I'm going to vote against this resolution.
12 There has been substantial correspondence on this subject. I'm
13 not going to bore my Board members with it since they've seen it
14 all.

15 I've told them that there are some aspects of the
16 reform proposals that I support and that there are some that I
17 do not. I think it is ill-advised to endorse principles that
18 have not been reduced to writing. I was advised by a fellow
19 Board member as to the contents of McCollum 1990 as late as this
20 afternoon in a letter from Ms. Pullen. I have not seen that
21 legislation.

22 I have encouraged my Board members to at least have

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1 something before them. They can speak for themselves, but they
2 feel that it's important for this Board to speak out and to
3 assign what I regard as a blank check. I'm not prepared to do
4 that. I, therefore, will vote against this resolution.

5 CHAIRMAN WITTGRAF: Further discussion?

6 (No response.)

7 MR. GUINOT: Mr. Chairman?

8 CHAIRMAN WITTGRAF: Mr. Guinot?

9 MR. GUINOT: I think that Ms. Pullen's suggestion to
10 make the resolution more general by referring to reform is well
11 received. I would like very much to trim this just a trifle to
12 make it leaner and more easily understood. I wonder whether or
13 not she would accept or the Board would accept a suggestion to
14 delete in the first "therefore" everything after the word
15 opportunity.

16 Obviously, when the Board members receive the specific
17 details in the proposals, we will study those revisions and we
18 will respond to comments and so on. I wonder whether in the
19 interest of making it just leaner and easier to understand, we
20 should consider deleting that and adding the term "had an
21 opportunity to fully understand them."

22 I would also like to suggest to Ms. Pullen that

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1 perhaps we might consider deleting from the second resolve or
2 the third paragraph of the therefores, as it appears in this
3 copy here, that the three words "and other parties." It is
4 obvious that if the Congress requests members of the Legal
5 Services staff to provide technical assistance, they will honor
6 that request.1

7 So I feel it is redundant to state so. I don't
8 believe that anybody will turn down a congressional inquiry for
9 that type of assistance. I am concerned about other parties,
10 however. I would ask Ms. Pullen to tell us what the other
11 parties means and whether it's of importance to the body of the
12 resolution, understanding that those who support reform at this
13 stage support it in the general context of the term as opposed
14 to specifics.

15 We really don't know what is coming forward. Some of
16 us know for a fact that there are congressmen out there who have
17 other proposals that they would like to include. I would like
18 to leave it general, as general as possible. So I would like to
19 ask her to consider these two suggestions that I've made here.

20 MS. PULLEN: Mr. Chairman?

21 CHAIRMAN WITTGRAF: Ms. Pullen?

22 MS. PULLEN: Mr. Guinot, when you say to fully

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1 understand them, or I suppose to avoid splitting an infinitive
2 it would be to understand them fully --

3 MR. GUINOT: You know, I make the same mistake in four
4 other languages, too.

5 MS. PULLEN: I just wanted to be sure that we're on
6 track with the Chairman here. When you use the term "them," do
7 you mean details?

8 MR. GUINOT: Yes, I mean that.

9 MS. PULLEN: I think we need to say that so that it
10 does not imply that we do not understand the proposals because I
11 think we do. With that change, I would accept your two
12 proposals so that the first resolved clause would read, "Resolve
13 that the Legal Services Corporation supports in principle the
14 proposals for reform, reserving judgment on the specific details
15 of these proposals until such time as individual Board members
16 have had an opportunity to understand the details fully."

17 The second one, the first sentence of the second one
18 would read, "Resolve that the Board authorizes the Corporation
19 staff to provide technical assistance regarding reform to
20 members of Congress and congressional staff upon their request."

21 Am I reading your changes correctly?

22 MR. GUINOT: Yes. These were the two that I had in

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1 mind.

2 CHAIRMAN WITTGRAF: The Chair asks if there is
3 unanimous consent for those two changes?

4 (No response.)

5 CHAIRMAN WITTGRAF: Hearing no objection, the changes
6 are made. Further discussion?

7 MR. GUINOT: Mr. Chairman?

8 CHAIRMAN WITTGRAF: Mr. Guinot?

9 MR. GUINOT: I'd like to make sure that the last
10 paragraph conforms with the fact that we took other parties off
11 and I'd like to read it.

12 CHAIRMAN WITTGRAF: Yes, sir, please.

13 MS. PULLEN: "Resolve that the Board authorizes the
14 Corporation staff to provide technical assistance regarding
15 reform to members of Congress and congressional staff upon their
16 request. However, the Corporation staff shall make clear to
17 those that assist that the rendering of such technical
18 assistance should not be construed as an endorsement of any
19 particular reform measure on the part of the Legal Services
20 Corporation or its Board of Directors."

21 CHAIRMAN WITTGRAF: Ms. Pullen, may I make a
22 suggestion? On the first resolve paragraph where you say "that

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1 the Legal Services Corporation," should that properly be the
2 Board of Directors of the Legal Services Corporation? Then in
3 the second paragraph, you refer specifically to the Board. I
4 think, at least as I'm reading this, that would more properly
5 say what I believe you're intending to say.

6 MS. PULLEN: Well, I think that officially we are the
7 policy-making body of the Corporation, but it's okay with me to
8 make that change, if you wish. So, the first resolve would
9 begin, "Resolve that the Board of Directors of the Legal
10 Services Corporation supports in principle."

11 CHAIRMAN WITTGRAF: Yes, ma'am. If there's no
12 objection, that change will be made.

13 (No response.)

14 CHAIRMAN WITTGRAF: Hearing that objection, that
15 change is made. Further discussion?

16 (No response.)

17 MR. COLLINS: Question.

18 MS. PULLEN: Mr. Chairman, I appreciate the
19 refinements and I move my resolution.

20 CHAIRMAN WITTGRAF: Hearing none --

21 MR. GUINOT: Are you going to close comments right
22 now?

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1 CHAIRMAN WITTGRAF: Yes. There's been some --

2 MR. GUINOT: I was hoping Mr. Dana would have
3 something else to say.

4 CHAIRMAN WITTGRAF: -- effort to move to a vote, but I
5 think the Board will exceed to anyone who has anything to say or
6 any further refinements to propose. Mr. Guinot?

7 MR. GUINOT: No, I believe that this is clear enough.
8 Like I say, it's tidy. It's not loose. I'd like to reiterate
9 again that none here of us would be concerned about any part of
10 it since it endorses the reforms in a general way. It leaves it
11 open for other proposals to come in and some to be taken out.
12 Also, it permits the staff to respond to congressional inquiries
13 which they would have to anyway. It removes obstacles, perhaps
14 some other parties which we don't know who they are.

15 On the basis of this and of the interest of the Board
16 in expressing itself concerning reform, this would be
17 satisfactory to me.

18 CHAIRMAN WITTGRAF: Further discussion?

19 (No response.)

20 CHAIRMAN WITTGRAF: Hearing none, those in favor of
21 the resolution as amended will signify by saying aye.

22 (A chorus of ayes.)

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1 CHAIRMAN WITTGRAF: Those opposed, nay.

2 (Mr. Dana voted nay.)

3 CHAIRMAN WITTGRAF: The ayes appear to have it. The
4 ayes do have it.

5 M O T I O N

6 MR. COLLINS: Mr. Chairman, I think in this
7 circumstance it will not appear that it was a close vote. It
8 might be appropriate to call a roll. Is there objection to
9 that?

10 CHAIRMAN WITTGRAF: There's been a request by Mr.
11 Collins that a recorded roll call vote be taken. Is there a
12 second?

13 MR. COLLINS: Is there a second?

14 MR. HALL: I'll second it.

15 CHAIRMAN WITTGRAF: Discussion? I'm not sure it's
16 subject to discussion. We'll proceed then to taking a literal
17 vote, roll call vote. The Chair will call the roll.

18 Mr. Collins?

19 MR. COLLINS: Yes.

20 CHAIRMAN WITTGRAF: Mr. Dana?

21 MR. DANA: No.

22 CHAIRMAN WITTGRAF: Mr. Guinot?

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1 MR. GUINOT: Yes.

2 CHAIRMAN WITTGRAF: Mr. Hall?

3 MR. HALL: Yes.

4 CHAIRMAN WITTGRAF: Ms. Love?

5 MS. LOVE: Yes.

6 CHAIRMAN WITTGRAF: Ms. Pullen?

7 MS. PULLEN: Yes.

8 CHAIRMAN WITTGRAF: Mr. Wittgraf votes yes.

9 Ms. Wolbeck?

10 MS. WOLBECK: Yes.

11 CHAIRMAN WITTGRAF: The ayes appear to have it. The

12 ayes do have it. The resolution, as amended, is adopted.

13 There is one agenda item left, that being amended

14 agenda Item No. 7. We are about to be evicted without due

15 process from this room.

16 The Chair will exceed to the Board's preference at

17 this point. The Board apologizes to several people who are here

18 and have been here specifically for the purpose of presenting

19 information regarding this agenda item. The Chair apologizes on

20 behalf of the Board for the inconvenience caused those

21 individuals.

22 The Chair at this time will ask the Board whether or

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1 not the Board is prepared to have all of our equipment moved to
2 an adjoining room for purposes of the consideration of this
3 matter or whether the Board would prefer to consider this a
4 matter as the first substantive agenda item on the morning of
5 Monday, July 30?

6 MR. COLLINS: Would it be fair, Mr. Chairman, to ask
7 the people from California whether they would trade an
8 abbreviated hearing now for an opportunity for a more expansive
9 hearing on the 30th? Where are we going to hold it?

10 CHAIRMAN WITTGRAF: Ms. Bozell, the Board's Secretary,
11 indicates that if we do move our equipment, which will assume
12 might take 10 or 15 minutes, to an adjacent room, we can be set
13 up to do business again. The Chair is prepared to defer to the
14 schedules of the Board members as well as to the persons who are
15 here.

16 There are three, at least, persons specifically
17 wanting to be heard on this matter. The Chair is prepared, if
18 we're going to proceed, to offer at least 60 minutes to the two
19 sides of the matter, I think two sides of the matter, at this
20 time or 60 minutes at the beginning of the meeting on Monday,
21 July 30.

22 Before the Board comments further, perhaps the two or

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1 three principals who would be speaking would share their
2 thoughts about proceeding with us and then I'll go back to the
3 Board for its comments.

4 A PARTICIPANT: Thank you, Mr. Chairman.

5 CHAIRMAN WITTGRAF: Mr. Padilla, do you want to come
6 forward?

7 MR. PADILLA: No. I'll refer to the wisdom of counsel.

8 CHAIRMAN WITTGRAF: That may be an oxymoran, but
9 that's fine.

10 A PARTICIPANT: Always in error, I think. Speaking
11 for California Rural Legal Assistance, given the lateness of the
12 hour, and I'm sure people being tired and the dislocation and
13 then trying to make flights -- and I know we both have
14 commitments in California tomorrow -- coupled with the fact that
15 at this point in time, there were two pieces of information that
16 would be useful.

17 Mr. Wear's determination, as you and I discussed this
18 morning, and he's just received some of these materials, the
19 California State Bar took action on Friday. They are issuing a
20 written opinion which will be available, as I understand it, in
21 approximately 10 days. That, I think, would be useful
22 information for this matter as well.

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1 So, while we don't relish the prospect, of course, of
2 flying back, we believe that given the lateness, given the
3 seriousness of the matter and the fact that the additional
4 information would be useful in any event, we believe that the
5 better course is to be first on the agenda at your next meeting,
6 if that's agreeable to the Board.

7 CHAIRMAN WITTGRAF: Mr. Romberg?

8 MR. ROMBERG: Well, it's a long way from California.
9 There's four of us that have come here in the interest of energy
10 conservation and resources, I really believe that we should look
11 at it. I think the issues are pretty general in good part. I
12 realize there are some details, no doubt details that I could
13 have further information on too if we deferred it for a month or
14 even came back several times. But I would request that we take
15 it up now if possible. That would be my preference.

16 CHAIRMAN WITTGRAF: The Board has heard from the two
17 gentleman representing two different perspectives.

18 Mr. Guinot?

19 MR. GUINOT: I would ask Mr. Romberg whether or not
20 you're concerned about hearing it now is predicate on the fact
21 that you're here and let's get it over with or is it because
22 it's going to dislocate you next time?

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1 MR. ROMBERG: I'm not sure I can make it next time.
2 So it's partly that, but it's partly that I think it's a matter
3 that should be taken up, too. I think to defer this from our
4 point of view or people that I'm concerned with, we feel that
5 it's been deferred for a long time already. It's only finally
6 come here. We're anxious that the Board hear about it now
7 rather than deferring it. So it's both.

8 MR. GUINOT: But you can come back next time if the
9 Board were to decide that it's --

10 MR. COLLINS: He said he didn't think he could.

11 MR. ROMBERG: I'm not so sure I can come back next
12 time for several reasons.

13 MR. HALL: Mr. Chairman?

14 CHAIRMAN WITTGRAF: Mr. Hall?

15 MR. HALL: Why don't we get to moving in this other
16 room so we can hear it?

17 MR. COLLINS: Within constraints for flights, I can't
18 stay 60 minutes but I'll stay as long as I can.

19 MR. GUINOT: What are those constraints?

20 CHAIRMAN WITTGRAF: Let's be specific then.

21 MR. COLLINS: I can't spend more than 30 minutes to
22 get the plane that I'm going on.

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1 MS. WOLBECK: Mr. Chairman?

2 CHAIRMAN WITTGRAF: It's going to take us the better
3 part of that to set up.

4 Ms. Wolbeck?

5 MS. WOLBECK: I understand Mr. Romberg's situation. I
6 think out of courtesy to him, we should listen to him. If he
7 can't come next time, even if he can, he's come a long ways.

8 MR. COLLINS: I think we ought to let him speak,
9 that's right, if he can't be back. I appreciate eviction
10 proceedings. I don't like them more than anybody else, but I
11 doubt very much if we're going to be physically removed from
12 here. Why don't we ask Mr. Romberg to speak?

13 CHAIRMAN WITTGRAF: I believe in light of the fact
14 that the Corporation in the person of its president has sent a
15 notice on or about May 17 to California Rural Legal Assistance,
16 it's proper for California Rural Legal Assistance, which has
17 responded in writing, to go first at this point and then for Mr.
18 Romberg to respond.

19 Mr. Glick, are you prepared to proceed?

20 MR. COLLINS: I'm not entirely sure that's
21 appropriate. One fellow says he can be back here and he's
22 travelling with LSC funds. The other fellow says he can't be.

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1 I don't think that's fair at all.

2 CHAIRMAN WITTGRAF: Mr. Collins, let me be sure that
3 the Chair understands you. Are you willing to bifurcate the
4 proceedings between now and July 30th? I was assuming it was
5 all or nothing. If the sense is that we will bifurcate the
6 proceedings, the Chair is certainly agreeable with that
7 possibility.

8 MR. COLLINS: If I understand, he says he can make his
9 presentation now. He can't be back on July 30. He has an
10 opportunity to make it now.

11 MR. ROMBERG: Is there any possibility, Mr. Collins,
12 you can have a later flight?

13 MR. COLLINS: No, there isn't.

14 MR. ROMBERG: I don't think there is Board action.
15 Perhaps maybe Mr. Collins can stay as long as he likes and the
16 rest can go ahead. I kind of agree with the Chair's idea that
17 if we're going to do it, that Legal Services have their
18 opportunity and so on rather than I just present some isolated
19 information.

20 So, if it was to be done, I think it would be well to
21 move to the room and proceed as the Chairman had suggested, if
22 you are going to do that, and Mr. Collins maybe leave when he

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1 has to.

2 MR. HALL: Mr. Romberg, do you want to go first or do
3 you want to go second?

4 MR. ROMBERG: Well, I would prefer actually to hear
5 what -- in effect, I'm kind of in a rebuttal role, so I would
6 prefer that, yes.

7 MR. HALL: Have either of you gentlemen a written
8 statement?

9 CHAIRMAN WITTGRAF: We have materials from California
10 Rural Legal Assistance that are written that we received some
11 two weeks ago.

12 A PARTICIPANT: Nay I point out, first of all, as you
13 are well aware, CRLA is the program that is imperiled here with
14 the possible funding cut. Second, this matter was called this
15 morning at 10:00. We were here. Now I'm sympathetic with the
16 fact that Mr. Romberg did not realize, based on the agenda, that
17 the item might be called that early in the day.

18 But we are entitled to really, I believe, the
19 attention of the Board members. We would like to have as many
20 Board members present as possible to hear the matter so that you
21 can make a reasoned determination. We weren't even informed
22 that this gentleman was going to be here.

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1 We're not sure even at this moment who he represents,
2 but we recognize that it's important for the Board to receive
3 public comment from any individual from the public -- I gather
4 that's who the gentleman represents -- as part of its
5 deliberations.

6 I would ask, given all this, given that we were here
7 this morning, we were prepared to go, we are entitled, I
8 believe, to an opportunity to fully lay out the case to the
9 Board that has an opportunity to hear it; that it makes the most
10 sense to do it when you can do that.

11 CHAIRMAN WITTGRAF: It's the Chair's determination
12 that unless there is objection, that we will move. We will hear
13 from Mr. Romberg and the balance of the proceeding will be
14 carried over to the morning of Monday, July 30. Is there
15 objection?

16 MR. COLLINS: Well, yes, I object. I just heard both
17 people say they didn't want that, so I don't think it makes
18 sense.

19 MR. ROMBERG: I don't object entirely to that if they
20 wanted to hear, since I am here and maybe cannot come back. As
21 an alternative, I would go along with the Chair --

22 MR. COLLINS: Can we stay here?

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1 CHAIRMAN WITTGRAF: No, we cannot for fear of bodily
2 injury being suffered by the Board's Secretary. We will proceed
3 on that basis. We will be moving to an adjacent room. We will
4 resume as quickly as possible. We will hear from Mr. Romberg.
5 The consideration of this matter will be completed on the
6 morning of Monday, July 30.

7 Then, should Mr. Romberg or anyone else, for the
8 interest that he represents, want to be present or to have other
9 materials, we will certainly consider those at that time as
10 well.

11 CHAIRMAN WITTGRAF: Moving from the Yorktown Room to
12 whatever this room is in the Hall of Battles, we are prepared as
13 indicated prior to our recess to move, to give Mr. Romberg an
14 opportunity to introduce himself to the board and to those in
15 attendance, and then to make his remarks regarding the matter of
16 the proposed reduction in funding or reduction in funds of
17 California Rural Legal Assistance.

18 Mr. Romberg, I hope you understand the fact that
19 you're addressing some comments this evening to the board does
20 not preclude you from making further comments if you wish, or is
21 someone who represents the same interest that you do on "
22 Monday, July 30. I think you've got most of the attention that

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1 you're going to have, so please proceed.

2 MR. ROMBERG: Thank you for the opportunity. It's not
3 entirely satisfactory the way it worked out, but rather than
4 wait and perhaps not have the opportunity to come back, I will
5 take this opportunity.

6 Will the California Rural Legal Assistance make any
7 statement at this time or not, or they're just going to observe?

8 CHAIRMAN WITTGRAF: I don't believe so. They have
9 already presented a lengthy response to Mr. Wear's notice. If
10 you haven't previously received a copy of their response, I'm
11 sure that you can from the Legal Services Corporation's office.
12 I don't believe anything further oral on this occasion. I will
13 hope that's in the interest of all concerned.

14 We're hoping that at 9:00 a.m. on Monday, July 30,
15 we'll have nine, at least, board members present, if not more.

16 Would you introduce yourself to us, please?

17 MR. ROMBERG: My name is Al Romberg, and I am the
18 director or research for a voluntarily nonprofit organization in
19 California called the Center for Documentation of the American
20 Holocaust.

21 CHAIRMAN WITTGRAF: Would you just go through that
22 once more slowly, again, so that the record can be accurate?

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1 MR. ROMBERG: Yes. My name is Al Romberg. I am the
2 research director for the Center for Documentation of the
3 American Holocaust. This is an organization in California which
4 is concerned with doing research and disseminating the results
5 of this research, primarily on the life issues of abortion,
6 infanticide and euthanasia. It's connected with the California
7 Pro-life medical Association, which has more or less the same
8 goals.

9 As part of the introduction, I've given each of you a
10 copy of a pamphlet here called "The American Holocaust." It's a
11 large foldout and it has the address on the back in Palm
12 Springs, California. I hope you have an opportunity to look
13 this over, because it will give you a good idea of the type of
14 things that have been done by the organization.

15 They have published other things, including a booklet.
16 I believe some pages -- certain pages of this booklet have been
17 made available to you, too. It's called the "Office of Family
18 Planning: Analysis of a Tragic Failure." It's a booklet of
19 some 80 pages or so, and you have copies of certain pages.

20 That's, by way of introduction, and I don't think I'll
21 take more time with a general introduction.

22 The primary reason why I want to speak to you about

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1 this issue is to try to clarify a great confusion which has
2 existed with respect to the operation of, in general, what's
3 called euphemistically family planning in California, and the
4 representation of family planning in certain cases by
5 contractors of the Legal Services Corporation.

6 In general the claim that I to some extent want to
7 refute, is that these organizations are not involved with
8 abortion and, therefore, that it would be legitimate for the
9 Legal Services Corporation contractors to represent them and the
10 advocates for these organizations. Because, as I understand in
11 general the Legal Services Corporation is forbidden by the act
12 which sets it up, from engaging in litigation advocating or
13 facilitating abortion.

14 Therefore, the immediate issue is the Office of Family
15 Planning in California, which is a state office. It receives
16 money from the state of California, it does not receive federal
17 money. In addition to this office, though, you have a general
18 orientation there is Title X money, which is the federal program
19 for family planning all over the country.

20 That money also funds family planning in California,
21 but not through this Office of Family Planning. The proponents
22 have deliberately avoided having federal money come to this

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1 agency, instead that federal money comes to a sort of semi-
2 private organization called Los Angeles Regional Family Planning
3 Council, and California Regional Family Planning Council, which,
4 in fact, is directed and headed by the Planned Parenthood
5 network's staffing.

6 In fact, the executive director, who is mentioned on
7 the back of the pamphlet I just hand out to you, Tom Kring, was
8 the executive director of Planned Parenthood in Sacramento
9 before taking this position.

10 Anyway, federal money amounts to something of order of
11 \$13 million in California Title X. As far as I know, I don't
12 know if Legal Services Corporation has involved themselves with
13 any attempts to increase or change the federal family planning
14 money.

15 In addition to that, we have in California a program
16 called MediCal. This program is the state of California joint
17 program with the federal program which provides medical services
18 in general, the intention is, to the medically indigent. From
19 this agency comes, again, it varies from year to year, but
20 something of the order of \$16 or \$18 million per year is
21 dispensed for family planning services.

22 Now these are services exclusion of abortion. This

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1 would be sterilizations and provision of birth control drugs and
2 devices. In addition to this, the MediCal program in California
3 provides about \$30 million per year specifically do to
4 abortions.

5 This program, of course, in principle cannot receive
6 federal money because of the Hyde Amendment. In fact, the Hyde
7 Amendment, as you know, does not allow abortions to be paid for
8 unless in general they are provided to preserve the life of the
9 mother.

10 Now in California we have a very large number of
11 abortions, over 300,000 per year. The state pays for roughly
12 100,000 of those abortions, either by direct payments from the
13 MediCal, or by paying annual capitation charges for people
14 classified as medically indigent to either health maintenance
15 organization, for example, Kaiser Permanente, or to what they
16 called preferred provider organizations.

17 Those do not allow statistics to be gathered, because
18 the person can have as many abortions as they like, if they're a
19 Kaiser patient paid for by the state of California, without any
20 report going back to the state. So the total number of
21 abortions paid for by the state is unknown. We do know one
22 thing, for about 10 years not a single abortion has been

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1 reimbursed by the federal government in California, because the
2 state does not even attempt to get a single penny, although we
3 have more than, I think, half of the entire publicly funded
4 abortions in the United States are in this state. There has not
5 been one single penny of federal money that has been sought for
6 reimbursement for those abortions.

7 That's really, in fact, a decision of the California
8 bureaucracy not to seek it, because they do not have any way and
9 they don't wish to have any, apparently, distinction made
10 between elective or birth control abortions, and between those
11 who might have been done to preserve the life of the mother or
12 for any other reason.

13 So that's a little general background so that you
14 understand the different categories of money which we're talking
15 about. So, to sort of capitulate that, the family planning is
16 extremely richly funded in California, both by the federal
17 government through the Title X program, and by the state through
18 its own Office of Family Planning program, and through the
19 Medical program, which funds without restriction family planning
20 services which I'm now defining as those not involving abortion.

21 Now I come to the principal point, and that is the
22 connection between the provision of publicly funded abortions in

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1 California and the family planning program. That is the point
2 that's of interest to the Legal Services Corporation, because of
3 the questions you have raised about whether or not certain
4 litigations are properly funded and participated in by your
5 contractors.

6 Well, there has been a history of about 10 or 12 years
7 of litigation to overturn legislative and executive decisions
8 about abortion funding. This was done by an agency called CDRR,
9 Committee to Defend Reproductive Rights. This was an
10 organization which was orchestrated by the Planned Parenthood
11 organization. I, myself, attended a meeting approximately 10
12 years ago in which John Hooper, who was a federal State
13 Department employee, and who has been very active in population
14 control efforts in California.

15 He openly said, and I would almost say gloated, about
16 orchestrating this so-called Committee to Defend Reproductive
17 Rights, which he said was simply Planned Parenthood working
18 together with ACLU to orchestrate and action to guarantee
19 unlimited abortion funding in California.

20 Now they incorporated many other organizations into
21 this, such as the National Youth Law, such as the California
22 Rural Legal Assistance, such as the Mexican-American Legal

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1 Defense Fund.

2 They recruited defendants representing various
3 interests, prominent abortionists, particularly those with
4 academic credentials, such as Sadia Greensmith, who has since
5 changed her name because she's married since, such as Alan
6 Margolis at the University of California-San Francisco. They
7 recruited women who had abortions who made the claim that they
8 may need additional abortions, and various other interests.

9 They also related to this, then, to seeking the proper
10 judges who would hear this properly. At the beginning there, it
11 was Rose Bird, who had not been confirmed the first time, and
12 they openly stated that they wanted to be very careful with
13 respect not only to the judicial action, but to the electoral
14 politics, because you see in California judges have to be
15 confirmed by the electorate on terms.

16 We made it very clear that they wish to have this in
17 Rose Bird's hands, but they did not wish to jeopardize her
18 confirmation. As you may know, she was confirmed by about 51
19 percent of the voters the first time. When she came to the end
20 of her appointed term, they each go into slots which have 12-
21 year terms, and when she was in a certain amount of time she was
22 resoundingly defeated.

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1 It's only the decision she and others made that
2 authorizes the abortion funding. The federal case was decided
3 then, shortly afterwards, the McCray case that said that the
4 governments did not have to fund abortion.

5 However, after waiting and delaying the case, Rose
6 Bird and the Rose Bird court decided the opposite, saying that
7 in California they did have to pay for abortions in this CDRR
8 case. Now this, of course, provoked some constitutional crisis
9 because of the separation of powers in the California
10 constitution.

11 The case has now gone on in every year since. There
12 is a budget crisis now in California, as a matter of fact, since
13 that. Every year the legislature has provided restrictions,
14 more or less the same restrictions with a large number of
15 exceptions for the usual controversial, what you might call hard
16 cases, rape, incest, health, defect, prenatal diagnosis, et
17 cetera.

18 Every year, again, first due to years of delay and
19 then finally the decision, the full abortion funding has gone
20 forward. Now, to come to the involvement of the Office of
21 Family Planning, which is the concern here which I had to be a
22 little bit lengthy in describing because you must understand the

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1 abortion funding situation that already exists.

2 The Office of Family Planning was somewhat like the
3 federal Title X program, which you may know started in late '60s
4 at the federal level. Only a few years after that a similar
5 program was put in place in California and started off with a
6 budget of a few million dollars, which rapidly rose to the area
7 of about \$3 million a month, and it has stayed there.

8 The immediate issue which we're talking about came
9 because in 1989, Governor George Deukmejian in his budget
10 message in January, said that he felt it was a failed program
11 and that he wanted to eliminate it. So he reduced in his budget
12 the budget for this Office of Family Planning to zero.

13 He stated in his budget message, because there had
14 been some cases already putting in some jeopardy his line item
15 veto power, which also the governor of California has, I believe
16 it's Article 16 of the constitution, has line item veto power.
17 He stated that if the legislature did not remove the statutory
18 aspects of the Office of Family Planning, that at the budget
19 time in June, six months from then, that he intended to reduce
20 their budget by two thirds, from about \$36 million to about \$12
21 million.

22 The reason, apparently, was because of certain

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1 litigation regarding the occupational safety program, which
2 indicated that programs which had statutory authority could not
3 be line itemed to zero. Apparently he did not wish to enter
4 further litigation, so he said he would go to \$12 million. So
5 that's what he did. The legislature did not act, the bill hat
6 was introduced was bottled up in committee.

7 The Office of Family Planning was, therefore, when the
8 final budget came out in June, the governor reduced the budget
9 from \$36 million, which had been added in by the way,
10 incidentally, the did put the amount back to \$36 million in the
11 various budget committees.

12 So he reduced it to \$12 million, approximately. This
13 led to litigation. Now no one believed, although there had been
14 a fight for years over direct abortion funding, no one believed
15 that there was much opportunity to bring any litigation on this
16 subject of the Office of Family Planning as sort of an
17 entitlement that anyone could bring a case and overturn the
18 governor's line item veto.

19 However, I would say somewhat to the surprise of many
20 people involved with this issue, within a few months a case was,
21 I'm going to have to say contrived. Plaintiff's were found
22 among the list of contractors of the state Office of Family

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1 Planning. I will briefly describe the character of the
2 contractors.

3 The \$36 million is roughly given out in thirds. About
4 one third goes to the Planned Parenthood network. This network
5 operates somewhere 20 or more abortion clinics in California,
6 that specifically do abortions. They have about, I think, 60
7 locations in total. For example, in Sacramento they have
8 several feeder satellite organizations typically small store
9 fronts, and they have a downtown abortion clinic, which does
10 something over 3,000 abortions a year.

11 So they receive about one third of the funding of this
12 \$36 million. Another approximate third goes to what I will in
13 modern parlance, Planned Parenthood clones. These are
14 organizations which are not Planned Parenthood themselves, but
15 they are private or semi-private or nongovernmental agencies
16 which engage in providing family planning service, and many of
17 which also directly provide abortions and virtually all of which
18 provide abortion referrals.

19 The other third goes to public entities like local
20 government, city and county health departments. The \$36 million
21 is roughly divided in thirds and has been for some time.

22 So, anyway a case was brought in San Luis Obispo.

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1 Again, I don't know all the background, but I can surmise
2 because of carefully tracking the other cases for many years and
3 from the remarks of Mr. Hooper and others. The case had all the
4 appearance, again, of an orchestrated case with carefully chosen
5 clients.

6 First of all, instead of choosing the predominant one
7 client, of course, is Planned Parenthood which receives one
8 third of this budget. Instead, the client was chosen to be an
9 economic opportunity operation in San Luis Obispo, which
10 provides referrals for abortion, but not abortions itself.

11 As part of the testimony here I will provide, I don't
12 know that this has been passed out yet or not, I think maybe
13 this hasn't been. Yes, it has.

14 CHAIRMAN WITTGRAF: I believe it has been.

15 MR. ROMBERG: This is a copy of the yellow page
16 directory from San Luis Obispo. I will call your attention to
17 near the top, it says "Family Planning EOC." That was the
18 client that was represented by the California Rural Legal
19 Assistance.

20 This organization, according to the attached affidavit
21 signed by an Irene Egan, only last week, although this is not
22 well-known anyway, but in order to make it concrete, would

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1 provide an abortion referral to Planned Parenthood, which you
2 see has two locations and it's down the page only slight. A
3 couple of inches down the page you see Planned Parenthood. It
4 has a location in San Luis Obispo, that's what SLB stands for
5 there, and one in Santa Maria, which is another nearby
6 community.

7 As you see, it says abortion is provided directly
8 there. So while the client was not directly Planned Parenthood,
9 the chief beneficiary of the case, that is because the case
10 demanded full refunding. In fact, I'm not going to use the word
11 refunding, because there is no legal requirement that the state
12 of California provide the Office of Family Planning, or even
13 have an Office of Family Planning, except there are certain
14 statements in the law about providing certain kinds of services.

15 I would remind you that these services are also
16 available through our MediCal program to anybody who is
17 medically indigent. This program is a sort of a super program
18 over that that provides them, in fact, in a certain sense
19 recruits clients for them, particularly among minority people
20 and teenagers, who are not in some cases otherwise eligible for
21 MediCal and many of whom, by the way, are not poor.

22 Planned Parenthood is a not a poor organization, it is

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1 not a poverty client. It has vast resources in California. It
2 receives money from the federal government through the Title X
3 program. It receives family planning money, about \$12 million
4 a year. It receives fee for service money, since virtually all
5 the Planned Parenthood affiliates have MediCal provider numbers.

6 I will comment now in this piece here that you have,
7 it's some statistical data. To show this connection,
8 information was sought, and if you will turn, perhaps there is a
9 page here that you see kind of a computer printout that has
10 rather fine print on it, that and I see xeroxing, the second
11 page of that is intervened by -- there is a page in between
12 there showing MediCal abortion, but if you turn ahead you see a
13 listing and on the final page you see a total summary. It's a
14 page that looks like this if you're looking for it here, it has
15 the top half of the page.

16 What this is, is a list of the Office of Family
17 Planning contractors for the year '88 and '89. The health
18 department was asked to provide the MediCal provider number for
19 those contractors, and you see that number listed in the second
20 column, MediCal provider number.

21 They were then asked for the year 1988, which was the
22 last complete year, to find out how much money was paid to each

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1 of these family planning contractors, specifically and only to
2 do abortions. That's the third column. Pardon me, the third
3 column is non-abortion. The second column, when you look from
4 left to right, I'm counting here the name, the provider number,
5 the next column shows the amount of money that was provided for
6 everything except abortion, and the column after for just
7 abortions.

8 The totals there, you can see how I will just refer to
9 the totals, it was something near \$40 million was provided to
10 these contractors to do -- this would be, for example,
11 sterilizations, birth control drugs and devices, and other
12 ancillary services that are mentioned in the promotion of these
13 things, some of which are quite legitimate, and I'm not
14 complaining about them.

15 However, you see over \$2 million was provided
16 specifically to do abortions. The next two columns are simply,
17 more or less, half your figures for '89, up to the date that
18 this was requested.

19 Now if you turn to the front of the sheet, there is a
20 summary of this, in other words instead of having all of them,
21 it just summarizes the ones which did do such services and did
22 receive money for abortions, so it's kind of a summary sheet, a

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1 little easier to read, perhaps. As I say, not all of them
2 provided these services.

3 The third page of this little packet here shows
4 specifically from those we're extracting just the ones who are
5 Planned Parenthood clinics and this is for the year '86,
6 complete and more or less half the year '87. The reason why the
7 last year is usually a half year is because, as I said, the
8 budget process in California occurs in June.

9 So when these things have been requested, it's usually
10 been at the time of the budget. So it will have the previous
11 year and more or less half a year, it doesn't mean there were
12 half as many. In fact, you can see the number of abortion
13 payments were increasing because it went from approximately \$1.4
14 million to Planned Parenthood to do abortions, to approximately
15 \$.9 for half a year, which would be doubled would be \$1.8
16 million for one year.

17 Now, again, this is absolute irrefutable proof from
18 the California Department of Health Services that Planned
19 Parenthood does abortions on what I would call a massive scale.
20 To further reinforce that with a research document that everyone
21 has, is the Yellow Pages.

22 I would say in California we are approaching 30

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1 million people now, we have over a tenth of the population of
2 the whole nation, that there is roughly speaking, I would say
3 probably one telephone for every three people, and just roughly
4 there is 10 million telephones in California, and I think about
5 10 million copies of the Yellow Pages in different locations.

6 The particular Yellow Pages that I'm holding here are
7 from Sacramento. You don't have copies of this, I'm sorry I
8 should have provided these, but it was one of the things that
9 didn't get made for distribution yet. Anyway, if you look at
10 what I call the ABCs, the first page I look here is the very
11 opening of our Yellow Pages in California under abortion.

12 You open the first page and you see all these
13 advertisements, including here is Planned Parenthood advertising
14 under the heading for abortion. So there is no mistake and, of
15 course, within the ad they mention they do abortions.

16 In almost every Yellow Pages in the state of
17 California which has, as I say, about 10 million copies a year
18 are distributed, you will find Planned Parenthood, the largest
19 single, as a network contractor from the Office of Family
20 Planning, receiving about one third of the money, advertising
21 abortions.

22 I go to B, birth control, and we have a heading here

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1 Birth Control Information Centers. Again, there is Planned
2 Parenthood logo and advertising abortion services. I go to C
3 for Clinic, and again you find here many advertisements for
4 abortion clinics. Planned Parenthood isn't the only one, but
5 for simplicity I'm talking about them as being the largest one,
6 and since I've shown you how much money they receive from the
7 state, again we find them advertising abortion.

8 Finally, we go to the magic and euphemistic word
9 Family Planning Information Centers, and again there is Planned
10 Parenthood.

11 Now Sacramento is by no means the largest center, Los
12 Angeles is, and also San Francisco. You can look in many small
13 communities such as the San Luis Obispo Yellow Pages, and you
14 see the same thing.

15 Now I would have to say to continue to imply that the
16 Office of Family Planning and litigation to keep it funding is
17 not related to abortion, is really almost absurd.

18 Now I will refer to a package of letters here that I
19 think each of you have a copy of. The first letter is Hispanics
20 for Social Justice. This is a group that is concerned about the
21 exploitation of Hispanics by those with population control
22 motivations. You can read this, but it's an example of

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1 protesting these actions.

2 Now in addition to the Yellow Pages, something that is
3 not so easy to document or put into your hands, it isn't
4 distributed in 10 million copies, the Spanish language media in
5 California, both radio and television and print media, are
6 heavily used to advertise abortion services by these family
7 planning contractors who are represented by the California Rural
8 Legal Assistance in this re -- I'm not going to use that word,
9 in this funding case. I will not accept that this was
10 refunding.

11 If we look through this packet of letters you see
12 letters dating back to -- well, the first one is '85, to various
13 legislators writing to the governor, usually with respect to the
14 budget of this organization, that is the Office of Family
15 Planning, which is the state agency providing these funds.
16 These extend over different years and are signed by various
17 legislators who have been involved and concerned with this.

18 I think maybe to make a point, I will look at the
19 letter of July 2nd, 1987, addressed to Governor Deukmejian and
20 signed by several legislators. The reason I refer to this is,
21 you know we have an Armenian governor and he has made a great
22 point out of this issue of the Armenian holocaust. From two

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1 points of view he has tried very carefully to suppress, if I
2 could say that, what some people call the terrorism by
3 Armenians.

4 Since he was the attorney general of California he's
5 very sensitive as an Armenian that attempts to make the Armenian
6 holocaust known to the world not be done by terror. He's even
7 had an Armenian holocaust day in California, they put the flag
8 as half mast and so on.

9 I say that as a little prelude, because it relates to
10 the letter. I quote the letter, it says, "Would anyone who
11 objected to Nazi concentration camps be satisfied if told that
12 the Nazis kept the gas chambers and crematoria in a separate
13 account from the other expenses and proceeds of the rest of the
14 operation, by that I mean the chain of concentration camps."

15 If you turn the page, "Or if the Turkish government
16 could show that that Armenian genocide was all kept in a
17 separate account. How absurd."

18 Well I think anyone would realize that if you were
19 talking about organized crime, I don't think the Justice
20 Department would not prosecute organized crime if they could
21 simply come in and show that they kept their various illegal
22 operations, whatever they were, pornography, whatever they were,

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1 in separate accounts from the dry cleaning business or whatever
2 else was used, say as a facade or as another aspect of what they
3 were engaged in.

4 I say it's equally as clear, and I almost hesitate to
5 use such as comparison, but I think we must make it clear, and I
6 have presented, I think irrefutable evidence that the state
7 Office of Family Planning, as I say again to recapitulate,
8 provides approximately \$12 million to Planned Parenthood alone.
9 Planned Parenthood advertisers in more or less 11 million Yellow
10 Pages that they do abortions.

11 They receive millions of dollars, they bill, seek and
12 receive millions of dollars from the state. They have litigated
13 for more than 10 years to overturn the legislative requirements
14 and restrictions, and the governors actions, and yet they are
15 being represented by the California Rural Legal Assistance.

16 In principal, when they ask that the state Office of
17 Family Planning budget be placed at the level of \$36 million,
18 which is more or less as high as it's ever been. They would
19 call this refunding. I don't know on what basis they would
20 claim that this is an entitlement.

21 That is the principal and main point that I wanted to
22 make. There are two other points I think I would like make.

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1 One point, although it does not bear on the legal question that
2 is before you, and I don't think it should be used as an evasion
3 anyway, is the question, well don't these family planning
4 clinics really -- anyway these so-called family planning
5 clinics, don't they really -- isn't the primary function or the
6 primary result of these that they reduce the need for abortions?

7 Now that's not for you to decide anyway, whatever the
8 answer to that question is, because if, in fact, your contractor
9 is representing and aiding the abortion industry, that's wrong.
10 I will redress it anyway because it is a political question.

11 First of all, proactively do these people -- that is
12 when I say -- I shouldn't use these, it kind of sounds
13 conspiratory to all these people -- I'm talking about the
14 contractors at the state Office of Family Planning and the Title
15 X in California.

16 Do they reduce the need for abortions, or the number
17 of abortions? First of all, statistically California, I
18 suppose, would probably be considered the paradise of family
19 planning. I've already told you figures that amount to about
20 \$60 million, the \$36 million in this program, the approximately
21 \$12 or \$13 million of federal Title X money, \$16 million of
22 MediCal funds that go to fund non-abortion family planning and

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1 if you, as Planned Parenthood says, abortion is an integral part
2 of family planning, if we add that \$30 million, plus the
3 ancillary services related to abortion, for example, pathology
4 on the fetuses that are aborted, it comes to close to \$100
5 million a year.

6 So if this is really overall prevents abortion, let's
7 take the \$60 million that goes to this, you ought to see some
8 results. There should be some fruits of this to see,
9 statistically speaking.

10 Among the things that I have passed out, and if you'll
11 pause a moment here, is another little packet that has some
12 information, a report here, I'll hold it up so you can see it,
13 it's on the same bunch of the material that we talked about here
14 that has these figures. It says, "California Abortion
15 Statistics Reveal Serious Problem," it has kind of a cross-
16 hatched top on it.

17 This shows that California has -- well, the statistics
18 on abortion in California are almost an aberration, they are so
19 enormous compared to the rest of the country and the rest of the
20 world, particularly with respect to patients who are regularly
21 on MediCal.

22 I want to emphasize that you don't have to be on

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1 MediCal to get an abortion, because the Rose Bird decision
2 essentially said that you can have a state-funded abortion if
3 not having that fund available would in any way interfere with
4 your privacy rights, not poverty.

5 So the director of health services, for example,
6 challenged about this by a gynecologist who said, "Look anybody
7 can have an abortion." He said, "No." The eligibility people
8 at this particular hearing, meeting, came forward and said -- he
9 said, "Look, this isn't true. You have to be poor, you have to
10 be eligible for MediCal to get an abortion."

11 The head people from eligibility said, "Sir, you're
12 wrong. Jackie Onassis is linked for a California MediCal
13 abortion." What they meant with "linked" is their formal name
14 for eligible. They used her because she is not a resident of
15 California and she is clearly not poor. All you have to do is
16 show, and as the principle of largest single abortion in
17 California has said, anybody who walks in has carte blanche for
18 a MediCal abortion.

19 All you have to show is that even applying for your
20 own insurance payment your husband might know, your parents
21 might know. You are then eligible for a MediCal abortion, it is
22 done on the basis of privacy.

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1 So if you look at the statistics, you will see that
2 abortion -- the main point I make here is enormously high rates
3 in California, even though for 10 or 20 years it has been sort
4 of a paradise of public funding of family planning.

5 Now why is this so? First of all, I would say there
6 is a proactive reason. The idea and the concept of birth
7 control, particularly for teenagers, and the clients of our
8 Office of Family Planning, are about 30 percent, it varies from
9 year to year, are minors.

10 It gives the false assurance or the idea that if you
11 use birth control, and you put yourself under the clientship or
12 whatever of one of these agencies, that you will not get
13 pregnant, that you can engage in sexual activity and you will
14 not get pregnant, that they have a solution to that outcome.

15 They don't advertise so much, by the way that you
16 won't get venereal diseases, but that's sort of an assumption
17 somehow that these are health centers and they will provide you
18 with the means to engage in sex without being either pregnant,
19 or getting venereal disease, or that the diseases you get will
20 be very mild and quickly taken care of.

21 This is a great false assurance and leads to enormous
22 rates of teenage pregnancy because the methods are by no means

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1 100 percent. Now we could go on a lot about that, the second
2 reason is retroactive. When the clients come in, these are not
3 just the young teenagers, and put themselves under the direction
4 of one of these clinics, and a new program actually proposes to
5 pay the young people five dollars a week to come in on Saturday
6 and receive their pills and checkups, to encourage them, even,
7 to come in.

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EVENING SESSION

(6:00 p.m.)

1
2
3 MR. ROMBERG: There is a sort of impression given that
4 should you become pregnant, that obviously that wasn't part of
5 the plan. You were under the direction of this, you were being
6 given pills, or a diaphragm, or IUD, or you were being given
7 condoms to give to your boyfriend, or whatever, almost all these
8 services, by the way, with a tiny percent otherwise, are given
9 to young females.

10 So, when she becomes pregnant, she comes into one of
11 these centers and they find she's pregnant. Well, naturally,
12 she's of a mind to have an abortion because she had been given
13 kind of assurances that the product or the service they were
14 selling would prevent her from becoming pregnant. She didn't
15 have any intention of becoming pregnant.

16 She was given the impression that she could engage in
17 sexual intercourse without becoming pregnant. Now she's
18 discovered to be pregnant in one of these centers, most of which
19 directly provide abortions and have a vested interest in
20 providing her with an abortion. They can collect the money from
21 the state without any question, for example, if she's a teenager
22 or if she's a minority or if she's poor without any

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1 consideration of her status.

2 Even now it's been adjusted so even if the person is
3 an undocumented alien that they can receive these services.
4 Unfortunately, they can't receive other health care services.
5 So there are some attempts to improve that. If she wants to
6 care for the pregnancy, she's at a tremendous disadvantage.

7 So, I mention that because I realize it does not
8 determine it but I think it's important because you are subject
9 to political pressure, too, I know. I guess you might say I'm
10 partly trying to address you. I'm sure on the other side,
11 people will address you on that basis, too.

12 So I think that it's important that we say that and
13 that you not accept -- of course, I would agree in a single act
14 of intercourse, with or without some kind of birth control, it's
15 very likely that the odds of becoming pregnant are less. But
16 that, by no means, describes a situation what will happen in a
17 state if you set up an agency like this and fund it for a decade
18 or two and see what happens.

19 That's what we're talking about. We're talking about
20 public policy now, not a single individual engaging in the
21 laboratory circumstance in an act of intercourse with or without
22 birth control. That, unfortunately, is the way the issue is

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1 usually presented in editorials attacking anybody's objections
2 to any of these programs, as if it were a laboratory situation
3 without any feedback loops, without any impressions or any
4 realization of how these things work.

5 Finally, of course, there is a physiological problem.
6 That is, many teenagers are not, even if the birth control,
7 drugs and devices are used in a laboratory setting, they are,
8 due to their immaturity, many of the methods do not work that
9 well, particularly the pill because their cycles are not very
10 regular and there response to the pills -- plus the fact you
11 find many teenagers can't keep their own room in order much less
12 adopt a regime of taking the birth control pill everyday.

13 Psychologically speaking, they don't think of
14 themselves as being "sexually active." It tends to be more the
15 idea of spontaneity and the boyfriend is not nice to them for a
16 week or two so they don't take the pill. Then he's kind and
17 generous and they start taking the pill again. Well, the pill
18 doesn't work that way.

19 There's many other reasons. We could spend a great
20 deal of time on this, but I think I've made that particular
21 point which I think was important, even though it's not decisive
22 to your decision.

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1 The other materials that I passed out, just briefly,
2 the packet that had these figures on, which I presented, as I
3 said, to show the proof of the involvement, has a page which
4 actually is from this report that I mentioned called the "Office
5 of Family Planning: Power, Corruption, Fraud and Lawsuits."

6 This describes this family planning lobby, and it also
7 shows that they actually recruit the patients who are used there
8 for lobbying and, in fact, for litigation. Where these
9 litigants are found are in these organizations.

10 There's another page here, two pages at the end here,
11 which are another publication which has to do with abortion
12 funding. It talks about the particular targeting of racist
13 population control facilities. For example, it shows a typical
14 abortion clinic advertised in the yellow pages, "Si Habla
15 Espanol." I already mentioned on television and radio, I don't
16 have broadcasts of that for you here, videotapes to show you
17 this, but that's an example in print.

18 You can look at these letters. There is a clipping
19 here about the judge's order, which was extremely surprising,
20 that, in effect, would directly take away or jeopardize, at
21 least in this case, the governor's constitutional line item
22 veto. A judge actually was found who said that the whole

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1 program had to be given \$36 million. Use the word refunding if
2 you want to use the word that some used. Finally, I will play
3 you a few minutes of a little tape here. This tape is a
4 statewide 800 toll-free information line available in
5 California. You cannot hear it here because if you dial the
6 number, it won't come through. They will say you're not within
7 the area. These numbers are regionalized. So I'll play this
8 for you.

9 The point of it is, this is the planned parenthood
10 networks, statewide toll-free number that's used in addition to
11 all the other things to constantly update and inform their
12 members and those who are interested in their activities such as
13 the CDRR and, I would presume, California Rural Legal Assistance
14 and so on involved with litigation which they are pushing of
15 what the current status of litigation is, bills and so on.

16 The current one has something about the budget and
17 also has there was an attempt to limit abortions on the basis of
18 sex selection. That is a parent who, in one of these family
19 planning clinics, for example, or otherwise, did not like the
20 sex of the child and was going to abort simply because the child
21 was not of the desired sex.

22 Now, surprisingly enough, planned parenthood, there

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1 was a thinking that there were some edges of this thing that
2 people would not go beyond; that there was something that people
3 would find abhorrent; maybe the abortion at eight months. If
4 you look at the pamphlet that I passed out, you can see some
5 abortions there that are seven or eight months.

6 Maybe they would abort the child simply because it was
7 the wrong sex. No, planned parenthood even opposes that. I
8 will just let you listen to this short section here.

9 (A discussion off the record.)

10 MR. ROMBERG: I think that's enough. The point is,
11 again, I'm not saying that family planning money paid for that
12 service. They have a disclaimer in fact. Again, to what extent
13 would anyone believe that this network which receives \$12
14 million from this Office of Family Planning, which your
15 contractor entered into litigation to fund, and, as I've shown
16 from things I've passed out, receives millions and millions of
17 dollars specifically for doing abortions, just by having
18 separate accountings, thereby is not involved with abortion?

19 Of course, they put the best light on it. They say
20 sex selection abortions are rarely done. I would hope so.
21 Capital punishment is rarely done in California, too. There
22 hasn't been one since 1967, although we've had 60,000 willful

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1 homicides in that interval of time. Nevertheless, it's a major
2 issue that the fact that there may be one -- and I'm not taking
3 a position on that; I'm just using it as a comparison.

4 So I think that of course I've given you a lot of
5 reading material here. I think that due to the lateness of the
6 house, I think I've made the principal points I would like to
7 make. I hope you will read these. There is some additional
8 materials that you could look into.

9 There are additional issues that involve legal
10 services. For example, the fact that we still have a statutory
11 rape law or unlawful sexual intercourse law in California. We
12 still have law having to do with contributing to the delinquency
13 of minors.

14 We have many, many women who are injured and exploited
15 by the abortion lobby. We find ourselves -- one of the other
16 functions of our organization is to assist these women in
17 finding legal services. They are extremely difficult to find
18 services for because they are indigent, frequently don't speak
19 English. They are sometimes undocumented aliens.

20 It's ironic that none of your contractors so far as we
21 know have ever shown any interest and one of them have ever
22 found their way to California Rural Legal Assistance or any of

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1 these others, Mexican-American Legal Defense, and never have
2 they ever brought a case for these many women -- on that
3 brochure I passed out, we list about six or eight who died
4 within one clinic.

5 Yet, never, it seems, has there been ever a single
6 case in which these contractors have -- and I would consider
7 those cases quite legitimate. These people are truly poor.
8 They are not millionaire abortionists. They are not funded by
9 millions of dollars of state funds. Yet, never has there ever
10 been any interest in helping them. We have to, as one of our
11 other services for our Center for Documentation, is try to find
12 help for these people from private attorneys.

13 Usually, of course, they will only be taken if it
14 looks like a good contingency fee, to tell you the truth. Many
15 of them don't look like very good contingency fees. When you
16 have a poor person who thinks five or ten thousand dollars is a
17 vast fortune and who will take it and promise anything on a
18 piece of paper about silence and never causing any more trouble,
19 you don't have a very good client for a contingency fee.

20 Many of them, of course, in spite of the statistics on
21 the exploitation of these people, and even the admission in some
22 of the court cases that are settled -- plus, we have arbitration

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1 in California required so they all have to sign an arbitration
2 agreement when they have the abortion -- it's an extremely
3 difficult climate for ordinary attorneys or private individuals.

4 Yet, again, it's all one-sided. These various
5 agencies. The National Youth Law, they work against our
6 parental consent legislation there. I'm sure there are minority
7 parents who care about their teenage children and would like to
8 have representation to see that they can have their proper role
9 in their children's activities, including -- as you saw in that
10 one report, one teenage girl had, in one year, had five
11 abortions funded by the state, an average of one every ten
12 weeks. Imagine what that's done to her health.

13 Over 5,000 women had repeat abortions within the same
14 fiscal year. Imagine what that's doing to the public health of
15 these minority people; yet, never any representation. Again, I
16 say that there's an ideological basis surely behind that and
17 that what the cases that they have been involved in are not
18 representing the poor. They are representing people with a
19 political/social agenda, particularly, I would have to say, and
20 it has been admitted by some of the people involved, a racist
21 agenda.

22 Some of the abortionists have admitted that one of

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1 them has said that he will stem the Hispanic tide, as he calls
2 it, with abortion. He said he'd do abortions for free in
3 Mexico. He admitted in a lawsuit that he had neglected the
4 Hispanic woman because he didn't like Hispanic people.

5 She died. She bled to death unattended. He admitted
6 that. He has paid a settlement. Again, that has never come to
7 public attention. The media, of course, unfortunately, have not
8 done their duty, I would say, in this matter.

9 If there are any questions, we could go on at much
10 greater length, but if there are any questions, I would be happy
11 to entertain them. I appreciate the fact that even though this
12 didn't go quite the way maybe we all would have liked it, you
13 have given me the opportunity to speak.

14 CHAIRMAN WITTGRAF: Thank you very much, Mr. Romberg.
15 Questions for Mr. Romberg?

16 MR. WEAR: Mr. Chairman?

17 CHAIRMAN WITTGRAF: Mr. Wear?

18 MR. WEAR: Thank you, Mr. Chairman. Mr. Romberg, just
19 to make sure the record is clear on a couple of points that are
20 closer to this case than perhaps some of the others. It's my
21 understanding from your testimony that the family planning
22 clinics funded through the Office of Family Planning, routinely

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1 advertise abortion services in the yellow pages in the
2 directories in California.

3 MR. ROMBERG: All over California.

4 MR. WEAR: Also, it's my understanding, based on this
5 two-page handout dated June 29, 1990, memorandum from Irene
6 Egan, that she sought counselling from the San Luis Obispo
7 Clinic and was told she would have to make an appointment that
8 was referred to planned parenthood for abortion.

9 Do you have any reason to believe that this is
10 atypical?

11 MR. ROMBERG: No, not at all. The only part that is
12 atypical about it is that it's EOC clinic and I would have to be
13 honest; I think it was selected as the named plaintiff in the
14 case because it did require referral. Most of the clinics and,
15 as I say, the planned parenthood organization, would proceed to
16 do the abortion on the premises.

17 As I've shown you, would bill the state for it if the
18 woman was indigent or needed privacy and did not have another
19 private source of funds, essentially cash in her purse. So, the
20 only thing atypical about it was that the EOC did not directly
21 provide the abortions themselves and did not have to refer it to
22 any other place.

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1 If it was the principal beneficiary of the litigation
2 of the California Legal Assistance was bringing, and was their
3 intended goal, the relief they sought was full funding -- by
4 that, they mean the level that it had been in previous years--
5 of the whole network including \$12 million to planned
6 parenthood.

7 So, if anything, it was atypical in the sense that the
8 clinic that she was in, the named one, was not a clinic that
9 directly does abortions but had to send them down the street in
10 the same relatively small community to the planned parenthood
11 clinic, who could then build a state and who would be the
12 principal beneficiary of the funding action; that is the
13 overturn of the governor's line item veto which was sought by
14 the plaintiffs in this case.

15 MR. WEAR: It's your opinion that that particular
16 plaintiff might have been selected because that plaintiff might
17 have looked better to the public as a whole?

18 MR. ROMBERG: Well, yes. I think that not only the
19 plaintiff but I would have to say that there was a certain
20 selectivity in choosing the EOC family planning operation and a
21 client of that family planning as a lead -- let's call it the
22 lead plaintiff in the case -- because that was about as remote

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1 as they could get. That's not very remote, you see.

2 I believe that, as you say, I commented about it's
3 remarkable that we've dealt with so many women who have been
4 injured and even families of women who have died. We have never
5 seen any cases on these. Yet, in every one of these cases,
6 whether it's the CDRR, the length extending over a decade of 12
7 years now, they always quickly -- as I mentioned, Mr. John
8 Hooper, as I say, almost gloated about how they had orchestrated
9 the case.

10 Of course, although it's a little parenthetical, we
11 know now, since Roe v. Wade the federal cases have been a matter
12 of great controversy recently, that both of the plaintiffs from
13 Georgia and Texas have both been revealed as false plaintiffs.
14 The one woman has since admitted it. In fact, she was not
15 raped. Even the child, who is now a college student, has been
16 found and she admitted it was not rape. In other words, it was
17 based on even the clients involved in that case.

18 The other one admitted that she was offered divorce
19 services, legal services for a divorce, if she would allow her
20 name to be used. She, herself, didn't even support the ideology
21 that was involved in the Georgia case. We found, in talking to
22 many of these people that are involved, that similarly these

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1 cases are contrivances and that the organization identified--
2 first of all, they identify a suitable channel, for example the
3 EOC clinic instead of, say, one of the planned parent ones or
4 one of the woman ones or one of the feminist clinics because it
5 makes the best possible representation, although still not one I
6 would believe is allowed.

7 The principal beneficiary of the litigation, of
8 course, they didn't simply ask that this particular clinic
9 receive funds. The relief asked was that the governor's line
10 item veto be set aside and an additional \$24 million be placed
11 in the budget for that year. By implication, all subsequent
12 years should receive full funding, whatever that meant.

13 I don't know whether that included inflation,
14 population adjustments would be included in such a court
15 decision ad infinitum, but that was the relief sought. So I
16 don't know if that answers your question very well.

17 MR. WEAR: Yes, I think it covers literally everything
18 that I --

19 MR. ROMBERG: All right.

20 MR. WEAR: Yes, I think it does. I appreciate your
21 comments. I think it's helpful. Mr. Chairman, I don't know
22 that I have any more questions of Mr. Romberg.

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1 CHAIRMAN WITTGRAF: Further questions?

2 (No response.)

3 CHAIRMAN WITTGRAF: Thank you again, Mr. Romberg. I
4 believe the status of this matter, Mr. Glick, is that you will
5 have an opportunity to amplify your written statement early on
6 the morning of Monday, July 30. Mr. Romberg, should you or any
7 of your colleagues be here then, we would afford you an
8 opportunity to make brief remarks.

9 Again, July 30 is going to be a full day for us, I
10 think, because of our presidential selection process. But in
11 fairness to all concerned, we want to keep moving. It's the
12 Board's consensus, and I think the president understands, that
13 no determination regarding a reduction in funding will be made
14 at this time, pending the information that is presented at the
15 July 30th meeting.

16 Is that your understanding, Mr. Wear?

17 MR. WEAR: Mr. Chairman, that's correct. I would add,
18 however, that counsel for California Rural Legal Assistance
19 consider in addition the following points.

20 In the appropriations act that appropriate the funds
21 for the Legal Services program, we've had a rider dealing with
22 abortion that's been in that language for several years. It

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1 basically states, and I'm paraphrasing now, that none of the
2 funds appropriated under the appropriations act may be used by
3 any recipient, and any litigation with respect to abortion.

4 The question I would pose for counsel is whether or
5 not this litigation falls within that proscription. I know that
6 counsel alluded to that proscription in his submission with
7 regard to the cases involving the Committee to Defend
8 Reproductive Rights. It occurs to me as I looked at that
9 submission that the proceeding -- that the proscription probably
10 applies to the Likness v. Kaiser case as well. So I would ask
11 that counsel address that during his comments and in any
12 submission that he may wish to make to the corporation between
13 now and the 30th of July.

14 MR. GLICK: I'd be happy to do that. Let me make one
15 observation. In the Likness case there are two individual
16 plaintiffs, which did not represent the San Luis Obispo
17 organization, but we'll have a chance to amplify that.

18 PRESIDENT WEAR: That is correct. I think the record
19 shows that.

20 CHAIRMAN WITTGRAF: If physical eviction wasn't
21 enough, apparently musical eviction is to follow. Some of you
22 may want to keep that in mind, taking a favorable spin, I guess

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1 on no due process eviction.

2 (Laughter.)

3 At this time the chair is prepared to entertain a
4 motion to adjourn.

5 M O T I O N

6 MR. GUINOT: I move.

7 CHAIRMAN WITTGRAF: It's been moved, is there a
8 second?

9 MS. PULLEN: Second.

10 CHAIRMAN WITTGRAF: It's been moved and seconded that
11 this meeting of the board of directors be adjourned.

12 Those in favor, signify by saying aye.

13 (A chorus of ayes.)

14 Those opposed, nay.

15 (No response.)

16 The ayes appear to have it, the ayes do have it.

17 Thank you all for you patience and understanding.

18 (Whereupon, at 6:21 p.m., the Board of Directors
19 Meeting of the Legal Services Corporation was adjourned.)

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