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MEETING OF THE BOARD OF DIRECTORS

June 20, 1980

LEGAL SERVICES CORPORATION

8th Floor Conference Room  
733 15th Street, N.W.  
Washington, D.C.

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CHAIRPERSON

HILLARY RODHAM

MEMBERS:

STEVEN L. ENGELBERG

CECILIA D. ESQUER

MICHAEL KANTOR

ROBERT J. KUTAK

F. WILLIAM McCALPIN

REVIUS O. ORTIQUE, JR.

HOWARD SACKS

RAMONA SHUMP

RICHARD TRUDELL

-----  
PRESIDENT DAN J. BRADLEY  
-----

Also:

Dellanor Young,  
Board Liaison, LSC

Bruce A. Morrison, PAG

Leona Vogt,  
Director,  
Delivery Systems Study

Clint Lyons,  
Director, Office of  
Field Services, LSC

Judy Riggs,  
Executive Office, LSC

Gerry Singsen,  
Vice President  
for Finance & Manage-  
ment, LSC

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12 Executive Director  
National Clients Council
- 13 Alfreda Harvey  
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LSC
- 17 John Dooley,  
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- 24  
25

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P R O C E E D I N G S

(9:00 a.m.)

1  
2 CHAIRPERSON RODHAM: We can begin to gather to  
3 start.

4 I have just been informed that Joan Worthy will  
5 not be with us. She has a couple of personal obligations  
6 that have made it difficult for her to come to the meeting.

7 First item on the agenda is the adoption of the  
8 agenda which is set forth on the cover page of the Board  
9 book. Is there a motion that we adopt this agenda?

10 (Motion is made.)

11 Is there a second?

12 (Second is made.)

13 All those in favor so signify by saying aye.

14 (A chorus of aye's.)

15 All those opposed?

16 (No response.)

17 The agenda is adopted. The next item is the  
18 approval of the minutes of the May 1 - 2 meeting in  
19 Memphis. Are there any corrections, deletions, additions  
20 to the minutes as set forth in the Board book?

21 MR. KUTAK: I am sure we caught the typos.

22 CHAIRPERSON RODHAM: If not, is there a motion  
23 that the minutes be adopted as presented?

24 (Motion is made.)

25 CHAIRPERSON RODHAM: Is there a second?

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1 (Second is made.)

2 CHAIRPERSON RODHAM: All those in favor please  
3 signify by saying aye.

4 (A chorus of aye's.)

5 CHAIRPERSON RODHAM: All those opposed?

6 (No response.)

7 CHAIRPERSON RODHAM: They are adopted.

8 For those of you who do not know, Dan and Mary  
9 Burdette are up on Capitol Hill. Our appropriation is  
10 coming up for a vote this morning at 10:00 o'clock. If  
11 any of you in this room have any last minute phone calls  
12 to make or urging to make to anybody that you know in  
13 Congress, go out and do it right now.

14 We thought that the appropriation was not going  
15 to be coming up until Tuesday, after it was postponed from  
16 yesterday. Then late yesterday afternoon we learned, for  
17 reasons that are still unclear, that they had pushed our  
18 appropriation up, jumping it I think over two other im-  
19 portant appropriations to put it on the agenda this  
20 morning.

21 So that is where Dan is and if anybody has any  
22 advice or thinks we need to do anything else, they have  
23 been working awfully hard, let us know. They will give  
24 us a report when they get back.

25 MR. McCALPIN: Madame Chairman I was late but I

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1 think I may have successfully just induced one Represen-  
2 tative to stay off the floor.

3 CHAIRPERSON RODHAM: Great.

4 (General Laughter)

5 I forgot, that's the other side of it, if there  
6 is anybody you can keep off the floor either by physical  
7 force or by persuasion.

8 The next item on the agenda is the report on the  
9 status of the Congressional reauthorization in fiscal  
10 year 1981 budget request which we are going to skip  
11 because Mary is on the Hill. We will have that report  
12 when they return from the Hill, is that agreeable to  
13 everybody?

14 The next report on the agenda is from the com-  
15 mittee on the provision of legal services. Dick?

16 MR. TRUDELL: The provisions committee met  
17 yesterday here at the Corporation's offices and in addi-  
18 tion to two items that are listed, well, before I get to  
19 them, very quickly, there were some other areas that were  
20 discussed primarily from an informational point of view,  
21 I guess. Contrax and the Reggie program were briefly  
22 touched upon.

23 The two items on the agenda, the delivery system  
24 study, well, before I give you the committee's recommenda-  
25 tion I should point out that in the meeting booklet it is

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1 the third draft

2 I think everyone has received some of the addi-  
3 tions, or the data sheet, that was prepared by Leona and  
4 Judy to make sure that revisions will be made or incor-  
5 porated, after yesterday's meeting.

6 Based on the provisions committee is in agree-  
7 ment with what has been done and before we give the com-  
8 mittee recommendation I should ask, I guess Bill and Bob  
9 and others who were not there yesterday, if they have any  
10 comments or concerns about the present status of the  
11 report?

12 Or would you like to hear from Leona and Judy,  
13 to give you a quick update on where we stand on the re-  
14 port?

15 CHAIRPERSON RODHAM: Bill?

16 MR. TAYLOR: He just started to talk.

17 CHAIRPERSON RODHAM: Oh. Bob?

18 MR. TAYLOR: First of all, let me say Dick, and  
19 through you to the committee and to wit the staff that did  
20 the study, this has been a long road and a difficult  
21 one and I want to know that I for one think that the  
22 support, not to mention the project itself, merits a great  
23 deal of support from us for the reasons I have outlined  
24 in the past.

25 Without engaging in hyperbole, I think it is an

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1 historic report. Even though we have been living with it  
2 for a long time and therefore find it thoroughly familiar  
3 and, indeed, at times perhaps trying, it is something we  
4 should continue to maintain the highest peak of interest  
5 in and toward.

6 In that regard I pass over without any comments  
7 because I am sure you are going to still have an editorial  
8 committee to worry about some of the typos or some of the  
9 style. That really is technical in nature. I just raise  
10 the flag for I am sure you have all been alert to the fact  
11 hat it needs, in the words of any lawyer, a real hard  
12 scrub job just by looking at some of the grammer and  
13 syntax and what have you.

14 Passing that I find just two things about the  
15 report that I would like to observe, one by its absence  
16 and the other by, shall I say, its presence in sort of  
17 a kitty wampus way, that I would like to raise.

18 Let's talk about the thing that is absent.  
19 That is that up front the Congress mandated an independent  
20 study that would provide through its very process the  
21 confidence and integrity of the process. I think here  
22 process is as important, not as important, but it cer-  
23 tainly is conducive to the idea of the validity of the  
24 results.

25 I think the reader is kind of anxious to know

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1 just how respondent the independent study was, which is  
2 not told. We get to the results, we arrive at the con-  
3 clusions and even though the language is there, that there  
4 shall be an independent study, you really are not told  
5 up front just what we did so it was not a patsy, if you  
6 will, it was not a set up job.

7 And I think the reader should be told to what  
8 extent the Corporation has gone to find and, I don't mean  
9 to say, to write a long commercial, but I think we ought  
10 to, at the beginning, mention that we were cognizent of  
11 the necessity of an independent study and perhaps it is  
12 because we have been playing with it so long that we just  
13 assumed that everybody knew. But the reader coming to it  
14 fresh is looking for that authentication.

15 I think it would add to the validity of your  
16 results to somehow get it into there either up front in  
17 the introduction or, indeed, in the transmittal statement  
18 how we have gone about trying to provide for the country  
19 and certainly for the profession and the Corporation a  
20 study that wasn't, if you will, prejudged and preformed.

21 That is the thing that is missing that I would  
22 add. The one thing that I think is beautiful in the  
23 report, it's, certainly, and it comes up front, is that  
24 you know we show that with a great deal of honest and  
25 independent experimentation we can come out by saying

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1 that any modality, any delivery system transcends any  
2 other one so as to warrant its exclusive and sole support.  
3 But I kind of think as I read, as I get through there,  
4 we waffle a little bit when we talk about a will for the  
5 independent bar. I mean, up front we stress things that  
6 are terribly important to us. Local flexibility, I call  
7 that in other words, home rule, that we can and we say in  
8 page 3, for example, of the transmittal letter it is a key  
9 to the success of the Corporation and it must be pre-  
10 served.

11 And I think all that is very, very good. In-  
12 stead of arguing about the old issues, we should spend our  
13 resources and our energies finding and developing creative  
14 local delivery systems. All of that is, you know, I think  
15 it adds a lot of, I think, validity. Yet, when we get to  
16 the conclusions we somehow say, but, it is on page 10, we  
17 slip into a, what I would say, it seems to me like an in-  
18 consistency when we say, well we are going to encourage,  
19 however, a staff component with every other kind of pro-  
20 gram that we might encourage.

21 Now I think I know what we mean, but I think I  
22 also know how others will react and that is to say, we  
23 will give you with one hand and we will take it away with  
24 the other. I am referring to the first policy statement  
25 on page 10 which says, the Corporation will strongly

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1 encourage a staff attorney component in any program in-  
2 volving attorneys in the private practice.

3 And I sense that that was inconsistent with our  
4 principle of creative programming. It imposed, if you  
5 will, a prior judgement that we were going to pressure for  
6 staff even though we were pursuing the rhetoric of flexi-  
7 bility and that, very frankly, it contradicted, not only  
8 the philosophy of the Corporation but, indeed, even the  
9 spirit of this very report.

10 And I, at least I raise the question, Dick, as  
11 to whether or not you might want to re-think that policy  
12 as it is put there because it seems like you are saying  
13 if we do anything other than staff attorney, we have got  
14 to carry that baggage along and if we do, is there not  
15 kind of a subversion, if you will, of the idea of true  
16 flexibility, true autonomy, true credibility, to anything  
17 else.

18 I know that is not what we mean and I know that  
19 is not what we intend but I think others are going to read  
20 that as what we are saying and may, therefore, read more  
21 into it than what we mean. One last thing and I merely  
22 suggest this only as a, again, a matter of observation.

23 As I read the mandate for recommendations I  
24 read them as saying, if we have any recommendations for  
25 improvement or for changing or for finding alternative

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1 members. I did not think our recommendation said that.  
2 Our recommendations said, in effect, there is nothing that  
3 we want to change and there is nothing that we want to do  
4 except, of course, recommend that as we move along we seek  
5 more appropriations in order to really fulfill the great  
6 mandate of the need for services in the country. So, in  
7 effect, our recommendations are kind of non-recommenda-  
8 tions and maybe sort of intellectually I have a difficulty  
9 really identifying them as such.

10 But that may be, again, a matter of style more  
11 than a matter of substance and I would just ask you to  
12 look at it. I say those things, noting as I could, if we  
13 would go into the body of the report itself, other things  
14 of that kind.

15 I would be terribly remiss and in fact do a  
16 profound disservice to Leona Vogt and her people, all  
17 those cooperating agencies and organizations that have  
18 lent their time and intelligence to the development of  
19 what I believe is a significant contribution to the posi-  
20 tion and, indeed, policy and programming aspects of this  
21 Corporation in de-clearing the air and demonstrating that  
22 we can sort out the rhetoric about the delivery systems  
23 and get down to the reality of it and find that what we  
24 are doing by and large is, indeed, legitimate and that  
25 what we are advocating is sound and that, therefore

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1 altogether, while there is room for change, there will be  
2 a constant need for searching for further ideas.

3 There is credibility in the business about  
4 which we are engaged and, therefore, total legitimacy in  
5 the furtherance of that effort and the support of it,  
6 certainly by the public.

7 To you Dick and to your committee and certainly  
8 to the staff that has been laboring so long and so hard  
9 to get us where we are today, for one and I think for all,  
10 I extend congratulations.

11 MR. TRUDELL: Thank you, Bob. Bill, I am sure  
12 you have some questions or you may have some things you  
13 want to add to what Bob has said, or even additional work  
14 for Leona and her group to get this report in final form.

15 Yesterday, for the benefit of Bob and Bill, we  
16 did go over both the transmittal statement, in detail,  
17 and the body, to a certain extent. Howard had a number of  
18 comments addressed to both, and I think they are reflected  
19 in the memo that we received this morning, the amended  
20 pages to the DSS report. In addition to that, Revius had  
21 conveyed some of his concerns, via telephone to Stan I  
22 guess, and they were also taken into consideration.

23 Just let me say that what the provisions com-  
24 mittee unanimously approved yesterday was that this re-  
25 port be finalized and submitted both to the Congress and

x  
1 to the Administration. But rather than putting that in a  
2 formal motion, I think that I would want to hold off  
3 until we hear from Bill and I am sure maybe other Board  
4 members and maybe a few comments from the audience because  
5 I know they were, there was only one or two representors  
6 from PAG there yesterday, Bruce Morrison is here today,  
7 he was just not there yesterday.

8 After we hear the additional comments then at  
9 that particular point in time the committee will make a  
10 formal motion.

11 Bill, I just wanted to give you a little more  
12 background on what we went through yesterday; I think we  
13 went through the report fairly rapidly, I guess.

14 MR. McCALPIN: Well, of course I regret  
15 exceedingly that I was not able to be a part of the dis-  
16 cussion of the report when you met in Memphis. I have a  
17 very broad overall sense of some of the kinds of things  
18 that you considered at that time and I suppose that in  
19 some respects I run the risk of reploting some of the  
20 area that you covered at that time. However, in the hope  
21 that I may at least keep that to a minimum, I am going to  
22 confine myself to two topics.

23 I must also say that I have not had an oppor-  
24 tunity to read what was passed out to us this morning,  
25 which I gather incorporates whatever changes and

1 modifications you made yesterday. I do not think that the  
2 two things that I am about to mention are really addressed  
3 there. As I say, I have two problems with it that I sup-  
4 pose I would characterize as some inconsistency in the  
5 report. The first I regard as substantive and significant,  
6 the second is somewhat more procedural.

7           It seems to me that there is a logical diffi-  
8 culty in defining and describing one operational mode,  
9 to wit, a judicare as a supplement to a staff office pro-  
10 gram as a supplement, a part, and then evaluating it as  
11 though it were a whole.

12           When we talk about a load which is judicare sup-  
13 plement to a staff program, we are talking about two  
14 things wedded and married together and then it seems to  
15 me we need to look at that model in terms of feasibility,  
16 cost, quality, impact, client satisfaction, not as  
17 separated parts of the whole, but as the whole itself.

18           And I am led to say that because I have personal  
19 experience with a program in middle Missouri, Mid-Mo pro-  
20 gram, which has in fact a judicare supplement to a staff  
21 office program and it is not only feasible, but it is  
22 practical and operational as well.

23           I think that we get to that by defining this as  
24 a part of something else and then evaluating it as though  
25 it were a separate entity, freestanding, all by itself.

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1 And I think when you look at judicare as a supplement to  
2 a staff office program and take both components of that  
3 you will find that it is a feasible, practical, viable  
4 operation.

5 And I think, as a matter of fact, we sort of  
6 stumbled on a couple of occasions because I noticed it was  
7 necessary to go back and change some pages that were de-  
8 livered to us earlier. On some of the pages it was de-  
9 scribed as feasible and practical and then it was changed,  
10 the categories were realigned later on.

11 It seems to me that that is a significant and  
12 serious, really logical inconsistency with the findings  
13 and conclusions of the program; to have described this as  
14 a supplement and then to have evaluated it as though it  
15 were a freestanding operation on its own.

16 The second comment, and as Bob says, a lot of  
17 scrubbing needs to go on and I have a little comment.  
18 Among other things, the historians, with respect to the  
19 report, may be interested to know that Legal Aid really  
20 started in 1876, not in the first years of this century;  
21 and a few minor notes such as that.

22 But I read for the first time the quality sec-  
23 tion of the report and I am astonished to find in the  
24 body and the footnotes of the quality section of the re-  
25 port several references to the fact that two programs

1 never were funded, never became operational.

2 On all the rest of the report we talk about 38  
3 demonstration projects and then it appears to me that the  
4 quality section of the report suggests that there were  
5 really only 36 and that, it seems to me, is inconsistent,  
6 at least as I read it and understood it, with what the  
7 rest of the report said with respect to the number of pro-  
8 grams which were funded, which became operational and  
9 which were compared as a part of the study.

10 If this were Memphis and you had not all done  
11 it before, I would have a lot more things to say but, it  
12 seems to me, in the interests of not causing you all to  
13 go back through that, I would limit myself to those two  
14 comments.

15 CHAIRPERSON RODHAM: Leona, would you clarify  
16 for us your response to those two comments?

17 MS. VOGT: Certainly. I think on the first  
18 point, I think Mr. McCalpin has a valid point in the way  
19 that the whole report, in its entirety, addresses the  
20 judicare supplement, possible also the contract model,  
21 but because the conclusion was different with the contract  
22 model, maybe it is not as obvious.

23 But at least let me make one point which is  
24 that in the letter there is a statement that does say  
25 that the judicare supplement, because of its supplementary

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1 nature, or something to that effect, may be viable.

2 MR. McCALPIN: Page two.

3 MS. VOGT: The change that we gave you this  
4 morning also does a similar thing in a footnote on page  
5 1-9, because the study indicates that staff attorneys were  
6 responsible for a high proportion of impact work, it is  
7 just on that impact piece, but that is where the judicare  
8 supplement was found to be deficient.

9 It is possible that the impact work can be done  
10 by the parent staff attorney program in a judicare sup-  
11 plement model to try and show the relationship.

12 MR. McCALPIN: Then, indeed, it may be the  
13 judicare supplement that makes that possible.

14 MS. VOGT: That is true; however, it is impor-  
15 tant to know that some of the judicare supplements were  
16 established to serve a very different geographic region  
17 and so, if they did not have some sort of substantive  
18 interaction with that judicare supplement, you could not  
19 necessarily say that the presence of a parent program  
20 would necessarily resolve in the same interaction as you  
21 would have where you have a supplement where certain  
22 types of cases are handled by the private bar.

23 But I think that we can clarify, certainly, and  
24 not make it sound so rigid. What we tried to do with  
25 report was to identify for the reader each individual

1 criterion that was used and then show a conclusion. I  
2 think that we would want to continue that approach but  
3 I think that your point is well taken that, because it is  
4 not a freestanding system, as I would like to point out  
5 with the contract model also, that we certainly should  
6 highlight that it is just a part of a larger entity and  
7 that there are interactions that occur.

8 MR. McCALPIN: And that the larger entity is viable  
9 even if a part separated may not be.

10 MS. VOGT: No. Absolutely. I think that is a very  
11 important point. Your second point about the reference  
12 in the quality section about 36 demonstration projects  
13 were included in that analysis and the fact that two were  
14 not included because they were not fully operational.

15 It gets to the point that we decided not to  
16 collect data on those two because they remained essen-  
17 tially, for two years, in a very unsteady state. If we  
18 would have spent the time and effort to go out and cross  
19 the data, we might not have used the data because those  
20 programs never were steady programs.

21 They had administrative problems in their  
22 open and intake and so their caseload was sporadic, at  
23 best, and so that is why we just did not collect the data  
24 on them. We did collect all the information on their  
25 case types, their caseload.

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1           We did some analysis on the direct cost service  
2 and so forth and we footnoted in the cost section those  
3 programs as the two that were not fully operational. So  
4 maybe it just needs to be clearer. They did operate,  
5 they were funded for the full period of time, they did  
6 provide services to clients; but, maybe as with other new  
7 programs, they just had a number of problems and we felt  
8 it would not be fair to include them as a model type when  
9 they never really stabilized themselves.

10           MR. McCALPIN: Are you saying that it was only the  
11 quality data that you did not collect, with respect to  
12 those programs?

13           MS. VOGT: No. No. We did not use client satis-  
14 faction data. We reported what they did and did not do on  
15 the impact work and we did report cost data.

16           MR. McCALPIN: Because it seems to me, in the various  
17 graphs and charts and everything previously, you always  
18 added up to 38 and here, in effect, you are saying there  
19 are only 36.

20           MS. VOGT: I really have to admit that I will have  
21 to look, I thought that we were very clear. On the whole  
22 feasibility section, the chapter 3, they do add up to 38.  
23 That is where throughout we footnote certain operational  
24 problems with those two programs.

25           MR. McCALPIN: My recollection was that it was only

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1 voucher one that you kept saying that after a year became  
2 a third judicare.

3 MS. VOGT: No, because it literally went out of  
4 business. These programs did operate, they did provide  
5 services to clients. They did provide us with caseload  
6 information. We did calculate cost information on them  
7 because individual costs, since they were judicare pro-  
8 grams, the direct costs of services were not affected by  
9 their administrative problems; so we could do that kind of  
10 analysis.

11 But in terms of taking a sample, we would have  
12 had such a sporadic on the quality, because we would have  
13 some cases available to us that would have opened, let us  
14 say in the fall, and then close intake and then some later  
15 in the spring and so forth and it just would have been a  
16 very difficult analysis to explain; maybe not a fair  
17 analysis of their operation.

18 We can clarify that and I definitely will look  
19 to see if we have been consistent in the rest of the pres-  
20 entation of the analysis.

21 CHAIRPERSON RODHAM: One other point. Will you  
22 also add some explanation of the process, along with what  
23 Bob said, as to explain that this did not come full blown.

24 MS. VOGT: Yes. I took detailed notes and we can  
25 figure out where to present that in the report.

1 CHAIRPERSON RODHAM: Bill, did you have any  
2 other comments?

3 MR. McCALPIN: No. Judy?

4 MS. RIGGS: Could I just comment on Bob's other  
5 point about his concern about the statement on page 10:  
6 that we will strongly encourage staff attorney component.

7 You will recall that in Memphis there was a  
8 little bit of discussion on this particular point. That  
9 draft at that point said that the Corporation would re-  
10 quire a staff attorney component. There was some discus-  
11 sion at that point.

12 Our impression, anyway, of the sense of the  
13 Board at that point was, a sense of, yes, given the data  
14 in the report, we do want to emphasize the importance of  
15 having a staff attorney component in these private law  
16 projects, but we do not want to remove all flexibility  
17 which we would do if we said, require.

18 The reason for this comes from several points  
19 of the analysis, particularly the analysis on the impact  
20 measure which demonstrated the analysis, you will recall,  
21 of who did the impact work and the importance of the  
22 staff attorneys in the private law projects and their role  
23 in impact work.

24 It also goes to Revius' point about quality con-  
25 trol and the need for mechanisms for case review training

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1 and support and those kinds of things so that, at least  
2 the reason for putting it in there does grow out of the  
3 analysis and the presentation of the data and, if it is  
4 written in a way that seems to be a back door out of the  
5 idea of a private attorney project, it certainly was not  
6 intended to be, but only to stress the importance that we  
7 found of the staff component in the demonstration projects,  
8 both the pro bono and the judicare projects, particularly.

9 MR. KUTAK: I think I knew what you meant, but  
10 I was also reading from the point of view of others who  
11 may not have had that benefit and it seemed to jar with  
12 the stress on flexibility, on creativity, and that there  
13 was sort of a, the dead hand, if you will, of the corpora-  
14 tion saying: yes, but we are going to require something.  
15 That requiring of something may, in reality, preclude  
16 everything except the hidden agenda of staff attorney.

17 I do not know what words, or, indeed, whether  
18 anything further should be said and perhaps I belabor it  
19 and I do not intend to. But I caution you that it struck  
20 me as an inconsistent note, but not a sour one, as one  
21 went through the rest of the report and felt there was a  
22 release and, indeed, a call for other innovative systems.

23 MR. TRUDELL: Howard, are there any additional  
24 concerns that you have from yesterday?

25 MR. SACKS: Yes. Just one thing I would like

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1 to suggest for page 2 of the transmittal letter. Yester-  
2 day I raised the point that I thought that on page 2,  
3 where it talks about the results of the policy analysis,  
4 that what was said was unduly negative toward private bar  
5 models. A bunch of people disagreed with me and on re-  
6 flection I think they were right, that I was mistaken.

7 There is only one little concern that I have  
8 and that is that I do not think that we really can draw  
9 conclusions about the clinic model since only two were  
10 tested and I do not think we can draw firm conclusions  
11 about the voucher model since it did not operate long  
12 enough as a voucher model for us to evaluate properly.

13 So to be cautious and perfectly accurate I  
14 would suggest that we put in a sentence in the paragraph  
15 beginning: none of the alternative or supplemental  
16 model was tested; if you will skip down through that para-  
17 graph to the key sentence: five models did not demon-  
18 strate viable, which is a very flat statement, and then it  
19 lists them.

20 At the end of the sentence, just before the  
21 sentence beginning: the reasons differed from model to  
22 model. I would put a cautionary statement somewhere,  
23 along the following: however, because only two clinic  
24 models were tested and the one voucher tested did not  
25 operate long enough to permit evaluation it is not

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1 possible to draw firm conclusions about these two models.

2 CHAIRPERSON RODHAM: I have no objections to  
3 that, if that is an accurate statement of what can be  
4 derived from the data. By definition, the voucher model  
5 was not viable. It did not survive and maybe the reasons  
6 it did not survive are extraneous to the conclusions that  
7 are being drawn about it existed.

8 But I would hate to put us in a position where  
9 we are not going to have to be asked to go back and check  
10 the voucher and the contract model if there is something  
11 more definite that we could say about both of them.

12 Leona, I will have to ask you that.

13 MS. VOGT: It is just two point studies con-  
14 sistently acquired in the report. The other thing is in  
15 the package I gave you that says, insert 41-7. In re-  
16 sponse to the point that Howard made yesterday on the body  
17 of the report, on legal clinics, that is almost the same  
18 parallel language; although this is just a little bit  
19 more detailed. The only thing is it identifies, it  
20 separates out the three models that were tested and were  
21 found not to be viable and then it describes almost the  
22 same way that Howard just suggested.

23 CHAIRPERSON RODHAM: Well, then given the fact  
24 that you used that language on 17, I think you should  
25 adopt Howard's language for the transmittal report. Is

1 that the conclusion that you got?

2 MS. VOGT: That is correct. Completely.

3 MR. SACKS: I am a little concerned about  
4 Hillary's point about vouchers. Is it that we just did  
5 not test it. Can we really say that? Or is it that it  
6 is just so unfeasible we should just forget it?

7 MS. VOGT: Vouchers, we did test it. We tested  
8 it through the concept paper state and through the feasi-  
9 bility state; meaning the program itself did not feel that  
10 it was operating a voucher, so we do say that it was not  
11 feasible as tested in our study because we attempted to  
12 get more.

13 With the clinic model, we only funded two. We  
14 just wanted to see how they operated so we never could have  
15 drawn any conclusions about performance. They did not  
16 follow the model, so if you like, the model as we tested  
17 it was not feasible for poor people. But it is a little  
18 technicality.

19 So we did test, put in an operational setting,  
20 both of those models. We kept the two clinics around and  
21 collected performance data on them and showed them, but  
22 we say that with only two you cannot conclude anything  
23 about performance. So I think we just have to be more  
24 cautious in saying how conclusive, which was your point,  
25 any of the summary findings, if you like, about those

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1 two models should be in this report

2 MR. McCALPIN: I think that is a good idea  
3 because while the discussion is going on, I recall that  
4 six, seven, eight, ten years ago, HEW funded a voucher  
5 program in Nassau and Suffolk counties, New York. It was  
6 a temporary sort of program, I don't exactly recall what  
7 the results of it were, and I think you are probably right  
8 to say that we cannot draw any firm conclusions because  
9 of what happened with us; whereas, that one conceivably  
10 turned out to be valid but simply not refunded for other  
11 reasons.

12 MS. VOGT: Any further comments?

13 MR. TRUDELL: Bruce, since you have spent, I  
14 guess, considerable time on critiquing what is going on,  
15 do you have some comments that you want to make since  
16 you were not here yesterday?

17 MR. MORRISON: Yes, just very briefly. Let me  
18 start with my general conclusion. My general conclusion  
19 is, as I said each time I spoke about this, that there are  
20 some things that could be improved and sharpened up and  
21 the report could be substantially improved upon if we had  
22 aimed for the June meeting. It is now the June meeting  
23 and I am not going to suggest you do anything but pass the  
24 report.

25 I think that the period of time and effort that

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1 has gone into it has made a substantial contribution in  
2 quality of the report and that some of the findings are  
3 sharper and more definite and there are some findings that  
4 were not there when we started.

5 I would comment on a point that has been  
6 reiterated several times about the transmittal document  
7 and the question of the involvement of the staff. It is  
8 a finding of the report and the research that staff is a  
9 critical component for the performance of impact and im-  
10 pact is a measure that has been adopted for this study.

11 It would be inconsistent with the results of  
12 the report to delete that statement about the need to  
13 encourage, in fact I think it could even say: require,  
14 the involvement of staff in any project involving the  
15 private bar.

16 That doesn't mean that the private bar will not  
17 be involved in impact. It does mean that this study finds  
18 that the staff is critical to that result and until some-  
19 thing is shown to the contrary, I think that that state-  
20 ment ought to remain in the report.

21 MR. SACKS: Could I just ask a question about  
22 staff? I cannot remember where I read it but I got the  
23 impression somewhere that you needed staff, even in pro  
24 bono, to recruit lawyers, to recruit new lawyers, to main-  
25 tain quality controls, to do some training, et cetera.

1 So even in that model, you cannot just tell the private  
2 bar, go do it. You have got to spend some money to see  
3 that it is done right.

4 MR. KANTOR: As I read the report, there is one  
5 thread that consistently runs through the findings and  
6 that is the fact that staff doesn't exert, except for  
7 the impact areas. I think Bob, you know, that the trans-  
8 mittal and the report are very well balanced and attempts  
9 to insure that no one will misread, we have not been un-  
10 balanced.

11 I want to go back. Bob made two points; the  
12 first one was that we ought to have something in the trans-  
13 mittal statement on the quality of independence in the way  
14 we went about doing the study and I think that is a very  
15 good comment and I would like to see that in the trans-  
16 mittal letter because, I for one, think that makes a big  
17 difference.

18 But I think the delicate balance struck in that  
19 letter might be somewhat torn asunder if we start playing  
20 around with the language, especially in that sentence.  
21 I don't know how you feel. I just think you would get  
22 into a situation that might not be productive in terms of  
23 getting this report out.

24 MR. TRUDELL: That is fine with me. Are there  
25 any other questions that Board members have, or

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1 suggestions?

2 (No response.) .

3 Then I would move that the Board adopt the re-  
4 port and the transmittal statement with the revision that  
5 should take place, that have been articulated here this  
6 morning and I go along with Bob in terms of someone giving  
7 it a good scrub job. I guess Bill said it also, you know,  
8 to make sure that all the typos and everything else are  
9 corrected. That would be my motion.

10 CHAIRPERSON RODHAM: Would you motion also in-  
11 clude Dick, the provision of some additional information  
12 in the transmittal letter about the process?

13 MR. TRUDELL: The methodology, more or less, yes.

14 CHAIRPERSON RODHAM: And also include Howard's  
15 proposed language change?

16 MR. TRUDELL: Yes.

17 (Motion is made.)

18 CHAIRPERSON RODHAM: Is there a second to that  
19 motion?

20 (Motion is seconded.)

21 CHAIRPERSON RODHAM: Any further discussions?

22 (No response.)

23 CHAIRPERSON RODHAM: All those in favor please  
24 signify by saying aye.

25 (A chorus of aye's.)

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1 CHAIRPERSON RODHAM: All those opposed?

2 (No response.)

3 (General Interruption)

4 Tape #2

CHAIRPERSON RODHAM: We're thinking of sending  
5 the audit to Micronesia to do a study.

6 (General Laughter)

7 Howard?

8 MR. SACKS: I hate to be a troublemaker.

9 CHAIRPERSON RODHAM: Well then don't.

10 MR. SACKS: Well, I have been induced to be a  
11 troublemaker.

12 CHAIRPERSON RODHAM: Oh, that's even worse.

13 MS. SHUMP: Who induced you, Howard?

14 MR. SACKS: Clint Lyon. Clint says that we do  
15 have, you know we have a number of projects that we tempo-  
16 rarily funded, the SS projects last fall.

17 And now he says that there is a problem as to  
18 whether we are going to refund them again. He says that  
19 the staff would like some guidance from the Board on that.  
20 So I think the best thing to do is to let Clint talk about  
21 it. He's the expert.

22 CHAIRPERSON RODHAM: As I recollect, well,  
23 Howard I would prefer that we wait until Dan returns to  
24 do this. For one thing, it has not been presented to the  
25 provisions committee, that I know of, and I want to check

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1 my recollection with Dan on what happened in the preceding  
2 meetings that I think might obviate the necessity for any  
3 further Board action. Let's wait on that, okay?

4 MR. SACKS: Okay.

5 CHAIRPERSON RODHAM: The next item from the pro-  
6 visions committee is the 1980 expansion report.

7 MR. TRUDELL: The next item is the 1980 expan-  
8 sion report. In the meeting booklet there is a, I guess  
9 it is a one page memo from Clint.

10 In addition to that, yesterday they distributed  
11 another sheet that is fairly comprehensive in terms of  
12 the total amount of money available and where we stand,  
13 I guess, region by region and state by state.

14 And so for those of you who don't have that,  
15 I don't know if Clint has additional copies. I think Bob,  
16 Revius and Bill may not have a copy. But we spent, Clint  
17 made a report on where we stand and it is his feeling that  
18 by the end of the, by early fall expansion should be com-  
19 pleted.

20 I guess we are all looking forward to getting  
21 that behind us but rather than me telling you any more  
22 about expansion, Clint do you want to make any comments  
23 about where we are at? Answer any questions the Board  
24 members may have?

25 MR. LYONS: You have, in your Board book, the

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1 summary of our expansion activity as of June 5. I be-  
2 lieve that expansion effort is substantially on target  
3 and making the progress that we anticipated we would be  
4 able to make. As you can see, there is about \$5 million  
5 outstanding at this point out of the \$22 million that we  
6 obligated for expansion.

7 Much of that money remains in the southeast  
8 region and we are daily getting in recommendations on  
9 that. We do expect to complete just about all of the,  
10 except for a small percentage perhaps, of the expansion  
11 in this fiscal year.

12 CHAIRPERSON RODHAM: Gerry?

13 MR. TRUDELL: Bob or Revius or Bill, the people  
14 that weren't here yesterday?

15 MR. ORTIQUE: The question that comes to my mind  
16 and I was hoping that somebody would just go ahead and  
17 address it. But you say an expansion movement through  
18 this fiscal year and then you say except for a small per-  
19 centage, now, there, what are you talking about?

20 MR. LYONS: I say that to indicate that in the  
21 event we have around a million dollars or less where their  
22 area is so small that we cannot in fact put in, Bob, a  
23 delivery systems by the end of the fiscal and we have to  
24 go to some alternative means of doing that and that takes  
25 some time, in order to carry us over into, and may carry

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1 us over into the fiscal year. Dan has already indicated  
2 to the committee that we will make sure that we inform  
3 the Congress, the leaders on the Hill, of any problems in  
4 that regard so that we do not run afoul of our legal ob-  
5 ligation to commit.

6 MR. TRUDELL: Could you give us an example  
7 Clint?

8 MR. LYONS: For example, if we have a small  
9 county with 3,000 people in the county and the next  
10 county is, you know, miles and miles away and we are  
11 trying to get applications in, we do not get any applica-  
12 tions in and we are trying to put something together to  
13 string a group of small counties together to make a viable  
14 delivery system, we have to go out and generate the ap-  
15 plication process.

16 If we don't get any we may have to go out and  
17 talk to the private bar about utilizing some of the vehi-  
18 cles and models that we learned about in the DSS study,  
19 say contracts and all of that.

20 That is only to say that that takes time and we  
21 are going to run into, within, you know, maybe a \$1 million  
22 or less, those kind of small pockets of very difficult  
23 areas to set up viable systems in.

24 There are alternative ways to do it, I believe,  
25 but we have to look very closely at the local situation

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1 and look at all of our alternatives and put some coali-  
2 tions together in terms of the private bar, community  
3 groups, to get together, to put together a viable delivery  
4 system.

5 And so in order not to over commit in saying  
6 that we can do all of that by the end of the fiscal year,  
7 we recognize that there may be some difficulties. We are  
8 taking the precautions to do it but it is to inform you  
9 that within that limited amount of monies there may be  
10 some difficulties. But they are not such that they  
11 cannot be overcome, in my judgement.

12 MR. TRUDELL: Clint, have there been any prob-  
13 lems, I guess, getting the funding to the new programs in  
14 terms of them actually getting a budget to operate on?

15 MR. LYONS: No. Our problems have been in  
16 setting up and deciding, you know, between competing ap-  
17 plications and those kinds of things, or putting together  
18 viable delivery systems with various groups in the com-  
19 munity to make it viable.

20 Once that has been done and the grant award has  
21 been made, we have very few problems in actually getting  
22 the programs operational. We have support systems de-  
23 signed now, in terms of the expansion management, to  
24 actually assist new programs in making their delivery  
25 systems operational.

1           We have buddy systems where we send in experi-  
2           enced people into programs to work with the new project  
3           directors and the new boards in putting their operational  
4           systems together. We have done one in Arkansas utilizing  
5           a buddy system. We have done it in other places and we  
6           will do it with most of the ones that we have.

7           MR. McCALPIN: Clint, as a matter of curiosity,  
8           what is the one dollar (\$1) in Ohio and Virginia? How  
9           did we get a one dollar program?

x-?       10           CHAIRPERSON RODHAM: We were being too precise.

11           (General Laughter)

12           MR. LYONS: Gail Francis, who is our draft con-  
13           trol specialist, informs me that it is a technical matter  
14           of rounding out figures and we were trying to be too pre-  
15           cise. I do not understand any of this so she will be on  
16           the hot seat if you want some more detailed information  
17           on that.

18           MS. FRANCIS: Like he said, it is just a rounding  
19           difference and I think when we originally worked it up  
20           they owed us a dollar.

21           (General Laughter)

22           Any other questions?

23           MS. SHUMP: Clint, would you say then, that at  
24           this particular point in time the money for expansion has  
25           gone out to all of the areas. The question I think that

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1 I am trying to get answered is: did the money get out in  
2 time for them to hire the attorneys that were completing  
3 their work, that were just graduating from school?

4 In many cases these attorneys were the only ones  
5 that were interested and possibly, available. And I know  
6 there had been a great deal of concern in the field as to  
7 how soon that money was going to actually get out to them  
8 so they could, not just advertise, but actually hire the  
9 staff to put in place, at the different locations, where  
10 the expansion was going to go into.

11 MR. LYONS: Well, the answer is that in all  
12 cases the money did not get out in a way that could coin-  
13 cide with the hiring season for new lawyers; but let me  
14 explain that.

15 We did move up the expansion process last year  
16 in 1979 for the 1980 expansion effort, move it up from  
17 the previous year so that we could get the money out as  
18 early as possible so that programs could at least begin  
19 hiring up as soon as possible.

20 In most cases the grant making season, which  
21 is January 1st and the first three months in the year,  
22 does not coincide with the graduating year for law school  
23 graduates.

24 So that is a problem in itself which we just  
25 could not deal with. But we did attempt to get the money

1 out as soon as possible so that the programs could com-  
2 pete as soon as possible for law school graduates.

3 And we required, as a part of this expansion  
4 effort, for programs, for applicants to give us more  
5 detailed plans about what their intentions were and how  
6 they plan to do recruiting and how they plan to set up  
7 their operational systems, to force them to be a ways down  
8 the road in terms of planning so that we would not have  
9 this long wait in making this system operational. But  
10 we were not able to coincide with the hiring season.

11 MS. SHUMP: Do you foresee many problems for our  
12 programs that were attempting to expand due to the non-  
13 coinciding dates of the actual monies received and the  
14 hiring of, or the possibility of obtaining law graduates?

15 MR. LYONS: Well certainly for some of those  
16 new grantees there may be, you know, they may be some  
17 months away, two or three months away from getting new law  
18 school graduates. Normally there is not a problem in  
19 getting and attracting a few experienced people in to  
20 begin the work because they have begun looking for those  
21 people when they know they are going to file an applica-  
22 tion.

23 The second important point is that much of the  
24 expansion has gone through existing programs and of course  
25 those programs have institutionalized hiring practices and

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1 anticipate their expansion applications and have a pool of  
2 people that are recruited; names of people that have been  
3 recruited so that they can bring those people on board.

4 So they don't have the kinds of problems that a  
5 new grantee, a brand new grantee, might have. I do not  
6 view it as a significant problem.

7 CHAIRPERSON RODHAM: Bill?

8 MR. McCALPIN: Clint, with respect to the \$17.7  
9 million worth of awards that have either been signed or  
10 are in process. Can you tell me, either in terms of  
11 numbers of programs or dollars how many there were with  
12 some sort of private bar involvement as contrasted with  
13 pure staff programs?

14 MR. LYONS: I can get that figure for you Bill.  
15 I don't have it available right now. I can get it for  
16 you.

17 MR. TRUDELL: Are you raising that in the con-  
18 text of the conversion issue or question in terms of  
19 expansion?

20 MR. LYONS: It is an expansion question.

21 MR. McCALPIN: It is an expansion question. In  
22 terms of spending these expansion funds, to what extent  
23 have we gone strictly staff.

24 MR. TRUDELL: I understand that but what I am  
25 getting at is in terms of the organized bar being involved,

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1 you know, through any DSS undertaking or, I guess that  
2 was dealt with at one time, or brought up.

3 CHAIRPERSON RODHAM: He just wants to know what  
4 percentage of the funds that were already used to expand  
5 would be.

6 MR. LYONS: I don't have that information but  
7 I can get it. I can tell you though that some of the DSS  
8 projects that existed in uncovered areas that were private  
9 bar models were picked up through the expansion efforts  
10 and we funded others through the expansion effort, other  
11 than the DSS.

12 The precise figures on the dollars and the num-  
13 ber I can get for you.

14 CHAIRPERSON RODHAM: Will you have that before  
15 the meeting is over so that Bill will be able to know  
16 that?

17 MR. LYONS: I can gather that, yes.

18 CHAIRPERSON RODHAM: Any other questions on  
19 expansion?

20 (No response.)

21 As I understand it Dick, this was a matter just  
22 for reporting to the Board.

23 MR. TRUDELL: Yes. Just an information report.  
24 That pretty much concludes the provisions committee re-  
25 port but I would like to point out that there are two

1 monitoring and evaluating efforts underway in July and it  
2 is my understanding that the Legal Services Institute  
3 evaluation is underway now.

4 Some of the other areas that the provisions  
5 committee has been dealing with I assume will be brought  
6 up when we discuss Howard's report, the future report, in  
7 terms of touching on some of the other areas that the  
8 committee has been dealing with and struggling with over  
9 the past couple of years. Other than that Hillary, that  
10 concludes our report.

11 CHAIRPERSON RODHAM: Revius?

12 MR. ORTIQUE: Please do close it out. Clint,  
13 unfortunately I did not get to see this sheet until this  
14 morning. But what bothers me is those two figures there  
15 for Texas and Louisiana.

16 MR. McCALPIN: Those are only second and third  
17 figures.

18 MR. ORTIQUE: Yes, but I, Texas and Louisiana  
19 are closest to my heart. How come? What happens in a  
20 situation like that? You know Louisiana, we have been,  
21 you know, to, we can spend money in Louisiana.

22 MR. LYONS: I don't know precisely what is  
23 holding up the expansion in those two particular areas.

24 MR. ORTIQUE: The balance with no recommenda-  
25 tions received, that is what bugs me. I am not concerned

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1 about, you have explained, you know, how you operate  
2 without that.

3 MR. LYONS: No recommendation received means  
4 simply that the recommendations have not been received  
5 from the regional office in Washington. It does not mean  
6 that there is not ongoing work and that the recommenda-  
7 tions are not in progress at the regional office level.

8 If you take the Atlanta region, for example,  
9 that region had the heaviest expansion burden in terms of  
10 size and number of programs and the amount of money for  
11 that staff to deal with expansion effort and the other  
12 ongoing efforts in that region.

13 It simply takes time. Then there are some  
14 issues where it is hard to get a viable applicant, we  
15 have got to go back in and readvertise and try to put  
16 together some applications. So it may be any number of  
17 problems but if you want that information, as to pre-  
18 cisely why for Louisiana, I can get it for you.

19 MR. ORTIQUE: For example, do we have new  
20 pockets of resistance in Louisiana from the private bar  
21 as we have experienced in the past, you know, and is  
22 there resistance to those expansions in southwest Texas  
23 that we have had in the past?

24 MR. LYONS: I would want to get you precise in-  
25 formation on that. I would not want to speculate on that.

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1 MR. ORTIQUE: Those are things that I think  
2 that this Board has to be interested in because we get the  
3 loud voices from the bar saying, look, we want to be more  
4 involved, we want to be more involved. And I think we  
5 need to know for our own information those areas where we  
6 are getting some resistance.

x-?  
7 MR. LYONS: As a general proposition I think the  
8 Corporation and the local programs existing in the expan-  
9 sion areas have been more sensitive to involving a total  
10 community, including the private bar, in, you know, inter-  
11 acting with them to tell what Legal Services really needs  
12 and all of that.

13 And to the extent that that has happened, it has  
14 happened a great deal. The level of resistance that we  
15 encountered in our first couple of years simply is not  
16 there. The resistance now, if you would categorize it as  
17 that, is a matter of competition where there are competing  
18 applicants and we have to make the very hard judgements  
19 about which ones we are going to fund.

20 And of course people do bring pressure and sup-  
21 port a strong advocacy approach to their particular ap-  
22 plications and we have to sometimes go slow in making the  
23 best kind of judgements that we can.

24 But I can tell you precisely why we don't have  
25 Louisiana or Texas or any other area done, I just don't

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1 have that information before me.

2 MR. TRUDELL: I guess the same applies to  
3 Missouri?

4 MR. McCALPIN: I can tell you what the problems  
5 were.

6 MR. TRUDELL: What are they?

7 MR. McCALPIN: Well there is a publication for  
8 a rehearing of three competing applications in the north-  
9 east quarter of the state to be held in Hannibal next  
10 Monday afternoon from 1:00 o'clock to 4:00 o'clock. They  
11 had hearings in February and in effect they threw them all  
12 out and told them to come back and that covers almost a  
13 quarter of the state.

14 We also have a smaller problem in the southwest  
15 part of the state. Some programs asked for funding in  
16 areas that were partly covered by existing programs and  
17 when you cut those out what is left is not viable by  
18 itself and there is some problems in that part of the  
19 world.

20 MR. LYONS: Revius, D.L. Francis tells me that  
21 in Texas we have 67 sparsely populated counties over a  
22 widespread area where we could not generate viable appli-  
23 cations and we are going back in to try to, you know, we  
24 are in the process of trying to put something together  
25 there and that is part of the problem there.

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1 MR. ORTIQUE: That is purely political. I  
2 know about that. But those types of things, I think,  
3 every once in a while the Board needs to be made aware of.  
4 The purely political situation where a governor's very  
5 good friend heads up a program with a private bar and  
6 just does not want this new restriction in that area for  
7 a Legal Services program the way we do business.

8 Now, if we were to just give them the money and  
9 say, run with it, they would be happy about it that;  
10 but we worked and we are working through the state bar and  
11 it is going to work out. I just wondered whether the  
12 Board should not be advised. Not so much about the  
13 specific program, but advised about the types of problems  
14 that do develop in the private bar section so that we can  
15 deal with those things.

16 I think that a number of us are called upon to  
17 meet with committees, get with private bar groups, make  
18 speeches and this sort of thing and we have got some  
19 tough questions to answer out there and those of us who  
20 do participate in that type of activity want to know about  
21 these things.

22 I am not being critical or anything else, I just  
23 want to know.

24 CHAIRPERSON RODHAM: I think that is a good  
25 request.

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1 MR. TRUDELL: Clint, can you see that everybody  
2 gets a copy of this. I know Bill, Revius and Bob probably  
3 don't have a copy.

4 MR. LYONS: I sure will.

5 CHAIRPERSON RODHAM: Thank you very much. That  
6 concludes the report from the committee on provision of  
7 legal services and the next report is from the committee  
8 on audit and appropriations.

9 Steve, you want to give that report.

10 MR. ENGLEBERG: Yes. Is Gerry around?

11 CHAIRPERSON RODHAM: Yes he is.

12 MR. ENGLEBERG: What I would like to do Hillary  
13 is I, let me start with the now famous pro bono proposal  
14 which I think has been handed out. Do we have copies  
15 of the proposed resolution available? I will go over it  
16 but I just assumed that those in the audience had not  
17 seen it.

18 Has the Board gotten a copy?

19 MR. SINGSEN: The memorandum that was distri-  
20 buted to the committee has been distributed. I am not  
21 sure that the proposal as it has been revised has been  
22 distributed. I did not see it on the table.

23 MR. ENGLEBERG: Can we find out whether the  
24 Board got a copy of the resolution?

25 MS. SHUMD: I don't have it.

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1 MR. TRUDELL: I don't have it.

2 MR. ENGLEBERG: Can we get them a copy. They  
3 got it. According to Barbara, we do have a copy of the  
4 resolution.

5 BARBARA: It was mailed out and received after  
6 the list. It is attached to the back of Allen's memo in  
7 this one copy here.

8 MR. ENGLEBERG: It is attached to the back of  
9 Allen's memo.

10 MS. SHUMP: Can we have some additional copies?

x-? 11 MR. SINGSEN: Yes, I think Barbara is just going  
12 out to get another one.

13 MR. ENGLEBERG: Let me, while Barbara or some-  
14 body is going to get the copies, let me go over some of  
15 the background of this thing.

16 Basically, as you may recall, I had raised a  
17 proposal in the San Francisco December meeting essentially  
18 to create a pro bono matching program where, what I had  
19 proposed was, and this of course, ruled out earlier  
20 committee on appropriations recommendations, but the  
21 proposal that I made in December was that we would take  
22 the \$200,000 which had tentatively been allocated out of  
23 one time funds, and combine that with \$300,000 in invest-  
24 ment income for a total of \$500,000 which would then be  
25 used on a matching basis, that is a 100 percent cash match.

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1           The proposal came up in San Francisco. I think  
2 there was a lot of concern from the Board as well as the  
3 people in various constituencies and I, my sense at the  
4 time was that we needed a verbal definement on the motion  
5 so I withdrew it with the understanding that I was going  
6 to raise it again.

7           The motion was discussed, I think, with a fair  
8 amount of detail at the appropriations and audit commit-  
9 tee meeting several weeks ago and I think, at that time,  
10 we were able to reach, well, the committee was at least  
11 able to reach a pretty clear concensus and go without  
12 the suggestions. We simply adopted some principles with  
13 the direction of the staff and put that in the form of  
14 a formal resolution.

15           I talked to Dan Bradley at some length after the  
16 meeting. We then came up with the proposal which you now  
17 have in front of you, which I will go through very quickly.  
18 I think that this proposal meets the concerns expressed  
19 by the committee. We tried at some length to work out  
20 various aspects.

21           I now feel that, although it is not perfect, it  
22 is a much better and much more rounded proposal than it  
23 was in December and I would strongly urge the Board to  
24 approve it.

25           Let me quickly go through the basic resolution.

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1 Basically, the resolution is that the corporation set  
2 aside \$300,000 of investment income that is combined with  
3 \$200,000 in fiscal year '79 unexpended funds. You may  
4 recall that this money, the \$200,000, had already been  
5 previously set aside to be used for pro bono and private  
6 bar activities in accordance with the following guidelines.  
7 These guidelines are critical.

8 1. That the fund shall be used for the cost  
9 administration and management of pro bono programs carried  
10 out by Corporation recipients, state and local bar asso-  
11 ciations, and other organizations this committee, that  
12 says, it should be committed, to providing legal assist-  
13 ance in civil matters to persons unable to afford counsel.  
14 Pro bono programs shall be designed to provide voluntary  
15 legal services by private attorneys to eligible clients.

16 2. All programs funded under this plan will be  
17 considered demonstration programs and the staff of the  
18 Corporation will evaluate the results of the demonstration  
19 and report the results to the Board.

20 3. The funds shall be awarded on a non-  
21 annualized basis for a term not to exceed 12 months;  
22 although funded programs will be eligible to apply in  
23 future years if additional funds are allocated for such  
24 activities by the Board.

25 Let me stop there. The intention of that, I

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1 think the Board should clearly understand it, is that  
2 while this is clearly demonstration and these funds are  
3 one time monies, there is no legal commitment to go be-  
4 yond that, it is certainly my intention that if this con-  
5 cept works, that we would continue it.

6 Obviously, we would certainly consider con-  
7 tinuing funding the award to recipients and other grantees,  
8 et cetera, but that, in other words, I don't want it, it  
9 is not assumed by this motion that after a year everyone  
10 would be on their own and start looking for other, a 100  
11 percent other sources funding. In other words, if this  
12 works, I would assume that we would continue to use some  
13 sort of seeding concept that's involved here.

14 4. The \$500,000 shall be used to leverage at  
15 least \$500,000 in nonfederal government funds. That is  
16 a change, by the way, a slight change. We wanted not to  
17 exclude potential grantees from raising state or local  
18 funds. We did not, obviously, using Title XX of Corpora-  
19 tion funds. The funds awarded by the Corporation must  
20 be matched, by 100 percent, by the applicant in cash and  
21 not incoming contributions or donated services.

22 Let me make a note here. One of the big dis-  
23 cussions at the committee meeting was that there was some  
24 feeling from some people in the audience that we should,  
25 that some programs like rural, in rural areas, et cetera,

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1 or some potential grantees would not be able to come up  
2 with the hard cash, 100 percent match, particularly if  
3 we envision these programs to be big enough to support a  
4 staff component which I think in large part they should  
5 be.

6 There was some talk about shifting the hard cash  
7 match and maybe having different formulas. I strongly  
8 opposed that. I feel that even though this may impose  
9 a hard burden on some areas and make it more difficult  
10 for them to compete, I think that it would seriously  
11 dilute this if you start messing around with the funding  
12 formula.

13 But I will point out these issues as we go  
14 along.

15 5. -- shall be given to proposals that are  
16 submitted by corporation recipients, state and local bar  
17 associations, minority bar groups and other legal organi-  
18 zations.

19 Now that was a change that really evolved  
20 out of the committee discussions from very good comments  
21 by both Bill McCalphin and Cecilia Esquer.

22 6. If the application is not a corporation recip-  
23 ient, the applicant shall demonstrate a plan of cooperation  
24 with the recipient and shall insure that the applicant will  
25 have client involvement. This is a very important change

1 which I suggested to Cecilia prior to the meeting which  
2 I think makes a great deal of sense and it makes it clear  
3 that while you do not necessarily have to have a legal  
4 bar group in the local program, if the bar group is the  
5 applicant, they have to demonstrate a plan of cooperation  
6 with the local program.

7 I think that we all agree that to have a pro  
8 bono project run in isolation from the staff program just  
9 doesn't make any sense and it has got to be a cooperative  
10 adventure.

11 By the same token, I felt it would be a mistake  
12 from a legal point of view, to mandate some sort of legal  
13 point venture. I think the committee is comfortable with  
14 that middle ground.

15 Of course, on the client involvement, that is  
16 a very obviously critical issue but, again, the board  
17 should have no illusions about this.

18 Some of the grantees, for example, say a local  
19 bar group, would not be able to have, probably, a client  
20 governing board. Again, we discussed that at great length  
21 at the committee meeting. People may differ on this but  
22 I wanted to point that out.

23 7. If the applicant is already operating a pro  
24 bono activity, the applicant must demonstrate in the pro-  
25 posal that its current activity will be maintained and

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1 that any funds awarded under this plan would be used for  
2 either new or expanded pro' bono activities. That is, we  
3 obviously don't want to supplant existing funds. I think  
4 that is clear.

5 8. The staff of the corporation shall implement  
6 this plan by making funds available pursuant to this  
7 resolution under such additional terms and conditions to  
8 be developed consistent with the findings of the delivery  
9 system study.

10 9. The number of programs funded and the dollar  
11 amount of each grant shall be determined by the staff and  
12 the staff shall ensure that the grant amounts are  
13 adequate to support a viable pro bono effort by the appli-  
14 cant.

15 This last point was added after some points  
16 made by, I think, Bruce Morrison and others, which I think  
17 are very important. That is, I would hope, even though  
18 we don't want to try to dictate precise funding figures  
19 to the staff.

20 I think that is a mistake, for obvious reasons.

21 My intentions and I would hope that the board  
22 adopts them as the board's intentions, would be that we  
23 don't try to, you know, spread the money out as

24

25

1 far as we can because I think it is clear, as I under-  
2 stand the DSS study and others, that these programs  
3 probably need a staff component. Although, again, the  
4 Corporation staff should have that discretion. And I  
5 think it is clear that if these are broken up into too  
6 small of pieces, that they won't be effective. Again,  
7 the precise number and the dollar amounts I think we  
8 should leave to the staff. The clear intention here is  
9 not to spread this too thin.

10 Anyway, that is the resolution. I think it is  
11 consistent with the concerns expressed by the committee.  
12 Bill and Cecelia, of course, may have different feelings  
13 about it and, you know, I would formally move the resolu-  
14 tion at this point.

15 CHAIRPERSON RODHAM: Steve, I just have one  
16 question on clarification. I understand the resolution  
17 except I don't think that paragraph 6 is very clear as to  
18 what it means.

19 MR. McCALPIN: I would like to offer some  
20 amendments to six.

21 MR. ENGLEBERG: Go ahead.

22 MR. McCALPIN: I think it is better, we usually  
23 talk in terms of corporation grantees rather than recip-  
24 ient and I would suggest that it read: if the applicant  
25 is not a Corporation grantee, the applicant shall

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1 demonstrate a plan of cooperation with any local grantee  
2 and shall ensure that its program will have client involve-  
3 ment.

4 MR. ENGLEBERG: Okay, Howard, I would accept  
5 that assuming that we had no legal problems.

6 MR. SINGSEN: The word recipient is out of the  
7 statute and is there as a word of art from the statute.

8  
9 MR. McCALPIN: If the applicant is not a Corpora-  
10 tion recipient, the applicant shall demonstrate a plan of  
11 cooperation with any local recipient and shall ensure that  
12 its program will have client involvement.

13  
14 MS. SHUMP: Let's finish with six.

15 MR. KANTOR: I don't think, the second part of  
16 6, I think Bill clarified, now, the language effectively.  
17 Now I think we ought to talk about the second idea of  
18 client involvement. I think it ought to be mandate it,  
19 I don't think it ought to be ensure.

20 I think it ought to be mandated, it ought to be  
21 in the same percentages as our law and regulations require  
22 it. It ought to be just like any other program. There  
23 is no reason whatsoever, just because these happen to be  
24 pre-bone projects rather than other projects, they are  
25 still programs funded by this Corporation and ought to

1 adhere to all the laws and regulations, especially in the  
2 area of client involvement.

3 MS. ESQUER: You know, I agree with Mickey and  
4 for this reason: when we were discussing what we meant  
5 by client involvement, I think there was an indication  
6 that if there was cooperation with a local recipient that  
7 there would be client involvement in that cooperation.

8 And my feeling is that that involvement would  
9 only extend to submitting the application but not to  
10 having any really governance duties over that and I would  
11 agree with Mickey as far as, I think that it would be  
12 feasible to work out something that would allow any of  
13 these pro bono projects to comply with the LSC regs.

14 I would offer this type of wording, that, I  
15 agree with the first half that Bill suggested, but I  
16 would say: and shall ensure that the applicant will com-  
17 ply with the Legal Services Corporation regulations con-  
18 cerning client participation in the governance of the  
19 program. I feel you can spin off.

20 MR. ENGLEBERG: We discussed this at the com-  
21 mittee meeting.

22 MS. ESQUER: And I said that I had reservations  
23 about the resolution that you offered.

24 MR. ENGLEBERG: The Board can do whatever it  
25 wants. As I understand it, the Board should clearly

1 understand the implications of this and, correct me if I  
2 am wrong, the implication of this that you are, as a  
3 practical matter, excluding a local bar, probably any bar  
4 association, because of the legal difficulty of reconsti-  
5 tuting their boards as recipients.

6 MS. ESQUER: No. Steve that is not so because  
7 you can spin off, you can create a nonprofit. A bar can  
8 create a nonprofit corporation that would have a board.

9 MR. ENGLEBERG: I wish that Bradley was here  
10 because Bradley's advice to me was that the problem with,  
11 which we did discuss at the committee, Cecelia, was that  
12 if you do that the practicalities are and I don't, listen  
13 I'm not an expert on the way these local bar associations  
14 are constituted, but as a practical matter what you are  
15 doing is making it virtually impossible for them to apply  
16 for funds, which I think, politically, is a big mistake.

17 MS. ESQUER: What did the DSS projects do, the  
18 pro bono projects? I think that they were able to come up  
19 with a part.

20 MR. ENGLEBERG: I don't, my understanding was,  
21 can we get somebody to comment on that please, that knows  
22 something about it?

23 MR. LEWIS: If I may, I think I can clear this  
24 up quickly.

25 Sixteen-~~en~~-~~se~~ applies to any recipient

1 delivering legal services. The proposal you have before  
2 you contemplates the delivery of legal services by a  
3 recipient. The consequence of that simply is that you  
4 have a regulation now that would require a board with  
5 client participation or, under certain circumstances, some  
6 other mechanism to assure client participation. So you  
7 have a requirement that affords that.

8 MR. ENGLEBERG: What is the other mechanism?

9 MR. LEWIS: We have in some instances, and  
10 Clint probably can help us best with this, permitted the  
11 creation of advisory counsels, client counsels if you will,  
12 to participate in policy assessments.

13 MR. ENGLEBERG: You mean where the entity could  
14 not have a formal client involvement on the board?

15 MR. LEWIS: Well one of the criteria I recall on  
16 the regulation is where the primary source of funding of  
17 primary activity of the grantee is other than the delivery  
18 of legal services, that it has the option of proposing  
19 another client participation mechanism.

20 MR. ENGLEBERG: Well again, that's fine with me.  
21 It's easy to wrap ourselves in a flag here and I have no  
22 intention, well, my major concern politically was not to  
23 write a resolution which legally, on its face, excluded  
24 local bar groups.

25 MS. ESCOBAR: Steve, I don't think that is the

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1 amendment that I am offering.

2 MR. ENGLEBERG: If the staff indicates that that  
3 is not the problem, of course I will be glad to accept  
4 that.

5 MS. ESQUER: Okay.

6 MR. McCALPIN: Let me say, I didn't want to get  
7 into your language Cecelia, but there are some problems.  
8 I think if you expect a local bar to create a separate  
9 not-for-profit corporation in order to qualify for a \$2500  
10 grant to administer a pro bono program, you are in fact  
11 eliminating the prospect that it would do so.

12 Now, you have used the word: governance. I'm  
13 not exactly sure in what context. I think it is possible  
14 for that bar to set up a committee, for the point, if a  
15 bar is the grantee but it sets up a committee involving  
16 nonmembers of its association to supervise, to advise and  
17 work with a separate program, that is possible.

18 But if you are going to require that the  
19 governance of the grantee itself shall comply with the  
20 board composition requirements, then as a practical  
21 matter, as Steve says, I think you are eliminating a great  
22 many potential applicants. And basically it is the thing  
23 of the rich will get and the small and poor will not.

24 MS. ESQUER: Well Bill, I think I was just sug-  
25 gesting that that was an alternative. I think that what

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1 general counsel told us is that there are ways of ensuring  
2 that there would be proper client participation. And I  
3 think Steve's term about involvement is just too vague.  
4 And so long as there is compliance with the regulations,  
5 whatever mechanism is necessary I am sure that will be  
6 set up.

7 MR. KANTOR: Can't we just adhere to 1607?

8 MS. ESQUER: That's right.

9 MR. ENGLEBERG: You see, again, I have no prob-  
10 lem with doing that as I say, but I was under the impres-  
11 sion from the advice that I got at the committee meeting  
12 that if you did that you would, according to what Bill  
13 had indicated, pretty much freeze out, because it did  
14 involve a degree of formality in terms of client partici-  
15 pation, that as a practical would probably not be, you  
16 know, the most local bar, say, using them as an example,  
17 could do.

18 And I thought, frankly, particularly if you  
19 require the kind of rigid plan of cooperation which I  
20 think we are doing here, I mean, my assumption is that  
21 the staff is not going to, Cecelia's concern was that we  
22 did not want to fund a hostile local bar association, that  
23 is, an association whose mandate was, in effect, incon-  
24 sistent with the Corporation's. Well, of course I agree  
25 with that.

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1 MS. ESQUER: Steve that was the first part of  
2 your sentence on why you require cooperation, but as far  
3 as client involvement, my concern is that clients under  
4 the act, that we are required to ensure that clients are  
5 involved in that decision-making process and I don't  
6 think that we should provide a waiver for the bar.

7 MS. SHUMP: Steve, I would like to read from the  
8 June 13th Congressional Record of the Senate. Down at  
9 the bottom on Section 13 where the Congress was advising  
10 the Corporation to increase its pro bono effort, it says:

11 Section 13 of the Legal Services Corporation  
12 Act is amended by adding at the end thereof the following  
13 new sentence. The Corporation shall in providing finan-  
14 cial assistance under clause 1-A of this subsection en-  
15 courage recipients to develop with appropriate bar asso-  
16 ciations programs designed to provide voluntary legal  
17 services by private attorneys to eligible clients and to  
18 give special consideration to recipients which provide  
19 such voluntary services.

20 Now, if you are going to spend this money on  
21 pro bono and if you are wanting us to approve this propo-  
22 sal, I cannot see how in the world you can justify not  
23 applying the same rules to a pro bono project as you would  
24 to our own.

25 I have passed out to all of you a copy of a

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9  
1 different type of resolution which was handed to me by  
2 Bernie Veney of the Client's Council.

3 I would hope that the members of the Board will  
4 read and consider it carefully before any action is taken  
5 on the proposal before us.

6 I think that it spells out things much more  
7 clearly. I think that in keeping with the section under  
8 discussion -- which is number 7 of the proposal that I  
9 handed out -- it reads:

10 "If the applicant is not a Corporation  
11 recipient, any award shall be made upon  
12 showing that the applicant has a plan of  
13 complying with appropriate regulations  
14 of the Corporation, particularly parts  
15 1605, 1607, 1609, 1611, 1612, 1613, 1615,  
16 1617, 1619, 1620 and 1621."

17 The most important, insofar as clients are con-  
18 cerned, are parts 1607, 1620 and 1621. They concern the  
19 rights of clients to have some say-so over what is going  
20 to be done with the money and what is going to be done  
21 by the private bar in providing services to them and to  
22 their local community.  
23  
24  
25

1 MR. LYONS: I think that you can be aided quite  
2 a bit with respect to paragraph 6 of Steve's motion and  
3 proposal in regard to the board composition of the  
4 recipient and the client involvement.

5 If you look at chapter 3, page 22 of your  
6 board book in the delivery system study report, it does  
7 indicate that we've had experience with this particular  
8 issue and what we have done in this instance with a  
9 particular issue.

10 MR. SACKS: What was that page number again?

11 MR. LYONS: Chapter 3, page 22. The section  
12 under Governing Board.

13 That may provide some enlightenment with regard  
14 to the problem.

15 MR. ENGELBERG: If what Mario and the staff  
16 is telling me is so, and again my only concern is to do  
17 this in such a way as to maintain maximum flexibility  
18 without obviously trying to cut the client out of its  
19 normal, appropriate role in its reach for corporate  
20 funds.

21 If the corporation has a flexibility from  
22 various types of law teams and the end result is that  
23  
24  
25

1 we exclude sincere and interested local bar associations,  
2 I think it is a very serious political mistake.

3 I don't claim to know whether this will do that  
4 or not, but if I'm certain of what Mario's saying, then  
5 we should end the debate right now.

6 If it is consistent with the regulations and  
7 there are flexible mechanisms such as advisory councils  
8 that could be worked out, which in fact has been done in  
9 the past, then I don't think I'll ever accept your amend-  
10 ment. I don't even know why we have to have the debate  
11 here.

12 MR. McCALPIN: Steve, I have had a chance to  
13 look more carefully at what Cecilia proposes and I think  
14 it meets that.

15 I think the critical thing is that it talks  
16 in terms of client participation in the governance of  
17 the program rather than in the governance of the applicant  
18 itself, and I think that leads precisely to what you have  
19 been talking about in terms of the committee wanting the  
20 program, which is separate from the governing of the  
21 board.

22 MR. ENGELBERG: You want to read over that  
23 again?

24 MR. McCALPIN: I think it would be acceptable  
25 as amended.

1 MS. ESQUER: Okay, it would be: And insure  
2 that the applicant will comply with the Legal Services  
3 Corporation regulations concerning client participation  
4 in the governance of the program.

5 CHAIRPERSON RODHAM: Did everybody get that?

6 MR. ENGELBERG: I would gladly accept that amend-  
7 ment.

8 CHAIRPERSON RODMAN: Any additional comments or  
9 questions?

10 MR. ORTIQUE: I want to go to number four. It  
11 just seems to me that this is another one of those situa-  
12 tions where the rich get richer and the poor get poorer.

13 I can think of a number of programs in my  
14 region which have just had no funds available, no source  
15 of funds available and I can tell you we have just been  
16 snuggling to just get the acceptance of a staff attorney  
17 program in the region, let alone have funds available.

18 Certainly bar associations have not made any  
19 attempt to raise funds. The states are not going to  
20 appropriate any funds and I would just like to know if any  
21 consideration has been given to the question of whether  
22 this means Boston, New York, and maybe even Washington,  
23 D.C. But I just don't see it.

24 I am thinking of those areas where we need to  
25 lend encouragement to the local bars are those areas where

1 we have the most resistance, as opposed to those who are  
2 in a better position to take advantage of this.

3 CHAIRPERSON RODHAM: Steve, do you want to  
4 respond to this?

5 MR. ENGELBERG: Well, Revius, I don't know what  
6 to tell you, except that, obviously no one proposal can  
7 do everything. Obviously, in this proposal there is no  
8 pretention that this proposal is going to, is intended to,  
9 try to reach into areas and create through corporate money  
10 alone, corporation money alone, programs that don't  
11 exist.

12 The purpose of this proposal, the major purpose,  
13 was to try to stimulate, from wherever it would come, and  
14 I realize a lot of this money will probably come from  
15 major urban areas, but again --

16 MR. ORTIQUE: Why all eastern areas?

17 MR. ENGELBERG: Well, I don't know where it's  
18 going to come from, Revius. My understanding of it is,  
19 I've been told, that there is a lot of effort throughout  
20 all parts of the country, and that part of this is to  
21 see whether we can raise money, what kind of money we  
22 raise.

23 In the meantime, if in fact we are able to set  
24 up some effective pro bono programs, I don't know. I  
25 don't know. I guess I'm not really sure what the harm

1 really is.

2           The purpose here, the major purpose, was a way  
3 to further stimulate further involvement of money in  
4 addition to, obviously, a substantial amount of free legal  
5 work to supplement the activities of the corporation.

6           It is not intended to be a cure-all for free  
7 funding and equity in every serious problem area of  
8 delivery of legal services in the country.

9           If you want that kind of program, this is  
10 obviously not intended to meet that. I don't find that  
11 here.

12           MR. ORTIQUE: Well, why can't we do something  
13 to indicate that the staff, in an effort to equitably  
14 encourage folks in those areas where the funds are not  
15 available and where it doesn't appear that the funds will  
16 be available, the staff will have some discretion in the  
17 setting up or making available of some funds. It seems  
18 so absolute.

19           MS. SHUMP: Steve, I disagree and I disagree  
20 very strongly.

21           I don't see how in the world you intend for our  
22 small programs to come up with any other types of money  
23 other than the corporation money when many times this is  
24 the only money they have. This is exactly what the Judge  
25 has just said.

1           Also, once again you're talking about the big,  
2 as the Judge said, "eastern cities." You're talking about  
3 the bigger cities, you are not giving any consideration to  
4 the small areas, nor are you giving any consideration to  
5 the small areas, nor are you giving any consideration  
6 to the rural areas or the fact that the clients should  
7 have a right to way what you are going to do for them if  
8 in effect you are going to do anything other than provide  
9 a bigger cut of the pie for the private bar.

10           I'm sorry, but this is exactly how I feel at  
11 this point in time.

12           CHAIRPERSON RODHAM: Any other comments or  
13 questions.

14           MR. TRUDELL: Let me raise one question. At  
15 your committee meeting were there any other alternative  
16 ways discussed about other types of things that should  
17 be funded out of investment income?

18           This reminds me of the thing we did a couple of  
19 years ago where we approved something before we discussed  
20 what is available and people don't know that it is going  
21 to be carved up.

22           Were there any other things discussed?

23           MR. ENGELBERG: There was some discussion, Dick,  
24 in a tangential way, about continuing some of these kind  
25 pro projects, but I would say, very indirectly.

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1           There was no detailed discussion of alternatives  
2 to funds from investments.

3           MR. SACKS: Steve, why are you drawing such a  
4 find line of requiring 'cash match' rather than 'in kind'?

5           MR. ENGELBERG: That's because my understanding,  
6 Howard, is that it's a classic way to really try to get  
resources.

8           I'm told, and it has been my own experience in  
9 the grantsmanship game, that once you get away from cash,  
10 things tend to dissipate fairly quickly.

11          MR. SACKS: In other words, you can't really  
12 police an 'in-kind' requirement?

13          MR. ENGELBERG: Yes. The purpose is, with all  
14 due respect to Ramona -- Ramona you may obviously have  
15 whatever opinion you want about the resolution, that's  
16 your opinion -- but the implications are not just a give-  
17 away to the private bar. I'm not shilling for the private  
18 bar.

19          I don't understand how a program which helps  
20 facilitate free legal work in a constructive, impact-  
21 oriented way with a staff component is a give-a-way to  
22 the private bar.

23          What we're trying to do --

24          MR. SACKS: It's a take-away.

25          MR. ENGELBERG: -- is to get private attorneys

1 organized in such a way to do what they are ethically  
2 required to do.

3           Whatever your feelings about the merits of the  
4 proposal are, I fail to see how it's a give away to the  
5 private bar.

6           It may be the worst proposal ever formulated,  
7 but I don't think it gives anything to the private bar.  
8 It's certainly not my intention.

9           MR. KANTOR: I think Steve made a good point.  
10 A rare one but a good one: that this can't resolve and  
11 solve all of the problems we have in rural areas and  
12 areas in the country where we don't have the kind of  
13 support we have in our bigger cities. That it's compara-  
14 tive.

15           We're talking about \$500,000. and we're talking  
16 about a budget of \$300 million next year in this corpora-  
17 tion.

18           I think to try to leverage, anywhere, private  
19 bar participation and actual cash contributions make a  
20 difference.

21           I think we ought to try to go with this. It  
22 doesn't mean it's the only program we're ever going to  
23 fund again. Obviously not.

24           It doesn't mean we're not insensitive to areas  
25 of the country, rural areas and cities that can't raise

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1 as much money. It just means we'll try and provide big  
2 dividends to our clients.

3 MR. ORTIQUE: My response to that, Mickey, is  
4 I'm just a little suspicious. I could tell you right  
5 now where the money is going to go. I would like to have  
6 something in there that would guarantee some type of  
7 uniformity throughout the country.

8 In those areas where there are no funds avail-  
9 able, the staff might use some discretion.

10 MR. KANTOR: The problem with that is, as soon  
11 as you say that we are going to acquiesce as if there are  
12 no funds available, there will be no funds available.

13 What we are trying to do is to leverage some  
14 funds from wherever to try to make these programs work.  
15 Now I have just preached on the problems of geographical  
16 balance, in this proposal or in the other proposals.

17 I do have problems with whether it is a cash  
18 contribution or cash matching, but I think it is very  
19 creative and probably one of the best parts of the propos-  
20 al.

21 MR. ORGIQUE: Well, let's do it this way: Let's  
22 make some geographical lines and then earmark that money  
23 for such other programs as may be developed in those  
24 areas.

25 MS. SHUMP: Mickey, how would you feel then

1 about the possibility of inserting part 6 in place of  
2 part 4, which reads: 'If the applicant is not a corpora-  
3 tion recipient, the funds awarded by the corporation must  
4 be matched 100 percent by the applicant in cash and not  
5 in-kind contributed or donated services.'

6 'This provision may be waived at the discretion  
7 of the staff where there is indication that by doing so  
8 the number of minority attorneys available to serve the  
9 client community would be increased.'

10 Bill, do you have a problem with that?

11 MR. McCALPIN: I don't know how Mickey reacts  
12 but I would react negatively to that because I do not  
13 want to give a flat sole preference to a present corpora-  
14 te recipient.

15 MS. SHUMP: It does not say it would be granted.  
16 It says it could be waived by the staff.

17 MR. McCALPIN: What it says is that if an  
18 applicant is not already a recipient, then you must have  
19 the match.

20 By implication, if it is already a recipient  
21 you don't need the match. We're trying to encourage other  
22 than present corporate recipients to get into this game  
23 and it seems to me this cuts exactly contrary to what  
24 we're trying to do.

25 CHAIRPERSON RODHAM: Are there any other comments

1 from the board. Howard?

2 MR. SACKS: I spoke with you, Steve.

3 MR. ENGELBERG: Yes. Howard made a point which  
4 did come up at the committee meeting and relates to what  
5 Revius has been saying, which is, again, the same problem  
6 about rural areas.

7 Howard's point is, in some sense Howard feels  
8 that maybe the rural type pro bono program is somewhat  
9 experimental. I guess, based on the fact that there have  
10 been very few documented cases.

11 MR. SACKS: Just one out of six.

12 MR. ENGELBERG: Yes. I'm not sure whether the  
13 terminology is experimental or not. I don't think we  
14 are talking about sending people to Mars. I don't think  
15 this is that esoteric.

16 I do agree with Howard that, although I would  
17 prefer not to get into a funding formula but consistent  
18 with what Revius is talking about in geographical balance,  
19 certainly in terms of the legislative history of the  
20 proposal if adopted, I would strongly recommend that,  
21 and obviously the staff would do everything possible con-  
22 sistent with the cash match to get programs into rural  
23 areas, recognizing that Revius may be right.

24 It may be possible. Revius, the only thing I  
25 disagree with you about is that we don't know, and this

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1 is the experimental part of the program, is whether for  
2 example some states with rural areas may have one or two  
3 state bar associations and maybe one will put some dough  
4 up.

5 MR. ORTIQUE: But if we do it on a first come,  
6 first served basis, that opportunity is gone. I think  
7 that if we say: Look, there is \$100,000 in each of these  
8 areas and we are holding out this and if you come up with  
9 something it will be considered, and the staff can  
10 consider that.

11 CHAIRPERSON RODHAM: I think that flexibility  
12 exists under paragraph 8 and as Steve said, I think the  
13 board's concern about war programs is one that the staff  
14 should take into account in both designing its request  
15 for proposals and in trying to solicit proposals.

16 R. ENGELBERG: Yes, and Revius, I also agree  
17 with you that the staff is going to have a problem if the  
18 thing is passed.

19 They don't want to sit on it too long. I agree  
20 with you. I think part of what you are saying is that  
21 there should be a little outreach on the part of the staff.

22 I realize that you feel the match itself may  
23 be difficult, if not impossible, for rural programs to  
24 develop. Maybe you are right.

25 The point is I certainly feel and assume the

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1 staff understands that the board would hope that the staff  
2 would try very hard to stimulate interest in rural areas  
3 and not just wait and take the first four or five big  
4 city applications that come in.

5 If indeed that is the way it flies, I don't  
6 have any illusions that that won't work. But, see again,  
7 that to me is the experimental part of this thing and I  
8 don't think that the cause of what we are trying to do  
9 would be harmed, if in fact you are right that you are not  
10 going to be able to adequately create pro bono programs  
11 in rural areas.

12 I agree with you and I agree with Howard that  
13 every effort has to be made. But, again, I think to try  
14 to set up some rigid formulas on the one hand is a  
15 mistake.

16 I do also feel, agreeing with Mickey, that if  
17 you start tampering with the match you will lose the  
18 level of intensity.

19 CHAIRPERSON RODHAM: Thank you.

20 Howard?

21 MR. SACKS: The National Clients Council has  
22 handed us a document making many suggested changes in  
23 the proposal and I don't think we have the time to con-  
24 sider those in detail and I surely don't want to put this  
25 thing off any longer.

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1 I would just like to suggest that if we approve  
2 the proposal, and I very much hope we do because I think  
3 it is very well-conceived and very important, that the  
4 staff would be asked to take into consideration the  
5 numerous suggestions that are made on this document.

6 CHAIRPERSON RODHAM: Bruce?

7 MR. MORRISON: I would like to talk about this  
8 proposal on two levels. One is how we have come to this  
9 point for a vote on this proposal and all the baggage  
10 that it is carrying with it and whether it is wise to  
11 move expeditiously as Howard has suggested is necessary.

12 Then, assuming, hoping the assumption is in-  
13 correct, that you are going to move ahead on that  
14 schedule a little bit about some of the details.

15 This is the third meeting that I have attended  
16 in which there has been extensive discussion without too  
17 much focus on a wide range of different policy issues  
18 and procedural issues and the like and it arises, frankly,  
19 from the process by which this proposal is being brought  
20 forward.

21 Steve feels very strongly that there is a need  
22 for this kind of pro bono initiative. That may be correct.

23 But if it is correct, it should have been  
24 developed within this corporation, that is, with the proper  
25 kind of input and consideration and discussion with programs

1 in the field that are involved in the delivery of legal  
2 services, the Clients Council, the PHE and other interested  
3 groups, such as the pro bono project and this kind of  
4 instance that was involved in the delivery system study.

5 That did not go on in this proposal. This  
6 proposal has been coming top down from the board all along.

7 The board has the power to do this sort of  
8 thing but I don't think it is wise. I think it leads to  
9 a fragmented discussion and then a fragmented program  
10 then tons of process time being spent, after the fact, in  
11 trying to implement it.

12 I don't think you are ready to vote on this  
13 proposal. I think Howard's suggestion that somehow after  
14 you have passed one resolution the staff will go back  
15 and try to jimmy it around to take account of the sugges-  
16 tions made.

17 I don't think that is the way to do business.  
18 I don't understand what the crisis is that we are respon-  
19 ding to. At one point I thought we were responding to  
20 a congressional crisis with respect to this proposal --  
21 somehow feeling that if we passed this, Congress would  
22 leave us alone with respect to the pro bono provision.

23 I think that is out of the window, given what  
24 the Senate has already done in this area. If it is a  
25 desire to have a pro bono initiative, I think the board

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1 ought to vote that it allocates \$500,000 to be spent  
2 in this area and ask the staff to come back after proper  
3 consultation to the September meeting of the board, if  
4 it's September rather than August, and give you a care-  
fully conceived, comprehensive proposal.

5           You don't have such a proposal. This thing is  
6 put together with little bits and pieces from everywhere.  
7 I think that is a mistake. I would hope that you  
8 would reconsider the need to act in June rather than  
9 September. I don't know what would be gained except lots  
10 of mistakes that would then have to be remedied after the  
11 fact.

12           Now, if you feel that you must go ahead, I  
13 would first commend to you as a basis for action a propos-  
14 al which the Clients Council has put forward in prefer-  
15 ence to the one you originally had before you. It builds  
16 upon that proposal and it is, I think, an improvement  
17 in many regards and addresses many of the problems you  
18 have suggested.

19           I would like to go one step further and  
20 suggest that in the proposed paragraph 7 there not be  
21 the suggestion that the recipient of these funds be  
22 in any way exempt from complying with corporation regu-  
23 lations. It seems to me that in the delivery system  
24 study we insisted that recipients comply with all the  
25 regulations. It was said that in the results of the

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1 delivery system study that it was possible for pro bono  
2 and other private bar models to comply and it is the  
3 recommendation that was just approved here that there  
4 should not be waivers.

5 Now it may be that Paragraph 7 as it is written  
6 does say that, but I think it says it in a way that is  
7 subject to abuse and should be simplified by saying that  
8 the applican shall comply with corporation regulations  
9 period. I think that will take care of the client in-  
10 volvement point, the civil rights point and all the other  
11 points and I see no reason for creating the potential for  
12 exemptions.

13 As a general matter, my recommendation is that  
14 you are just as well off in September as you are right  
15 now passing this willie nillie and I think that the  
16 absence of process has contributed to a bad decision  
17 when a better decision can be made in a few months.

18  
19 CHAIRPERSON RODHAM: Howard?

20  
21 MR. EISENBERG: I'll come over here. For  
22 those of you who don't know me, I'm Howard Eisenberg,  
23 the Executive Director of the National Legal Aid and  
24 Defender Association. My main job is to go to meetings  
25 and listen to a lot of people it seems. That fact,

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1 coupled with my background which is basically in pro-  
2 viding legal services to the poor in criminal cases  
3 and using substantial private bar involvement lead  
4 me to make the following comments regarding this  
5 resolution and this discussion.

6 I was struck by the fact that there were  
7 two items on the agenda for today. One the DSS  
8 report which discusses pro bono in some detail and  
9 a very particular type of pro bono and the resolution  
10 which seems to suggest the opportunity for funding pro  
11 bono regardless of the specific type.

12 My experience has been in working not only  
13 in Wisconsin where I was the state public defender and  
14 working in the private bar in delivering legal services  
15 but also since I had been in ALDA, working with private  
16 bar programs in other states delivering legal services  
17 in the criminal area is that if the desire is to make  
18 a change, the change has to be identified in the beginning  
19 and not later on down the line.

20 Let me just very briefly give you an example  
21 of what I mean.

22 The last couple of days I have been in Ohio  
23 evaluating the rural delivery of legal services in  
24 criminal cases. Ohio has a 50% match requirement not  
25 unlike what you are suggesting. That is, the counties

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1 pay 50% and the state pays 50% for the delivery of legal  
2 services in the criminal area. The hope was that the  
3 state public defender commission would provide after the  
4 fact qualifications for the delivery of services and  
5 thereby change the services.

6 Well, I was in Lexington, Ohio on Wednesday  
7 and Newark, Ohio yesterday and found, lo and behold,  
8 that while the local jurisdictions are accepting the  
9 funds, the delivery of services has not been improved  
10 from that prior to the establishment of statewide  
11 legislation.

12 In Wisconsin where we developed a program,  
13 there were certain qualifications developed and the  
14 private bar was involved before the fact. That is,  
15 the delivery of legal services would be provided in  
16 a certain way. My observation is that there are ways  
17 of providing pro bono services and there are ways of  
18 providing pro bono services. The DSS types of programs  
19 are one very specific model which your report, which you  
20 have adopted, says works. I agree it works. However,  
21 there are what I would call soft pro bono models which  
22 probably do not work and probably do not meet the  
23 criteria that are set forth for feasibility in the  
24 DSS report and which I think you all generally agree  
25 with.

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1 I have reservations about putting this over  
2 because I sense, as Mr. Engelberg does, a political  
3 necessity of action. On the other hand, my advice  
4 to you is to consider carefully the suggestions made  
5 for tightening up this resolution regarding standards.  
6 Not only not only for client involvement but for such  
7 things as adequate intake, adequate supervision of the  
8 cases and perhaps technical assistance.

9 Those are areas in which your own DSS report, I  
10 think, differentiated between a pro bono model where it  
11 is throwing money at a problem and just running away  
12 from it and a pro bono model where you have supervision  
13 or control and where you have some idea as to the quality.

14 So my observation is that you can and probably  
15 should act fairly rapidly but with some of the suggestions  
16 made in the NCC resolution, what Bruce Morrison has said.  
17 The resolution should be tightened to consider these  
18 factors.

19

20

MR. ENGELBERG: Can I respond?

21

22

CHAIRPERSON RODHAM: Yes, please.

23

24

MR. ENGELBERG: First, to Bruce Morrison.

25

You know, Bruce, it is very frustrating as a member of

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1 this board, which operates more in public than any  
2 institution ever created by God. This think has been  
3 kicking around, it was thoroughly discussed at the  
4 appropriation audit committee. The implication that  
5 somehow this is a last minute thing, again on the  
6 merits, vote it up or down, do what you want to do,  
7 but I extremely disagree with the process point and  
8 I think, frankly, that it is sort of the Roger  
9 Crampton feeling that you can't, basically, that this  
10 board can get paralyzed in inaction. Right or wrong,  
11 the proposal is there and we can't make a decision.

12 I don't think, and again what I've tried  
13 very carefully to do, and this gets into Mr. Eisenberg's  
14 point, I've tried very carefully not to draft a proposal  
15 that tells the staff in minute detail. I will call your  
16 attention to number 8, Mr. Eisenberg, which says that  
17 the program must be administered consistent with the  
18 findings of the delivery systems study. The last  
19 thing

20 I would like would be for the staff to embark  
21 on some new type of venture when we have already  
22 studied pro bono efforts. I assume the staff can  
23 read and understands better or as well as we do what  
24 the implications of the DSS study are. I find it  
25 very inappropriate for this board in a funding

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1 proposal to try to tell the staff what kind of intake  
2 procedures there should be, etc. They know how to  
3 read grant applications and I assume that they will  
4 exercise proper discretion and judgment. That is  
5 what we have a president for and that is what we have  
6 a staff for.

7 Thirdly, on the client point, the client  
8 involvement point, I thought that Cecelia's amendment  
9 takes care of that. I don't think that there is any  
10 trick here. If the language is not tight enough we  
11 can tighten it up, but as I understand we now agree  
12 that these applicants have to act consistently, that  
13 the programs must be funded and the applicants, Cecelia  
14 I do not have the exact words, but they have to comply  
15 with all corporation regulations.

16

17 CHAIRPERSON RODHAM: Howard?

18

19 MR. SACKS: I just think it ought to be noted  
20 as a footnote to what Steve said that this has had  
21 staff input. You have a memorandum dated May 21 from the  
22 President of the Corporation recommending this program.

23

24

CHAIRPERSON RODHAM: Any additional comments?

25

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1 MR. VENEY: For the purposes of those who may  
2 not know me I am Bernie Veneay from the National Clients  
3 Counsel. I spend most of my life meeting with this  
4 board. I understand that the proposal before you has  
5 now been identified as the National Client Counsel pro-  
6 posal and I guess it is. The input has been talked  
7 about. I'm sorry, Steve, we didn't make it before the  
8 committe, but I find it impossible to make every com-  
9 mittee meeting of all the committees of the Legal  
10 Services Corporation and I hope you don't view this  
11 as some kind of effort to undermine but as what it is,  
12 an effort to try and build on what the committee decided.

13 Howard, I don't understand the comment that says  
14 you don't have the time to consider every point. You  
15 have from now until tomorrow, and I don't know that  
16 there is that much of this board's agenda and I would  
17 hope that you will serious consideration could be given  
18 to the points in this. I once thought, I guess by  
19 reading the language of the amendment that the  
20 Senate has authored at this point in time to the  
21 Legal Services Corporation Act. It says the Cor-  
22 poration shall not provide financial assistance under  
23 clause one "a" of this subsection encourage recipients  
24 to develop appropriate bar association programs to  
25 provide voluntary services by private attorneys to

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1 eligible clients and give specific consideration to  
2 recipients which provide such voluntary services. The  
3 Senate's plus, then, is toward the Corporation encouraging  
4 recipients.

5 I would suggest to you that the resolution  
6 that is now before you, as it is currently written,  
7 encourages state and local bars and discourages  
8 recipients. I am sorry I wasn't here for the earlier  
9 discussion because I would have liked to have heard  
10 how it was proposed that local programs funded by  
11 Legal Services Corporation out of other federal funds  
12 and some private funds such as United Way are going  
13 to come up with the 100% match that is required. I  
14 don't believe that the Legal Services Corporation is  
15 going to allow its money to be used as a match for  
16 other Legal Services Corporation money. So that if  
17 that is true, unless there is some hidden kind of  
18 way that is going to appear, I don't understand why  
19 this resolution as currently written does not completely  
20 rule out the possibility of recipients receiving  
21 funds to do what it has suggested, and what I under-  
22 stand to be the point of this board, and that is to  
23 encourage recipient and private bar participation.

24

25

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1           There are other points to this and I will not  
2 take a great deal of time, since you have most of it  
3 right before you. To respond to Bruce's point around  
4 the regulations. I certainly could accept that. I  
5 think what we have tended to do was to take out those  
6 regulations that had no relevance to the private bar  
7 whatsoever. Leaving out, for example, the regulation  
8 on attorney hiring because that certainly doesn't have  
9 applicability to the private bar.

10           As to the point around vagueness and letting  
11 the staff make some determinations, I guess I would  
12 remind us that a board of the Legal Services Corporation,  
13 whether it was the board as it is currently composed or  
14 not, made the judgment that in no instances would this  
15 Corporation provide funding to any grantee that did not  
16 comply with Part 1607. That was the decision of the  
17 board. And in simple point of fact I find now that  
18 there is some discussion about the ability of the  
19 private bar to do what insurance companies did with  
20 the DSS study and that was where it concerned the Legal  
21 Services money to have a governing body 60% attorneys and  
22 one-third clients to oversee the expenditure of that money.

23           The proposal that we have made to you also just  
24 indicates that you would want some protections from any-  
25 one who was not already a recipient of Legal Services

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1 funds. And those protections would say that you would  
2 want to be sure that they have sums for providing  
3 training for people who will be coming for private  
4 training or people who will be coming from the private  
5 bar. You may have people of extremely good well but  
6 not particularly skilled in delivering proverty law.

7 Secondly, that the local program would be  
8 required to provide some measure of technical assistance  
9 to the pro bono organization and , thirdly, that there  
10 would be some method to insure on-going quality control.  
11 I understand that we are all interested in the delivery  
12 of high quality legal services, but I do think it might  
13 be very good to have this board to rearticulate, or  
14 articulated for the first time, perhaps , the fact that  
15 we will not simply have money going out there under no  
16 competent supervision, if you will, under a system  
17 that would say, we'll look at it at the end of the  
18 period and determine whether future funding is appro-  
19 priate.

20 So, I don't think that we've offered here  
21 anything that is terribly radical, although I would  
22 agree that there is a substantial change in terms of  
23 where priorities will be given and I would make the prior-  
24 ities the local programs, the local recipients, again  
25 going back to Senate language, again going back to

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1 things that I think are supportive of the fact that this  
2 corporation has 300 and some odd recipient and not to  
3 fund through them where it is possible, and encourage  
4 the relationship between the recipient and the private  
5 bar is a considerable mistake, in my opinion.

6 Thank you.

7 CHAIRPERSON RODHAM: Anything further?

8 MR. COOK: I would first of all like to say that  
9 I think the proposal by Steve is a unwise proposal and I  
10 disagree that we have gone through this proposal in a  
11 great deal of detail.

12 I guess what the board is about to do, and it  
13 is clear based upon some of the comments that have been  
14 made earlier and earlier in the committee meeting that  
15 you have decided, you have made up your minds that you are  
16 going to go with this proposal.

17 But I just want to caution the board about its  
18 propensity to rush into what is considered to be innovative  
19 ideas.

20 We heard that a couple of years ago with the  
21 Legal Services Institute and I think that my analysis of  
22 the Legal Services Institute is that you have, basically,  
23 a \$500,000 neighborhood office and I think we can do that  
24 better in D.C. and I think many of the local programs  
25 around the country can do that a lot better.

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1           The point is, you know, I don't think just be-  
2 cause something is labeled innovative that it is necessar-  
3 ily so and the thing that really bothers me is that we  
4 are now, well, this board doesn't even know what Congress  
5 is going to do in the way of appropriations for 1981.

6           I guess the most we can hope for is \$321 million  
7 and probably we will get a lot less than that. The thing  
8 that I am talking about is, there are a lot of ideas that  
9 are good, that are worthy, that are worthwhile in terms  
10 of taking a look at.

11           But the point is what can you afford to do, what  
12 makes the most sense with the money that you have. That  
13 is the thing that bothers me. Why are you throwing an-  
14 other \$300,000 out when you don't even know what you are  
15 going to have for 1981.

16           I don't know whether this board is, well, I  
17 know you must be thinking about what kind of cost of living  
18 increases are going to go to field programs and I don't  
19 know whether you know where you are going to get that  
20 money if Congress doesn't give you what you are asking  
21 for.

22           Congress clearly is not going to give us more  
23 than \$321 million. My point is we need to prioritize or  
24 make some hard judgements about what is good and what is  
25 bad.

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1 I'd like to have an awful lot of things. Even  
2 in my local program I would like to have an awful lot of  
3 things but what we have to do is understand that we have  
4 limited dollars and we cannot do every single thing that  
5 we would like to do.

6 In another context, another time, perhaps the  
7 private bar, I mean the private bar proposal might be  
8 considered. I have another problem in terms of this pro-  
9 posal and that is I do think it is a giveaway to the  
10 private bar.

11 The private bar, I don't think that Legal Ser-  
12 vices Corporation ought to be funding private bar activi-  
13 ties. I think the private bar ought to be encouraged to  
14 come up with money of its own to assist and supplement  
15 and complement the effort of providing legal services to  
16 poor people.

17 I don't know why the Legal Services Corporation  
18 feels the need to throw \$500,000 to the private bar in  
19 order to generate additional amounts of money. I think  
20 that it is a mistake.

21 Now, somebody mentioned Washington, D.C. There  
22 are a lot of private bar activities going on in D.C. and  
23 one of the most recent ones involved the effort by the  
24 D.C. Judicial Conference to try to make certain that the  
25 private bar, that each private bar member in this town

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1 gives of her time and/or money in order to assist and  
2 complement efforts in D.C. as far as delivering civil  
3 legal services to poor people.

4 Right now in the D.C. Bar, as part of the dues  
5 we pay you have an option of contributing an additional  
6 \$10 for purposes of, well, for pro bono purposes. Last  
7 year, as a matter of fact the last two years, \$80,000  
8 was collected by the private bar and that money was dis-  
9 tributed by a nonprofit corporation as an adjunct to the  
10 private bar to local pro bono organizations of which my  
11 program is one.

12 Last year we got \$15,000 from the private bar  
13 from that fund. This year we got \$12,000, or we are going  
14 to get \$12,000 from the private bar.

15 My point is that I think that what we need to  
16 be doing, rather than throwing scarce dollars from this  
17 corporation to the private bar, is to insist that the  
18 private bar live up to its responsibility under the canon.

19 I think the private bar has far more money than  
20 we have. They have far more resources than we have and  
21 I don't think that we ought to be using our scarce dollars  
22 to try to subsidize the private bar.

23 I have a lot of respect for Bernie and I guess  
24 if the board doesn't go along with my view, well, I guess  
25 with the Client Council's view, but I just think that with

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1 the money that we have it doesn't make sense. I don't  
2 want this board and the staff pouring more money into  
3 D.C. for private bar purposes.

4 We have been organized for sixteen years in this  
5 town and it bothers me to find the corporation, or to see  
6 the corporation adding on or creating additional mechanisms  
7 in a city where one works, even with the private bar.

8 We have a very good program with the private  
9 bar in the D.C. legal services program. We have not asked  
10 the corporation to give us additional money for that be-  
11 cause we think that the responsibility of the private  
12 bar is to use their time and their dollars in order to  
13 supplement and complement efforts of Neighborhood Legal  
14 Services and other services in this town that provide  
15 civil legal services to poor people in this city.

16 So I think the first \$200,000 was a mistake.  
17 I think that the \$300,000, Steve, is just the kind of  
18 proposal like the Legal Services Institute. It is not  
19 well-thought out.

20 I don't think it takes into consideration the  
21 kinds of priorities and problems that we are going to  
22 facing in the field from inflationary, in inflationary  
23 terms.

24 I don't know where you plan to get even a five  
25 percent increase in terms of cost of living for field

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1 programs and my point is why do you want, now, to take  
2 what is, I guess, one-time money, and commit that before  
3 you even know what you are going to be able to do in terms  
4 of increases for existing field programs in the future.

5 I would just urge the board not to put it off  
6 but to vote this proposal down because I think it makes  
7 no sense. I don't think \$500,000 is really going to any-  
8 thing nationwide as far as private bar participation.

9 I think that our thrust as far as the private  
10 bar is concerned should be to have the private bar come  
11 up with money of its own. They have plenty of money.  
12 They are making a lot more money than the corporation is  
13 being given from Congress to provide legal services.

14 We should not be spending our money to help  
15 their effort. We should be using our resources and every-  
16 thing that we have to try to force the private bar, to  
17 have them come up with their money to help us. Not the  
18 other way around.

19 CHAIRPERSON RODHAM: Any further comments?

20 MS. ESQUER: Call for the question.

21 CHAIRPERSON RODHAM: Call for the question.

22 MS. ESQUER: Yes.

23 CHAIRPERSON RODHAM: You called for, well, we  
24 can hear additional comments but if you called for the  
25 question, we will vote on it.

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1 MS. ESQUER: I think we are ready. I mean, if  
2 there is something that is really different, all right.

3 CHAIRPERSON RODHAM: All in favor please signi-  
4 fy by saying, aye.

5 (A chorus of aye's.)

6 CHAIRPERSON RODHAM: All opposed?

7 (A scattering of, no's.)

8 CHAIRPERSON RODHAM: There has been a division.  
9 All those in favor please signify by raising your right  
10 hand?

11 Sacks; McCalpin; Kantor; Rodham; Kutak; Engel-  
12 berg; Esquer. (As identified by Chairperson Rodham.)

13 All opposed?

14 Trudell; Ortique; Shump. (As identified by  
15 Chairperson Rodham.)

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6-20-80  
Legal  
Tape #4  
TP/wub

1 MR. McCALPIN: The Audit and Appropriations Com-  
2 mittee is rapidly dissolving leaving only the crippled  
3 member here to carry on.

4 At our meeting last week we began discussions as  
5 to what should be the relative responsibilities and actions  
6 of the staff, our committee, and the board with respect to  
7 changes in the way the monies are spent that arise between  
8 the time a budget is adopted and the time, the year for  
9 which the budget was adopted expires.

10 The question arose in terms of whether there  
11 ought to be an action by this Board in terms of a budget  
12 revision or when there is one action contemplated instead  
13 of another. We are engaging in a continuing discussion with  
14 the staff with respect to that matter.

15 We have planned an August meeting of our commit-  
16 tee to further those discussions and I think that we will  
17 be coming back to the Board with a set of recommendations  
18 as to procedures, perhaps at the September meeting.

19 For this Board meeting the old standard operating  
20 procedure will continue. The staff has carefully examined  
21 projected spending to accomplish the purposes set forth in  
22 the original budget and based on experience during the  
23 first half of the year has designed a series of budget modi-  
24 fications to carry the Corporation through the rest of the  
25 year.

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1           The committee reviewed those modifications and  
2 did not find any difficulties with them on the merit.  
3 Because the review took place without adequate time for  
4 preparation and because of the committee's sense that the  
5 new review procedures will be appropriate in the future,  
6 the committee decided to submit the budget modifications to  
7 the full Board for its consideration.

8           Gerry Singen has prepared and distributed to the  
9 Board the financial statements that spell out the proposed  
10 modifications together with a brief memorandum explaining  
11 the modifications. It may be useful for him to describe  
12 briefly the plans and answer questions regarding them, in  
13 just a moment.

14           Since these modifications represent the staff's  
15 best estimate of what is necessary to complete the year  
16 under current expense projections and since the year is now  
17 nearly three-quarters completed and it would cause serious  
18 difficulty to go back on many of these plans at this stage  
19 and since the committee found no problems with the sub-  
20 stance of the proposal, I would move, the committee recom-  
21 mended and I move that the Board approve the proposed modi-  
22 fied budget.

23           I expect, Gerry, it would now be appropriate,  
24 well, if there is a second?

25           MS. SHUMF: Second.

1 MR. McCALPIN: It might be appropriate for you to  
2 explain what were those proposals and recommendations.

3 MR. KUTAK: Do you have the material on that?

4 MR. SINGSEN: Yes, you should have received it  
5 already but if you haven't we have got some other copies of  
6 it here.

7 MR. KUTAK: When did it get mailed?

8 MR. SINGSEN: Last Friday.

9 CHAIRPERSON RODHAM: It just arrived at my house  
10 yesterday.

11 MR. KUTAK: I just don't think that you can send  
12 things with that short time table except by Federal Express.  
13 The staff is backing us up, frankly, with too short a time  
14 period in between. I'll make a general observation about  
15 that later on in the day, about everything that we get  
16 from the staff.

17 We really have got to have these things sooner  
18 than this. You might as well count me out. In fact, I  
19 don't see how you can even absorb things like this if we  
20 are just getting them for the first time now.

21 MR. SINGSEN: Just a comment. I think that is  
22 absolutely clear in terms of the need to use express mail  
23 in order to get materials to the Board. As was explained  
24 to the committee, as Bill has already noted, the committee  
25 received its documents on the day of the meeting and clearly

1 that was not adequate.

2 It happened that way because we have been making  
3 extensive changes in the way we handle budgeting and pro-  
4 jection in the Corporation and, frankly, between a combina-  
5 tion of computer changes and personnel learning new routes,  
6 we did not get it done in time.

7 The committee directed us to submit the memoran-  
8 dum to the Board; it had to be prepared following the com-  
9 mittee meeting on the ninth and it was mailed as soon as it  
10 was prepared. It should have been mailed express mail, I  
11 think that's clear. I apologize for the fact that the  
12 regular postal service was not successful in getting it to  
13 you from Friday night to Tuesday or Wednesday.

14 CHAIRPERSON RODHAM: I sure don't want to get  
15 into the habit of using express mail. I think that is a  
16 luxury.

17 MR. SINGSEN: Well, as I also said to the commit-  
18 tee, I don't anticipate that kind of retardation in the  
19 future. I think the process is now in place.

20 MR. KUTAK: Either express mail or put off your  
21 meetings for a longer period of time.

22 CHAIRPERSON RODHAM: That's right.

23 MR. KUTAK: I guess this is not germane at this  
24 point but it really is germane to the operations of this  
25 Board.

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1 CHAIRPERSON RODHAM: I do think though, Bob, that  
2 staff had been getting better. We've had this problem  
3 every since I've been on the Board. We just have it one  
4 step forward, two steps back but maybe we'll get back on  
5 the right track in getting the information to us.

6 MR. KUTAK: Do I understand Elise that I can take  
7 comfort from the fact that this has been at least processed  
8 by the committee. This is not something that has come out  
9 since the committee meeting?

10 MR. McCALPIN: That's correct. It was processed  
11 by the committee so long as you understand what Gerry has  
12 said and that is that the committee itself got the documen-  
13 tation on the morning of the committee meeting and gave it  
14 such attention as it could in the course of that day.

15 As I recall, what we did was we received it and  
16 then we delayed it until that afternoon in the hope that  
17 we would open the noon hour and otherwise have an addi-  
18 tional opportunity to take a look at it. But, we did con-  
19 sider it in the course of the afternoon. We did act on it  
20 and we did agree to recommend, as I have done, approval of  
21 the changes.

22 Also we have undertaken a review of the procedures  
23 which may lead to some of this stuff not even coming to the  
24 Board in the future or perhaps more of it coming to the  
25 Board in the future. That remains to be seen.

1 MR. ORTIQUE: But it needs to come to us earlier  
2 that's the point that was made.

3 MR. KUTAK: The point I'm really making is that  
4 in the early days I know that one thing the Board did is it  
5 had to delegate responsibility in appropriation or, indeed,  
6 in regulations; I couldn't ask the Board to go through the  
7 whole hearing process.

8 But the Board certainly knew when anything came  
9 to it from the committee that, by golly, the committee had  
10 really gotten their heads on it, gotten their minds focused  
11 on it and it really came through as the recommendations and,  
12 in fact, the work product of that committee.

13 So it came to the Board with an enormous credi-  
14 bility and, frankly, I couldn't even perhaps grasp very  
15 well but at least I had the assurance that three or four  
16 colleagues mastered it and my trust in them gave me a great  
17 deal of confidence about following them with respect to  
18 their recommendations.

19 But when you would sense that I don't know what  
20 my committee is doing, then you ought to re-examine the  
21 whole thing that my committee has done and I would say the  
22 same thing here. And yet, the point shouldn't be a first  
23 cut, a first barrier exercise for going through something  
24 as far reaching as a complete modification of an annual  
25 budget. And I get very nervous about this.

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1 CHAIRPERSON RODHAM: I share that with you. Well,  
2 I guess I would have to ask Gerry and Bill whether it is  
3 essential that we take action on it today.

4 MR. TRUDELL: I feel the same way in terms of,  
5 I guess, I received this stuff yesterday at my office and  
6 there was no indication on the agenda that we were dealing  
7 with any kind of budget modifications or whatever. I had  
8 no, until I received the Board meeting package that I pre-  
9 sently have in plenty of time.

10 But I thought, well, in terms of the appropria-  
11 tions and audit commitee, we were going to deal with the  
12 two items listed. And then now we get this, and if we are  
13 expected to move on it, I echo Bob's sentiments in terms  
14 of if you people have thoroughly dealt with it and under-  
15 stand it.

16 MR. KUTAK: And endorse it.

17 MR. ORTIQUE: And recommend it, too.

18 MR. TRUDELL: It is up to us to make a decision  
19 if we can rely on that and it's not just something we'll  
20 be shoving through quickly because I think the, I quickly  
21 read this last night and I know the reference to one of  
22 the motions being to cutback the administrative budget by  
23 10 percent or whatever and then you start to read all these  
24 things and I don't know if we're restoring part of that or  
25 what.

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1 MR. SINGSEN: We are not. One thing that should  
2 be said. They are called budget modifications, they cer-  
3 tainly are budget modifications but as has frequently been  
4 in the case in the past, they are the kind of budget modi-  
5 fications that arise from operating experience after making  
6 estimates when the budget is developed.

7 Almost without exception the budget modifications  
8 don't reflect significant policy judgement. The committee  
9 did walk through the detail of the modifications proposed  
10 and I think the comment about the substance of the changes  
11 really goes to that point, that with only a couple of excep-  
12 tions the changes are changes that come from calculation  
13 corrections, they are changes that come from relatively  
14 small differences in what we expected and what actually is  
15 turning out to be true.

16 They arise in a couple of cases from simple mis-  
17 estimates of expenditures. Regional Office's expenditures  
18 were under estimated when the budget was put together so,  
19 in fact, were the expenses of the Board of Directors. We  
20 need to make the modifications at this point or we won't  
21 be able to continue the activities.

22 We will have to, in areas where we're going to  
23 exceed budget, cut back the activity. In the Regional Of-  
24 fice area that would be fairly substantial.

25 MR. KUTAK: Well, Garry, if I hear the right buzz

1 word, there are no policy decisions in here.

2 MR. SINGSEN: There are a couple of issues within  
3 the budget where we're not proposing policy decisions,  
4 where we're saying, for example, that we're going to come  
5 back to the committee before we commit money which is bud-  
6 geted. An example of that is the reserve for special ad-  
7 justments. It is essentially one time money through calcu-  
8 lation corrections and initial reserve.

9 We do not have plans, that we propose now, to al-  
10 locate that money. We're going to develop criteria through  
11 a normal process of working within the staff and with the  
12 field and then come back to the appropriations committee  
13 in August.

14 Between now and August we won't be spending that  
15 money, unless its for the same kind of minor calculation  
16 corrections that it's been used for to date, which is the  
17 usual purpose of that reserve. So there are a couple of  
18 policy issues but not issues on which we're proposing  
19 policy action.

20 MR. ENGLEBERG: I'm sorry but just from the sense  
21 that I got when I came back in, on just what you said Gerry,  
22 I think there may be some confusion that we're embarking  
23 on what major decision here. I think, Bill and Cecilia,  
24 that what happened is that these are normal types of deci-  
25 sions that had been made pretty much with the committee

1 approval and really in the past Glen Stouffer's approval.  
2 The committee at great length, I assume has already dis-  
3 cussed this, talked about the need to have a better proce-  
4 dure for approving these types of things.

5 I think the feeling of the committee was that  
6 since we did not have such a procedure in place, and we  
7 hope to recommend to the Board some detailed guidelines in  
8 August, the feeling was, and I think it was Bill's sugges-  
9 tion, that these should come to the Board.

10 CHAIRMAN RODHAM: So in other words, this kind of  
11 thing didn't come to the Board before.

12 MR. ENGLEBERG: That's right. In other words I  
13 think the key point here is that these types of shifts of  
14 funds normally, in fact since I have been on the appropria-  
15 tions committee, had never come to the Board. And I think  
16 Bill McCalpin and myself and Cecilia, we are concerned  
17 about the vagueness of the process, which is no one's  
18 fault, about when these shifts can be made with or without  
19 either the committee chair's approval or the committee's  
20 approval, et cetera.

21 I had hoped to be able to start having some guide-  
22 lines developed at the last committee meeting. There was  
23 a breakdown in the communications between me and Gerry and  
24 the type of detailed guidelines that I wanted ready for  
25 the committee to consider in the meeting several weeks ago

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1 were not available and I think we now understand that and  
2 I think Cecilia and Bill completely share my uneasiness.

3 But I want to make it clear that I'm far from  
4 criticizing Glenn Stouffer. Glenn Stouffer did an incredi-  
5 bly good job of performing the sort of conscience of the  
6 Corporation, but my only sense is that I think that we  
7 cannot depend on an extremely kind of dedicated, talented  
8 chairman to make these approvals.

9 Essentially, though, you should know that these  
10 kinds of changes, although less dollars because the budgets  
11 are smaller, were made in the past pretty much by routine  
12 approval by the committee chairman.

13 MR. SINGSEN: I could say, just in the administra-  
14 tive budget at least, frequently they involve more dollars  
15 because until this year we had an administrative budget  
16 that considerably exceeded the actual expenditures we had.  
17 With the 10 percent cut that Dick mentioned, in developing  
18 the administrative budget this year, we developed the need  
19 for much more careful, tighter budget controls internally;  
20 the shift, by in large, considerably smaller than in the  
21 past but they deal with the minor adjustments that have to  
22 be made as you operate.

23 MR. ENGLEBERG: Again, I'm not prejudging whether  
24 in the future these types should be left solely say to the,  
25 I don't think they should be left to one person. I mean,

1 minimally it seems to me there should be formal committee  
2 approval, whether the Board has to get involved or not.  
3 I think what we, the committee, wants to do is to come to  
4 the Board in September with some detailed guidelines and  
5 then the Board would approve future methods of making these  
6 decisions.

7 In other words, I think there has to be a formu-  
8 la. But, again, you may have problems with these changes  
9 and obviously Bill McCalpin felt very strongly.

10 MR. McCALPIN: I have no problems with the  
11 changes, I have problems with the procedures because I  
12 think that coming to the Board should mean something. I  
13 mean if you decided that it involved the Board, the Board's  
14 involvement should be bonafide.

15 And as I said while you were out Steve, I get  
16 this three minutes ago and it is the first time that I  
17 have seen it. And as Dick pointed out it's not even on the  
18 agenda. I just simply want you to know that if we want the  
19 Board to involved, there ought to be some opportunity to  
20 get our hands on it.

21 But on the other hand, if it is at this time a  
22 matter of simply blessing something that you people have  
23 felt is more of a technical rather than of a substantive  
24 policy kind, I am prepared to sit back and listen to you  
25 walk us through this, hold our hands and make us all

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1 comfortable.

2 CHAIRPERSON RODHAM: I guess what, well, it cer-  
3 tainly didn't need to be on the agenda. If this is purely  
4 for informational purposes that the committee is reporting  
5 to the Board that this is a new procedure that you are  
6 adopting because of concerns that there wasn't any proce-  
7 dure; basically that what occurred in the past was a con-  
8 sultation or notification by the staff to the chairman, the  
9 prior chairman of the committee and that the present com-  
10 mittee does not think that is sufficient procedure to take  
11 care of these kinds of issues.

12 Now, if that's the purpose of this document, to  
13 bring us up-to-date on what your thinking is and to inform  
14 all the Board members as to what you have approved as the  
15 committee, then no action is required.

16 But if you are asking the Board to lend its ap-  
17 proval, not only to the procedure but to what this document  
18 represents in terms of the actual modification, then I  
19 think we haven't had sufficient time to digest it in order  
20 to make that kind of a judgement.

21 MR. ENGLEBERG: Well, let me try a response as  
22 best I can. I think first of all that certainly it was our  
23 intention that because of the fact that we felt we were  
24 still operating in a vacuum, I think that was the essence  
25 of Bill's suggestion, that this should go to the Board.

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1 I don't think that any of us, in fact, I think  
2 it's clear that the three of us had no major substantive  
3 problems with any of these. We did discuss them at great  
4 length in the committee meeting. I think Bill's feeling  
5 was that, as somewhat of a symbolic matter, this should go  
6 to the Board since we did not want to prejudge at what  
7 point the committee was going to make these decisions.,

8 Because, again, I emphasize that we don't have  
9 procedures and that is nobody's fault, they just don't  
10 exist at this point. Secondly, I got mine at least a week  
11 ago and I assumed that this had been circulated and I apolo-  
12 gize.

13 MR. KUTAK: It has been circulated.

14 MR. ENGLEBERG: No, my assumption was that the  
15 Board members had received it and I don't understand why  
16 they had not.

17 MR. McCALPIN: Let me say a couple of things.  
18 One, with respect to putting it on the agenda in advance,  
19 we run into exactly the same problem that Bob and others  
20 raised earlier and that is that my letter of transmittal  
21 indicates that this Board book agenda was mailed out on the  
22 sixth of June.

23 The committee met on the ninth and it was out of  
24 the committee meeting on the ninth that this question and  
25 problem arose so that it was literally physically impossible

1 to put something that was discussed and arose on the ninth  
2 on an agenda that was mailed on the sixth.

3 Now of course it could have been added on this  
4 morning as an added matter and perhaps it should have been.  
5 But let me explain the kind of problem it seemed to me that  
6 we were in. At the beginning of the year, this Board  
7 adopts a budget for the operation of this Corporation  
8 through the year.

9 And for better or for worse, that budget is a  
10 number of pages and a number of lines and a number of speci-  
11 fic items and that is incorporated in a resolution with  
12 this Board, it's the action of the Board determining that  
13 those funds will be spent for the purposes indicated on  
14 the line items in the budget.

15 And in point of fact we discover, as the year  
16 goes on, that a lot of changes are made and that in fact  
17 the funds of this Corporation are not being spent according  
18 to the budget which was adopted by a resolution of this  
19 Board at the beginning of the year.

20 And that puts us, it seemed to us, in rather an  
21 anomalous situation; that the staff is justifiably and  
22 when we look at it we all think that it's a good idea  
23 going on spending money but in ways not approved by this  
24 Board in the terms of a budget.

25 Maybe what we're going to have to do is formally

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1 adopt a less detailed budget so as to give more flexibility  
2 within in broader ranges. Maybe we're going to go the  
3 other way and come back and every time this Board meets  
4 have this Board approve or adopt modifications in the bud-  
5 get either retrospectively or prospectively.

6 But that is the kind of problem that we're trying  
7 grapple with within the audit and appropriations committee  
8 now and I guess it's fair to say that at this stage of the  
9 game it may be enough for us simply to let the Board know  
10 that one, the problem exists, and two, where these shifts  
11 are taking place so that at least the Board knows that its  
12 literal resolution with respect to the budget for this  
13 year is not being honored in detail 100 percent.

14 MR. ORTIQUE: Madame Chairman, in what Bob's  
15 saying, we have no quarrel with what is being done, our  
16 concern is the process. Now if a committee looks at it,  
17 your committee looks at it and says, look, there is nothing  
18 in these changes contrary to the intent and spirit of what  
19 we did at the time we adopted the budget, there is no prob-  
20 lem and it would seem to me that what the committee has to  
21 do is merely identify for us those areas where there may  
22 be a change in intent and spirit of what the Board has done.

23 I feel perfectly comfortable with that type of  
24 process and I think that's what we should do; but I do  
25 believe that we ought to underscore that your committee

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1 will meet between meetings so that at no meeting would we  
2 be suddenly surprised with some amount of money that has  
3 been spent not in keeping with the intent and spirit of the  
4 Board.

5 But as long as your committee has analyzed it and  
6 you can say to us that there has been no shift, I don't  
7 think we have any problems.

8 MR. ENGLEBERG: I think that the sense of the  
9 committee was, Revius, in answer to your question, was  
10 that none of these changes were inconsistent with the basic  
11 policy decisions talk about but there's no question about  
12 that.

13 Bill's point though was simply as a technical  
14 matter and because we're still trying to grapple with pro-  
15 cedures, we felt that since this technically involves shift  
16 of budget amounts that until we have come up with a proce-  
17 dure, protocol requires that we would at least present this  
18 to the Board.

19 We assumed that it would have been sent out well  
20 prior to today so that the Board could review the changes  
21 and I think it was clear that the committee would basically  
22 recommend that you approve the changes. We did not formally  
23 vote on that but the sense of the discussion was, and none  
24 of the three of us had, I don't think, any substantive  
25 problems at all.

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1           But I think part of what we were doing was we  
2 wanted to illustrate to you our concerns about the loose-  
3 ness of the prior procedure; and what we want to do is  
4 formulize that procedure.

5           MR. KUTAK: I really think otherwise the Board  
6 becomes what the committee function ought to be and, that is,  
7 a reprocessing of the same material that the committee has  
8 done. But I would urge that certainly the Board must ap-  
9 prove the budget. I would certainly think that the Board  
10 must approve any substantive change in policy or, indeed,  
11 sometimes quantity becomes policy.

12           But where there are, through the administrative  
13 processes of the year, appropriate but non-policy level  
14 issues, that the committee be given the responsibility and  
15 only come to the Board for anything that they feel the  
16 Board ought to formally act on, otherwise, leave it  
17 strictly up to their judgement.

18           CHAIRPERSON RODHAM: I think that is the prefera-  
19 ble procedure.

20           MR. ENGLEBERG: But we haven't adopted procedure.  
21 I think the sense of the committee is that we don't want to  
22 get into a system where we would bring minute changes to  
23 the Board. I think that was clearly the sense of the com-  
24 mittee, but what we're trying to do is come up with a pro-  
25 cedure, which we clearly have not come up with, and present

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1 to the Board the procedure and it probably would resemble,  
2 Bob, something very close to what you're talking about, and  
3 then we want to formalize it. I think, to express the sense  
4 of the committee, I will go ahead and move, formally move,  
5 these proposed budget shifts.

6 MR. McCALPIN: I already did because that's what  
7 it said in the paper you gave me.

8 MR. KUTAK: To elevate that principle further, I  
9 think that anything that is sent from the committee I would  
10 always like to know in advance that either the committee  
11 has or definitely always will take a position, or know that  
12 it has not take a position for some good reason.

13 I really want to feel that anything that comes  
14 out of the operations committee, for example, or anything  
15 that comes out of the appropriations committee, or anything  
16 that comes out of the provisions committee, I guess maybe,  
17 that would become pre-processed and with clear recommenda-  
18 tions and that we can recommend it.

19 MR. ENGLEBERG: I call the question.

20 CHAIRPERSON RODHAM: The question has been called.  
21 All those in favor please signify by saying aye.

22 (A chorus of aye's.)

23 CHAIRPERSON RODHAM: Those opposed?

24 (No response)

25 CHAIRPERSON RODHAM: We are going to break for

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1 lunch. Yes?

2 MR. MORRISON: You didn't give any opportunity  
3 to comment on that and I just ask for two minutes to say  
4 something with respect to the effect of what we just said.

5 CHAIRPERSON RODHAM: Well Bruce, the question  
6 was called.

7 MR. MORRISON: I understand, I am asking if I  
8 could just make a comment about what I understand to be  
9 the effect of this thing.

10 CHAIRPERSON: Well, yes, go ahead; but we do  
11 need to move on.

12 MR. MORRISON: I'll be very brief. My concern is  
13 with some issues that were raised by the audit and appro-  
14 priations committee. I understand them to be taken care  
15 of but I think it's important that the record be clear as  
16 to that.

17 Gerry has written an extensive memo here, the ad-  
18 justments were approved, there are some items of very sub-  
19 stantial concern and, I, we just hope it will clear that  
20 the action of the Board takes into account the qualifica-  
21 tions in Gerry's memo, in particular, there's a reserve for  
22 special adjustments.

23 When that was set up, there were not clear stand-  
24 ards about how it would be used and Gerry's memo makes clear  
25 that there will not be allocations made out of that fund

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1 calculation-type errors and the like until those standards  
2 have been developed in consultation and brought back. I  
3 would hope that it would be understood that your motion  
4 includes that.

5 With respect to the delivery systems study ex-  
6 penses, there is a statement that there will be a process  
7 prior to a full commitment of certain of the line items  
8 under that budget, as well. I assume, once again, that  
9 that is included.

10 The third point that I would like to make is that  
11 it has been the policy of the Corporation, with respect  
12 to the expenditure of expansion funds, to make grants on a  
13 12-month basis regardless of when they begin and not to  
14 create pots of one time funds by short funding expansion  
15 programs. That is not explicitly mentioned in the motion  
16 but it would be a change in the policy to move away from it.

17 I know there's been some discussion on that ques-  
18 tion and I just want to assure that there's not going to  
19 be change in that policy prior to some kind of Board action  
20 in the future. Those are the only points, I'm sorry to  
21 have taken your time.

22 CHAIRPERSON RODHAM: Next question. Yes ma'am?

23 MS. RICHARDSON: I'm Dorothy Richardson from  
24 Pittsburgh, Pennsylvania. When I first heard Gerry address  
25 the Board he said minor changes. Now I have not read the

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1 memo that the Board got but in the committee there was a  
2 request to discontinue the quality improvement project and  
3 I'm asking for clarification, if that has been done by the  
4 Board motion now?

5 CHAIRPERSON RODHAM: Gerry, do you want to re-  
6 spond to that?

7 MR. SINGSEN: The operating budget that you voted  
8 on is the operating budget for this year and it includes  
9 the funds that were allocated for the quality improvement  
10 project. There is no additional allocation to the quality  
11 improvement project in the modifications; that would  
12 clearly be a change in the policy. And there is no speci-  
13 fic allocation of funds on any new policy basis to carry  
14 out the activities of any of the QUIP grantees past the  
15 time that the QUIP project concludes.

16 MS. RICHARDSON: Okay. Well, the argument at the  
17 committee was that there were certain needs that had to be  
18 met by the quality improvement project, that they shouldn't  
19 be phased out and it was my understanding that we were  
20 going to put it before the Board.

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1 MR. VENEY: Hillary, on several occasions  
2 before this board, your president Dan Bradley has made  
3 the representation that he would bring the QUIP matter  
4 back before this board. My understanding from what  
5 Gary just said is that the matter is not coming back  
6 before the board.

7 The last time that representation was made  
8 was when this board met in Memphis. Dan's report  
9 to you was that the issue of the continuation of the  
10 QUIP programs would be brought back before you. Is  
11 that not to be honored?

12 CHAIRPERSON RODHAM: What is, Steve, where  
13 are you? What is your response to this?

14 MR. ENGELBERG: We discussed that with the  
15 appropriations committee and the basic recommendation  
16 of the staff was that, in effect, as demonstration  
17 programs they had to end.

18 There was no movement of the committee to  
19 bring anything to the board on the QUIP program. My  
20 recollection is, however, and I think it's quite clear,  
21 that the committee basically agreed with the staff  
22 recommendation which was pretty clear and unequivocal,  
23 was it not, Bill?

24 MR. McCALPIN: I thought that they would  
25 come back to the board if there was a proposal to

1 continue them beyond an expiration date, but that  
2 otherwise they would expire.

3 MR. ENGELBERG: I brought up the fact that  
4 several QUIP programs had talked to me about technologi-  
5 cal improvements. I brought that to the attention of  
6 the committee.

7 The staff felt very strongly and recommended  
8 to us at the committee meeting very strongly that any  
9 worthwhile programs would have to be, you know, look  
10 to other corporate funds for continued existence.  
11 Basically, that was the recommendation of the staff  
12 and the committee accepted.

13 MS. SHUMP: Steve, I don't understand. Dan  
14 did say that the matter was coming before the board.  
15 You're saying that your committee did discuss this  
16 and that it was your understanding that unless there was,  
17 or Bill's understanding that unless there was a proposal  
18 for the continuation, that it would not be brought back  
19 to the board?

20 MR. MCCALPIN: I thought there was a lot  
21 of discussion that things which had a termination date  
22 would terminate.

23 MR. TRUDELL: That includes the DSS?

24 MR. ENGELBERG: No, not the DSS. Just QUIP.

25 MR. TRUDELL: I know, but I mean you put them

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1 in the same bag though in terms of, I mean, does the  
2 committee have a recommendation in terms of the  
3 continued funding of the, I mean, it's my understanding  
4 that--

5 MR. ENGELBERG: As I understood the DSS issue  
6 which was not brought to the attention of the committee,  
7 Bradley discussed it with me afterwards, and I assume  
8 it to be that which Howard was alluding to earlier, the  
9 board had funded the approximately \$1 million of DSS  
10 programs on a one-time basis pursuant to Howard's dis-  
11 cussion that we not tie our hands.

12 That's what I was saying to Hillary earlier.  
13 My understanding was that we would have to, or I thought  
14 would have to, deal with that today. That did not come  
15 before our committee. The QUIP did.

16 There were several discussions about the  
17 QUIP programs, about the desire to continue. There was  
18 no proposal before the committee. Bradley made a very  
19 strong recommendation to the committee that, in effect,  
20 we should not get into the issue and we should allow  
21 the programs to terminate. The committee accepted that.

22 MS. SHUMP: But Steve, I mean, but Gerry,  
23 was there any type of a consideration or provision made  
24 for the continuation of a program such as the one in  
25 Philadelphia, or rather, in Pennsylvania, under the

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1 continuing or community education?

2 MR. SINGSEN: There was, what the staff said  
3 was as QUIP, and in terms of our budget, that there was  
4 no request or suggestion that we should modify our budget.  
5 This, of course, is the main concern of the committee  
6 on appropriations and audit.

7 What we also said was that some of the demonstra-  
8 tion activities, many of them, had proved successful.  
9 Some of those that succeeded had completed their work.  
10 Others that had proved successful might very well be the  
11 precursors of activities that we picked up in '81.

12 For example, take technological improvements  
13 in computer-assisted legal research. In our budget  
14 request we asked for \$2.5 million in that area. If  
15 we were to receive \$2.5 million in that area, it's  
16 quite possible that some of the computer-assisted legal  
17 research activities that we learned about through QUIP  
18 would be put into effect in more programs.

19 They might very well be continued in effect  
20 in existing programs that are using those tools out of  
21 QUIP. And the question was raised whether in our current  
22 budget we had any funds for technical assistance or  
23 delivery research that could appropriately be applied.

24 The question of community legal education  
25 and the designed efforts around community legal education

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1 with regard to client's counsel of Pennsylvania, was  
2 also raised as a possibility. The staff is looking at  
3 that in line with the carrying out of its basic  
4 responsibilities throughout the budget. Decisions are  
5 not made on that question.

6 MS. SHUMP: You're telling me that it's not  
7 completely dead then?

8 MR. SINGSEN: No, it is clearly not completely  
9 dead. But we did not view it as an issue for budget  
10 modification; we viewed it as an issue of whether or  
11 not our budget plans made last fall which had money  
12 allocated for functions very similar to the ones the  
13 QUIP grantees were doing out of QUIP money, had room  
14 for carrying forward in particular cases, the efforts  
15 of any of the grantees.

16 We are looking at that internally in the  
17 staff. We don't have answers to that. The answer  
18 may well be "no". I don't want to mislead anyone, but  
19 those questions are being examined because they are  
20 obviously appropriate questions.

21 MS. SHUMP: How soon can we expect an answer  
22 of some type, especially concerning a primary client-  
23 oriented--

24 MR. SINGSEN: We obviously have to reach a  
25 decision in time so that staff, where staff is involved

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1 in activities that are ongoing, where those are all  
2 that's involved, do not lapse where we do not lose  
3 existing operations.

4 I don't have those dates in my mind, but  
5 they're all being worked on right now.

6 MS. SHUMP: Can you give me no type of an  
7 idea?

8 MR. SINGSEN: If somebody is here that can  
9 tell me the deadline date, for example, on client  
10 counsel Pennsylvania, well, I am prepared to say is  
11 that we will reach a decision--

12 MS. SHUMP: June 30th.

13 MR. SINGSEN: We will reach a decision, but  
14 let me just add one other thing. Of course, the QUIP  
15 grantees have been informed consistently that QUIP  
16 was going to run out.

17 There have been no assurances of additional  
18 funding. The question is whether we can change the  
19 signal.

20 MS. SHUMP: Can you call it something else  
21 other than QUIP and continue it, I think this really  
22 is my primary question and concern.

23 CHAIRPERSON RODHAM: We're going to recess  
24 for lunch right now. Before the board members leave  
25 the room, you have to walk by this machine and get

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1 your picture taken. We're having lunch next door.

2 MR. SACKS: Otherwise you don't get lunch?

3 CHAIRPERSON RODHAM: Otherwise you do not  
4 get lunch. What time is it now?

5 MS. ESQUER: Madam Chairman, I have a ques-  
6 tion. Are we going to continue with this discussion  
7 when we get back?

8 CHAIRPERSON RODHAM: Yes. We'll pick up  
9 where we left off. What time is it now? Five after  
10 twelve? Okay, we'll be back, we're having lunch in  
11 the room next door.

12 (Whereupon, at 12:05 p.m. the meeting  
13 recessed.)

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## AFTERNOON SESSION

1:45 p.m.

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CHAIRPERSON RODHAM: The President is still up on the Hill.

MR. McCALPIN: Do we have any reports on the balloting?

CHAIRPERSON RODHAM: No, the only thing we know is that we're supposed to get a vote this afternoon, but they're only 325 members there.

MR. KANTOR: But he did send a message saying "turn off the lights early and don't drink too much coffee."

MR. McCALPIN: I don't know what that means.

CHAIRPERSON RODHAM: When we recessed we were finishing up the matter that had been brought before the audit appropriations committee. I think that as I mentioned to a few people after the meeting, it might be helpful to have one of the committee members clarify the understanding of the committee about the QUIP projects.

If Cecilia or Bill could perhaps explain to the other board members in the audience what the committee's response to that issue was, I think that would help everybody understand better where we are.

MS. ESQUER: I think during the committee meeting, I think what Gerry explained, substantially

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1 happened. The thing is, it might have been helpful  
2 just procedurally for Steve to have reported specifically  
3 on the QUIP project because there was a vote by the  
4 committee on that.

5 There was definite committee action, but the  
6 decision to comply with the QUIP project which as we  
7 understood was a demonstration project with a definite  
8 end, was considered by the committee and it was dis-  
9 cussed.

10 I think there was a unanimous vote by the  
11 committee to just declare that the demonstration  
12 project had come to an end. There was a presentation by,  
13 or a request, from the Pennsylvania group, that we  
14 consider extending their program.

15 I think that, my personal observation at that  
16 committee meeting and still today, is that we seem to  
17 be getting into a process where we talk about things  
18 for 12 months. You know, like starting this pro bono  
19 thing again for 12 months. What we find is that at the  
20 time that programs are funded, or demonstration projects  
21 are funded, everybody knows that it's only supposed to  
22 last 12 months.

23 Then, at the time the 12 months are up, we  
24 keep getting individual requests to extend individual  
25 programs. And from someone who comes from a Western

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1 state where it costs an awful lot to get to Washington,  
2 I feel that this can create some type of an unfair  
3 advantage for people who live close by here and who can  
4 get here to meetings easily.

5 They can lobby a lot easier than people that  
6 are further away and do not have that same ability. But  
7 more than that, I feel that as a board member, I don't  
8 feel that we should be voting on specific projects.

9 We have had the difficulties that I think  
10 Willie Cook pointed out about what can happen when the  
11 board votes on specific projects. And I feel that it's  
12 important that we look at the funding thing in an overall  
13 manner rather than to act on just a specific program.

14 But I think it wouldn't have been helpful  
15 for us to, rather, for this committee to have reported  
16 this thing as an individual matter and that way other  
17 board members could have asked questions.

18 If they had any particular interest in seeing  
19 the QUIP demonstration project extended for a period  
20 of time, I think that this would be the board's  
21 prerogative.

22 MS. SHUMP: I think my question in response  
23 to that would be, did any of the QUIP projects have  
24 the same opportunity given to the DSS study projects  
25 to bid for continued funding?

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1           It's my understanding that we did continue  
2 some of the DSS projects; however, did we allow an  
3 opportunity for any of the QUIP grantees to continue?

4           MR. SINGSEN: There was not in the design  
5 of QUIP any plan to continue any of the QUIP grantees.  
6 There was no process established for all of the QUIP  
7 grantees to be evaluated with regard to continued  
8 funding and in our budget we haven't set money aside  
9 for continued funding.

10          MS. SHUMP: Was there anything set aside  
11 for the continuation of the DSS study projects, or--

12          MR. SINGSEN: We did put into our budget  
13 this year a million dollars to implement the decision  
14 that the board discussed a year ago to extend some of  
15 the DSS projects through this time of the year when the  
16 final report would be in and a decision would be made  
17 about whether to continue the program.

18          MS. SHUMP: But it seems to me that we have  
19 given unfair advantage to the DSS study projects as  
20 opposed to giving the same advantage to the QUIP  
21 grantees.

22                It just seems rather unfair, especially if  
23 once those projects, especially the QUIP projects,  
24 were evaluated, if they proved to be the type that  
25 could be replicated elsewhere, I think that we have

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1 cut them off in effect. Is that correct?

2 MR. SINGSEN: I think the answer is probably  
3 both yes and no. We certainly in setting up the QUIP  
4 project anticipated that they would all come to an  
5 end.

6 We also anticipated, and it's happening,  
7 that we would learn from what they did, whether their  
8 methods, their ideas, would work for programs around  
9 the country in delivery circumstances that were similar.

10 When we established the program we were  
11 looking for a way to learn just that kind of answer.  
12 We weren't looking to establish permanent funding.  
13 We might very well find ourselves taking very many of  
14 the ideas and recommending them to programs, helping  
15 programs use them, without providing funding to do it.

16 The question in the design of QUIP about  
17 replicability was, could a program use the idea having  
18 seen how it worked out in the demonstration, in its  
19 own delivery method?

20 We were not setting up in the QUIP demonstra-  
21 tions any permanent funding trap to pick up particular  
22 experiments that were being tried. Those kinds of  
23 permanent traps come into existence when we make our  
24 budget allocations each fall for the coming year.

25 Certainly we have the question open to us

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1 is whether we want to fund more client or training  
2 activities next year. Whether we want to fund more  
3 technological improvement activities next year.

4 We have been discussing today whether to  
5 establish money to fund more pro bono activities  
6 which is another class of the QUIP demonstration, and  
7 there were other QUIP demonstrations as well.

8 We did not last year establish a funding  
9 track to carry forward what the demonstration projects  
10 were testing.

11 MS. ESQUER: One other thing, I think that  
12 there was some indication that Dan felt that some of  
13 the projects had been very very successful and that  
14 they would be looking to see if there were any other  
15 funds that they could refer programs to.

16 That was one thing that they were going to  
17 work on. The other thing that I think is important  
18 is if you as a board member think that we should extend  
19 the QUIP project I think that you could introduce a  
20 motion to that effect. I think you can do that.

21 MS. SHUMP: I'm sure I can do it. But  
22 whether I can get the support to carry it, of course,  
23 is questionable. Especially in light of the debate  
24 that's already gone forth insofar as the pro bono  
25 issue. But I may just do that as soon as I hear what

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1 anybody else has to say.

2 MS. ESQUER: My personal feeling is what I  
3 said before. It's that we start out demonstration  
4 things and that we really kind of are beginning to  
5 create like an expectancy.

6 We don't really mean that it's going to be  
7 12 months or 18 months or two years. What we really  
8 mean is that it can go on for as long as you keep  
9 coming back personally to this board and ask for  
10 special dispensations.

11 But the same thing holds true for pro bono.

12 MS. SHUMP: Exactly. And that was my main  
13 argument with Steve in December. That there is no  
14 way, that in effect we are saying that it's only  
15 going to be for 12 months. Because next year we will  
16 be faced once again with the same thing probably at a  
17 higher figure.

18 This was my question in December. I don't  
19 know if any of the rest of you have something to say  
20 but I would like to hear it.

21 CHAIRPERSON RODHAM: There's nothing for  
22 us to act on at the moment.

23 MS. SHUMP: I know. Not unless I make a  
24 motion.

25 CHAIRPERSON RODHAM: You can't make a motion

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1 on whether or not to do anything about QUIP because  
2 it wasn't on the agenda for us to do anything about  
3 QUIP, and the committee decided not to do anything  
4 about QUIP.

5 Whether that's something that you agree with  
6 or not, that was the committee's decision. Their  
7 recommendation is that as Cecilia said, the programs  
8 terminate as was originally designed, and if there are  
9 meritorious programs that should continue on their own,  
10 that they continue.

11 The main lesson of QUIP was to be how  
12 other programs could learn from the QUIP grantees.  
13 Bernie, you've been patient trying to say something.

14 MR. VENEY: There is no question in my mind  
15 that this body should not be addressing individual  
16 proposals, individual programs. That is not an issue  
17 for me at all.

18 What is at issue is that in setting up the  
19 premise that if something proved viable and efficacious,  
20 that programs could pick up that activity through their  
21 own funding. That works when we're talking about a  
22 legal services program.

23 It does not work when we're talking about  
24 an individual client effort. There is no annualized  
25 funding to in fact help it pick up.

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1           There just is nothing that allows for the  
2 continuation of something like Pennsylvania client  
3 counsel activity. All the talk that Gerry has had  
4 about some other pot of money, my sense is that anyone  
5 who runs one of the divisions in this corporation feels  
6 that all of their money is in fact allocated.

7           I'm not quite sure what other pot of money  
8 there is. Clearly, the board has never, as far as I  
9 understand, considered the QUIP proposals and the QUIP  
10 projects as to whether they were successful or not,  
11 whether those kinds of activities should in fact be  
12 encouraged in other programs or not.

13           That has been left entirely to the staff  
14 judgment, despite as I thought I understood from Dan,  
15 the fact that he intended to bring that proposal back  
16 before this board.

17           There is just one last point that I want to  
18 make. And that is, that again the QUIP projects were  
19 funded out of investment income. It is by a decision  
20 of this board that you would not generate other invest-  
21 ment income.

22           On motion by Bill McCalpin, it was investigated  
23 so that there could be an alternative to drawing down  
24 all of the money at one time. I don't know whether the  
25 corporation has moved forward on that.

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1 If it has, there has been additional invest-  
2 ment income generated and no one is talking about going  
3 in and tapping appropriated funds. This is simply a  
4 continuation of the investment funds.

5 The point I make again, is that you can talk  
6 about programs picking this up in an annualized budget  
7 if there is an annualized budget to pick it up in.  
8 The Pennsylvania client counsel and other projects under  
9 the QUIP grant did not have that possibility.

10 The board never considered, as far as I know,  
11 a policy decision that said "what will happen if".  
12 Thank you.

13 CHAIRPERSON RODHAM: Thank you, Bernie. Is  
14 there anything else to come before the board from the  
15 audit appropriations committee? Gerry?

16 MR. SINGSEN: There is one business item.  
17 The appointment of the auditor. If I could, I would  
18 like to introduce at least one person. I'm not sure  
19 the other is here at the moment.

20 I mentioned earlier in our budget review process  
21 internally, we have been making a lot of changes and I  
22 wanted to introduce Alfreda Harvey who has been sitting  
23 next to me and who is our current budget analyst.

24 Henry Thompson you may remember from earlier  
25 meetings. Alfreda has taken over his job, but because

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1 of the changes, we're making a lot more than his job was.  
2 She has been doing a magnificent job working with the  
3 staff around the corporation, the directors of the divi-  
4 sions, asking them the questions that have to be asked  
5 even though sometimes they're not the questions that  
6 people want to ask, and getting the answers.

7 Our budget control, very much because of her  
8 work, is far improved. I didn't want to be in a position  
9 of presenting work which is so much the product of her  
10 efforts and skills without acknowledging her.

11 The other person I wanted to introduce is Gail  
12 Francis who you met briefly before, just to say that in  
13 the grants area of our budgeting we have made, I think,  
14 great strides forward through Gail's work in being able  
15 to pin down very accurately and early in the year pre-  
16 cisely where we stand and precisely what we can predict  
17 will happen.

18 Again, I think a major improvement, this one in  
19 the office of field services, over our prior control  
20 procedures.

21 MR. TRUDELL: I move that at the end of the  
22 meeting we appoint Price Waterhouse as the auditor.  
23 That's what you're looking for, right?

24 MR. SINGSEN: We do need such a motion, yes.

25 MR. McCALPIN: Are we to the point of the auditors?

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1 CHAIRPERSON RODHAM: I don't know. I thought  
2 we might be still introducing people.

3 MR. SINGSEN: No, I'm finished with the intro-  
4 ductions. We were having a little committee meeting here.

5 CHAIRPERSON RODHAM: When the committee finishes  
6 its meeting, if it has a recommendation about the auditor.

7 MR. McCALPIN: That is a matter which the com-  
8 mittee did affirmatively take up. They had plenty of  
9 prior notice; there were no surprises. We thought we knew  
10 exactly what we were doing.

11 We think we know exactly what we're recom-  
12 mending today. The recommendation is that we continue  
13 for one more year with Price Waterhouse which has been  
14 the auditor for the corporation.

15 The motion is that in the course of the next year  
16 we will solicit, we will issue invitations to bid, in effect  
17 solicit, proposals from other accounting firms with a view  
18 to, and not excluding Price Waterhouse incidentally.

19 Given a view to reviewing the matter fresh for  
20 next year and making a deliberate determination from among  
21 those who have submitted applications, who shall be the  
22 auditor for the following years. The general feeling was  
23 that this year will represent the fifth year for the reten-  
24 tion of the said auditors.

25 Five years is probably an appropriate period of

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1 time for which to engage a firm of auditors. Shorter than  
2 that you get too much turnover, a lack of familiarity, and  
3 you spend more of the time and money of our staff, bringing  
4 the auditors up to scratch more than is warranted.

5 The audit and appropriation committee recom-  
6 mends, and I so move, that Price Waterhouse be retained as  
7 the auditors for the corporation for the current fiscal  
8 year.

9 CHAIRPERSON RODHAM: Seconded. It's been moved  
10 and seconded that we retain Price Waterhouse for one more  
11 year as the auditors for the corporation. Is there  
12 any discussion?

13 (No response.)

14 If not, all those in favor please signify by  
15 saying "aye".

16 (A chorus of "aye's" in response.)

17 All those opposed?

18 (No response.)

19 MR. McCALPIN: You took the papers back. I don't  
20 remember if that's the last thing I'm supposed to do or not.

21 CHAIRPERSON RODHAM: I think it is. Thank you  
22 very much. Because of Jo Worthy's absence, we've asked  
23 Howard to make the report from the operations committee.

24 MR. SACKS: All right, the operations committee  
25 at its meeting in Boston, considered three or four matters

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1 of some importance and took action on one item that is  
2 required for board action. Let me first take up the non-  
3 action items.

4 I want to do this because these will probably be  
5 action items in the fall, and I hope that you will begin  
6 to think about them. The first of those items has to do  
7 with legislative advocacy by legal service corporation  
8 grantees.

9 As you know, there are restrictions in the act  
10 on advocacy by our recipients. They have to be repre-  
11 senting, with some exceptions, not their own views on  
12 legislation or administrative agency action, but the views  
13 of some client.

14 Dan Bradley, the president, has had some exten-  
15 sive discussions with Congressman Morehead about that.  
16 Congressman Morehead felt that there had been some viola-  
17 tions of that, but Dan says that as far as he can tell,  
18 our programs are in compliance.

19 When they have gone up to some legislative com-  
20 mittee or administrative agency, they have been repre-  
21 senting a client and not their own point of view. None-  
22 theless, the subject is of concern and Congressman Morehead  
23 was thinking about introducing an amendment to the act.

24 The upshot of all this is that the staff has  
25 been asked by our committee to propose additional draft

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1 regulations on legislative advocacy by our recipients  
2 which would not have the effect of depriving them of any  
3 substantive rights, but which are designed rather to  
4 insure that they are complying fully with the restrictions  
5 in the act.

6 Example: We might in a regulation require  
7 that before any act of legislative advocacy takes place  
8 there has to be a document signed by a client authorizing  
9 the particular recipient to represent him, her or it  
10 with regard to a legislative issue.

11 I emphasize that we're not talking about  
12 the restriction programs. We're only talking about  
13 insuring compliance with the restrictions that we have  
14 in our legislation.

15 Nor is it clear that we need a regulation.  
16 Maybe this can be handled administratively. Or maybe  
17 there is no need for it at all. In any event, we are  
18 going to get a report at our meeting in September as to  
19 the need for a regulation, and perhaps a draft regulation.

20 Also, we'll get a report on the kinds of  
21 complaints we've had and what's happened to those  
22 complaints. But I emphasize once again that Dan said,  
23 that based on everything he knows, we have not had any  
24 noncompliance problems.

25 However, people have alleged that some of our

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1 programs are not in compliance with this. But it's  
2 obviously a very sensitive issue, and that's why we're  
3 treating it so very seriously.

4 A second matter has to do with the selection  
5 of recipient boardmembers. Part 1607 of the regulations  
6 states, and it really is ambiguous, as to client board-  
7 members and attorney boardmembers whose programs are  
8 selected.

9 It can be read as authorizing a local board  
10 to select client members to replace existing client  
11 members when vacancies occur, rather than having those  
12 client members selected by somebody outside the board,  
13 such as a client's group or groups.

14 In practice, it is rare, if ever, that a  
15 local board selects its successors either from the  
16 attorney group or the client group. The question then is,  
17 shouldn't we change the regulation so as to make it  
18 reflect what the realities are.

19 There is a lot of sentiment for doing that.  
20 But not unanimous agreement. Beyond that there are some  
21 other problems. There's the whole question of domination.  
22 That is, well, let me see if I can give you an example  
23 of federal regulations.

24 You may have in a given program serving three  
25 countries, two lawyers selected by the bar association

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1 from each of the three counties. That gives you a total  
2 of six members selected by that bar association rather  
3 than by any other bar association. Or by a law school.  
4 Or by any other group that would be authorized to select  
5 lawyers.

6 That raises the question, is that bar associa-  
7 tion really dominating the attorney members on the local  
8 board? It turns out to be a very complicated issue and  
9 we've asked the staff to look into that also.

10 The staff is also proposing a comprehensive  
11 civil rights regulation, they're in the process of  
12 drafting that, which would bring together in one place  
13 all the things we've said about equal opportunity,  
14 affirmative action, both as to employment and as to  
15 the provision of services.

16 In connection with that, Ramona Shump read  
17 a resolution passed by the NCC relating to the enforcement  
18 of civil rights laws by the corporation. The general  
19 counsel's office is going to have a draft regulation  
20 on civil rights, both in the employment area and in the  
21 services area, ready for our consideration within four  
22 months of our May meeting.

23 Let me just say also, Madam Chairman, that I  
24 think another reason for giving this in a little detail,  
25 is that people in the audience who might have a special

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1 interest in this, I think the channel for them at this  
2 point is to deal with Mario Lewis, the general counsel  
3 of the corporation.

4 He's in the process of drafting this all up.  
5 Of course, if any person in the audience wants to  
6 communicate with any member of the committee on this,  
7 that would be fine.

8 I think people know there are three members  
9 of the board on the operations committee: Josephine  
10 Worthy is the chairman, Bob Kutak is a member, and I'm  
11 the third member.

12 For the present, I think your best channel  
13 is to deal with Mario. Mario also presented to the  
14 committee a report on a new system that's been devised  
15 for issuing general counsels' opinions.

16 The important thing about that is that he has  
17 built into that opinion issuance system a process for  
18 automatic review of a lot of general counsels' opinions  
19 that have been issued over the years.

20 We're going to have a chance to take a fresh  
21 look at opinions that have been issued in prior years  
22 to see whether they still meet our needs. Then we dis-  
23 cussed the very noncontroversial subject called "short  
24 funding".

25 This has produced a lot of discussion and

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1 controversy. What happened is this. The general  
2 counsel presented a memo saying that short funding  
3 is legal. I guess maybe I'd better explain that.

4           Supposing you have a local program that's  
5 not in compliance with some important regulation. It  
6 might be affirmative action or something else. The  
7 regional office, in order to insure compliance with that,  
8 may under some circumstances, not renew the grant.

9           I think we have to get the group reaction  
10 on this. It would be renewed not for the full 12 months,  
11 but for three months, or six months, or nine months.  
12 This is called short funding.

13           Of course, it places the local program in  
14 some jeopardy in that in order to get the last three  
15 months of funding, they have got to show compliance with  
16 the regulation that they were found to have been  
17 violating.

18           Short funding has an adverse impact on local  
19 programs. It's bad publicity. It hampers them in  
20 recruiting and retraining personnel. It makes for  
21 bad newspaper stories and the like. So it's something  
22 that has to be used with great caution.

23           We were told by the general counsel's office  
24 that it's legal. We were also told by the general  
25 counsel's office and by field services, that they are

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1 very much aware of the fact that short funding is a  
2 sanction that does have adverse effects on local programs.

3 The staff is going to put into effect certain  
4 procedural protections for local programs before short  
5 funding can be imposed. I won't give you all the details.  
6 But one of the steps is that short funding cannot be  
7 decreed by a regional office but only by Washington..

8 We were assured by Clint Lyons, head of field  
9 services, that in any case of short funding he would  
10 review the matter personally or he would have it reviewed  
11 by his deputy so that we would have the decision to  
12 short fund made at a very high level.

13 Then there was discussion as to whether this  
14 should be put into a regulation so that everybody would  
15 know their rights. We discussed that at some length.  
16 But no decision was reached.

17 It was finally agreed that what would happen  
18 over the next few months was this. Two things.  
19 First of all, the staff would immediately begin to  
20 implement Clint Lyons' program for procedural protections  
21 for recipients so that short funding could not be  
22 proposed in an arbitrary manner.

23 Secondly, the general counsel's office,  
24 presumably in consultation with field services, will  
25 consider the need for a regulation and will come back

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1 to our committee at its September meeting with a  
2 comprehensive recommendation on what to do about this  
3 particular form of sanction.

4 The last item has to do with the corporation's  
5 bylaws. If you will turn to page 13-A in your board  
6 book, I will try to take you through. Where's Mario?  
7 Mario, you'd better come up and sit down because I'm  
8 probably going to stumble.

9 As I understand it, over the years we have  
10 amended the bylaws but we have never published them.  
11 Now, that doesn't mean that they are not effective.  
12 It just means that we ought to publish them, and soon.

13 The general counsel's going to do that. There  
14 are certain bylaw changes which, as I understand it,  
15 before you publish something in the Federal Register  
16 you have to give notice of opportunity for comment,  
17 unless it's purely technical.

18 MR. LEWIS: Yes and no. It all depends on  
19 what it is you're publishing. The bylaws of the corpora-  
20 tion do not come under these specific rules. So that  
21 the board has historically opted for obtaining comment  
22 but is not obligated to.

23 In the specific instance here, the need for  
24 public comment seems inappropriate given that these  
25 are your policies and that you've been operating under

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1 them for the last two years. As to the technical  
2 amendments, again you're not obligated to publish  
3 those for comment.

4 But you have historically chosen to do  
5 so.

6 Given that they are in this specific instance  
7 very technical, and that you're changing the capitaliza-  
8 tion of words for the most part, and there is no sub-  
9 stance of any kind being changed, it would seem again  
10 unnecessary to publish for comment.

11 MR. SACKS: You want to get an example of  
12 what they're proposing as a technical amendment that  
13 doesn't require publication.

14 Look at page 37, and you'll see the only  
15 thing they're doing. They're adding at the end of  
16 that sentence "as amended" to reflect the fact that  
17 the sentence is amended.

18 Also, 2996-29961, I guess you underline the  
19 "one". Maybe that's it. But these are obviously very  
20 unimportant matters.

21 What I should like to do, Madam Chairman,  
22 is to move that the staff be authorized to publish as  
23 final the amendments to the bylaws found on pages 37-42  
24 of the board book, to publish these amendments to the  
25 bylaws as final without securing prior comment.

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1 CHAIRPERSON RODHAM: Is there a second?

2 MR. McCALPIN: Second.

3 CHAIRPERSON RODHAM: Any additional questions  
4 or discussion?

5 MR. SACKS: Back me up a minute. Is there an  
6 obligation to publish these?

7 MR. LEWIS: No, not at all. The reality though  
8 is that you have published your initial set of bylaws in  
9 order for the public to understand what it is that you do,  
10 that is, the nature of your own regulation.

11 Given that you've modified that, it would just  
12 be consistent for the purpose of public clarity that you  
13 publish your amendments as well.

14 CHAIRPERSON RODHAM: Any further questions?

15 (No response.)

16 All those in favor please signify by saying "aye".

17 (A chorus of "aye's".)

18 All those opposed?

19 (No response.)

20 MR. SACKS: So, in summary, all I'm saying is,  
21 members of the board and members of the client community  
22 and the field community, we have some important business  
23 coming up on legislative advocacy and procedures relating  
24 to that.

25 Also, selection of recipient board members, a

32-#5

1 comprehensive civil rights regulation, and short funding.  
2 So if anybody has any ideas or complaints, or problems in  
3 any of those areas, I suggest that you communicate as soon  
4 as possible with Mario, and also, if you choose, with any  
5 member of the committee.

6 CHAIRPERSON RODHAM: The only item that we did  
7 not cover which I had hoped to really await Dan's return  
8 for his guidance, is the matter of the DSS projects.

9 Apparently, there is some question as to what  
10 exactly our status in that is. And I would still like to  
11 continue to wait for Dan if we could. That means that we  
12 are moving on now to the next item on the agenda, which  
13 is the planning for the 80's. Howard's report.

14 There are two documents that should be available  
15 to anyone who has not seen them. Those are the short-term  
16 and long-term plans that Howard has prepared after doing  
17 an extensive amount of work, both in reviewing previous  
18 documents and in talking with interested persons about  
19 the future of the corporation, both within the next three  
20 years and for the next decade.

21 Howard and I have talked briefly about how we  
22 might best handle this in order to try to make some pro-  
23 gress rather than just discuss them interminably and I've  
24 spoken with Dan as well. What I thought we would do is to  
25 spend some time letting Howard describe the long-term

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33-#5 1 goals and objectives for the next decade just briefly. We  
2 are assuming everyone has read these documents.

3 If you have not, then you should do so. Other-  
4 wise we are not going to wait for you. We want everybody  
5 to have done their own homework in order to participate in  
6 the discussion. And then, after a short description,  
7 maybe five or so minutes, moving specifically with that  
8 background in mind as a long-term objective and goal,  
9 into some focus discussion on the next three years.

10 Now clearly if there are disagreements about  
11 what the long-term goals should be, that will shape how  
12 we view what Howard's suggestions are as to how we proceed  
13 in the next three years.

14 If there is some consensus on those long-term  
15 goals, then perhaps the particular recommendations of the  
16 short-term plan can be dealt with in a direct and perhaps  
17 even conclusory fashion this afternoon as to some of them.

18 There are some recommendations, I believe, that  
19 we might even be able to take action on this afternoon if  
20 there is, as I said, a consensus about them.

21 We want to have some background with Howard's  
22 description of the long-term plan, with other board  
23 members contributing their reactions and responses to the  
24 long-term objectives, and then to move into a focus  
25 discussion on the short-term plan.

6-20-80  
Legal  
Tape #6  
F /wub

1 MS. ESQUER: At the last board meeting we were  
2 told that there were three task forces that were under  
3 the direction of some of the senior staff people and that  
4 there have been meetings, you know, over the last year  
5 and that eventually the work of these task forces will  
6 result in some types of recommendations to the board as  
7 to future plans and future funding policies.

8 The only reason that I would like to bring this  
9 up and hope that it really doesn't kind of spoil the  
10 discussion that we're having is that I have some dis-  
11 tressing news about at least one of those task forces.  
12 That task force met the day after the Audit and Appro-  
13 priations committee meeting and I thought I would be  
14 really interested in it because it concerned the census.

15 There's a lot of talk about, you know, what  
16 figures are we going to be using, and what are we going  
17 to base it on? Are we going to change from the census,  
18 you know, what are we going to do? And we will be  
19 receiving recommendations.

20 Well, the distressing news that I have, you  
21 know, for this board is that it seems that the United  
22 States ends at Cleveland, Ohio because the membership  
23 on that task force which is supposed to be looking at  
24 national issues, as far as Legal Services is concerned  
25 is not based broadly, does not have a geographic

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1 representation of either geographically or, like,  
2 interest groups within the legal services community.

3 I have discussed this with Allen who heads  
4 that task force, and really was not satisfied with any  
5 of the responses that he had. It would be interesting  
6 for us to look at the list of the membership in that  
7 task force. As I sat in for half a day in that discussion  
8 some issues that come up west of the Mississippi were  
9 never discussed, at least during that half day, nor in  
10 any of the working papers that I have seen prepared.

11 And what I would like from this board is really  
12 a direction to all of the working groups. I haven't seen  
13 the lists of any of the other working groups, but I  
14 really would like to be assured that we are going to have  
15 the broadest representation geographically, ethnic, you  
16 know, the whole EEO-range.

17 I was just really outraged that that did not  
18 happen with that particular task force. The one thing  
19 that I would like to say is that the work that was pro-  
20 duced individually by the members in that working group  
21 is of very high caliber and is significant and I think  
22 will be very helpful, but I think that the viewpoints  
23 are limited.

24 I think that if field does not like, you know,  
25 board interference in their work, that they are going

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1 to have to do a better job of assuring that there is  
2 broad work and there is really consensus from all over  
3 the country and not just from the eastern section of  
4 this country.

5 Mickey?

6 MR. KANTOR: Just an aside, a footnote (to see).  
7 We've got them eight-to-one sitting around the table  
8 right now, west of the Mississippi. This is a proper  
9 time to raise it.

10 (General Laughter)

11 CHAIRPERSON RODHAM: I think that's a good  
12 point.

13 MR. SINGSEN: Let me just say one thing. The  
14 working groups, all three of them, are jointly set up.  
15 They are part of a task force set up by PAG and the  
16 corporation, together. About half the representatives  
17 are selected out of the field constituency, National  
18 Clients Counsel, and the other half are selected out of  
19 the corporation.

20 And certainly in all three groups, I believe,  
21 in the list, invited to the meetings, asked to come,  
22 encouraged to come, are people west of the Mississippi,  
23 even west of Cleveland. They are not always able to  
24 come and I think distance is a factor in this and  
25 that is a problem. Frankly, the other half of the

1 of the problem is financial. If we took the meeting to  
2 the west coast, then I think we would get broader parti-  
3 cipation, and of course we do that sometimes.

4 In these task forces about half the people  
5 come from the Washington area because we're usually  
6 having senior staff participate in the discussions  
7 about the future and I think that may have contributed  
8 to the problem, which I think Cecilia has properly  
9 identified.

10 MS. ESQUER: Well, I really do have to respond  
11 to that. On the Census task force which is the only  
12 one, as I mentioned before, that I am familiar with and  
13 saw the list of names on it, there was one name that  
14 is west of the Mississippi. And I talked with that  
15 individual and he participated in the first meeting of  
16 the task force.

17 At that time that task force was called the  
18 Census Impact Working Group and the charge that they  
19 had at that particular meeting was to track the work  
20 of the census. That individual was a Native American  
21 and since, you know, Native Americans have a different  
22 setup as far as the reservation goes, he was given an  
23 independent assignment which he felt then did not neces-  
24 sitate his participation in further census meetings  
25 because the job that he was given was to help develop a

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1 separate census questionnaire to be used on the reserva-  
2 tion.

3           The other thing does have to do somewhat with  
4 transportation, but I think it works in reverse than  
5 what Gerry suggests. I think that the transportation  
6 costs are a larger issue when the local programs have  
7 to pay for those costs because their budgets are some-  
8 what more limited.

9           But I think that when you have a project that  
10 is of national scope and that is going to have a long-  
11 term impact and that one of the budget items for that  
12 task force is that the corporation is going to pay for  
13 the travel, I think that the extra cost involved really  
14 should not preclude people from the western part of the  
15 country from participating.

16           And on that particular task force there is only  
17 one name. And there, you know, are a lot of states. I  
18 know Mickey had an important point on the cost variations  
19 study and I also talked with one of the regional di-  
20 rectors, well, with the San Francisco regional director  
21 and apparently he had specifically requested to be in-  
22 cluded in one of those working groups and was not named  
23 to one of the working groups.

24           So, you know, I really didn't want to go into  
25 that type of detail, but I am disappointed with Gerry's

1 response because I really don't know what is going on.  
2 I really think that when the corporation is paying for  
3 transportation that it's not a good enough excuse to say,  
4 "We are only willing to pay for people from Connecticut".

5 In that Census task force thing, I think that  
6 there are even two people from the same program on it.  
7 I just really think that that is not, you know, creating  
8 an appearance of fairness or impartiality.

9 CHAIRPERSON RODHAM: The point is well taken  
10 and I think that it should be responded to.

11 Howard, you?

12 MR. SACKS: I just want to point out too, that  
13 there is a third document that I have circulated to the  
14 members of the board and there are additional copies  
15 over on the table. It is called: What's Not In The  
16 Long- and Short-Range Plans. I was worried that people  
17 might not have enough to read so I gave you a third  
18 document of what was left over after I drafted the plan  
19 up.

20 Items that I ran across that I think are im-  
21 portant ones, but for one reason or another I did not  
22 put them in the plan. One reason is that some of these  
23 issues we are now considering and what I wanted to do is  
24 indicate to you kind of a line between things that we  
25 meet because we have to meet them and things we really

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1 ought to be handling in the prime process. So you might  
2 want to look at that item.

3 So far as the long-range plan is concerned, I  
4 will give you a quick walk through it with one caution-  
5 ary note: some of the examples might seem wrong or inap-  
6 propriate to you; maybe St. Louis field does have an  
7 effective pro bono project, and if so I apologize.

8 But one of my aims was to make the document as  
9 intelligible as possible and to come down from the level  
10 of abstraction so I picked examples. If you think the  
11 examples are wrong, we can always deal with that. The  
12 important thing is whether we think the concepts and  
13 ideas are wrong.

14 I hope we don't get hung up on a discussion  
15 of example or of style. Obviously, there will be an  
16 opportunity for stylistic comments because I don't anti-  
17 cipate that we are going to adopt any of this today.

18 Alright. The goals of the corporation, the  
19 top of Page 2. Let me see, I think what I am also going  
20 to do is I am going to comment on those issues which,  
21 in my judgement, are the most difficult ones, the ones  
22 that I think we probably ought to focus on.

23 The top of Page 2: The Goals of the Corpora-  
24 tion. The first goal, insure the high quality of legal  
25 assistance [Interruption]. The second goal, maximizing

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1 impact; and the third goal, using legal services to as-  
2 sist the poor in creating and utilizing the economic op-  
3 portunities to escape from poverty. There may be some  
4 discussion about that second and third goal.

5 Although the ultimate goal I am suggesting is  
6 to provide legal services to all who need them, that is  
7 a very, very long-range goal so far as 1990 is concerned.  
8 I think that we ought to focus on meeting what I call the  
9 critical legal needs of the poor which I have attempted  
10 to define on Page 4 of the plan.

11 Page 5, on securing the resources necessary to  
12 meet the critical legal needs of the poor, has a couple  
13 of ideas in there that you might want to focus on. One  
14 is that the corporation doesn't seek a monopoly. The  
15 corporation sees itself as the leader of the movement to  
16 get resources necessary to meet critical legal needs; but  
17 that we recognize there are going to be other agencies  
18 involved and our job is to try to mobilize all the  
19 agencies toward the achievement of this task.

20 At the bottom of the page, I have covered in  
21 four sentences a very complex issue of whether or not  
22 we want to ask Congress for funds for the poor, period;  
23 or whether or not we also want to ask Congress for funds  
24 for particular groups of the poor such as the handicapped  
25 or other groups.

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1           There are arguments for and arguments against  
2 either approach and I think we ought to spend some time  
3 thinking about that approach. On allocating the re-  
4 sources once we get them in order to meet critical legal  
5 needs, that is on Pages 6 through 9.

6           That, in my judgement, is going to be the most  
7 difficult part of this plan to implement because although  
8 I have put those in order of priority, with, just to in-  
9 dicate controversy where controversy might exist. I  
10 think our third priority, high on the list, is to have a  
11 funding formula that will create sufficient incentives  
12 to performance so as to maximize benefit to poor people.

13           Then on a delivery system. That is on Pages  
14 9 and 10. All kinds of issues are discussed there,  
15 including greater involvement of the private bar.  
16 Finding the appropriate balance between lawyers and non-  
17 lawyers.

18           Our relationship to non-legal advocacy on Page  
19 11, that is, a cooperation with groups of poor people and  
20 others who are not using our services in a joint effort  
21 to accomplish common goals.

22           On Page 12 on non-advocacy services, where I  
23 touch on important matters like the training of lay  
24 advocates and the training of clients to represent them-  
25 selves. Pro se advocacy and the need to know how much of

1 our resources ought to be put into those efforts.

2 Quality I won't say much about except just to  
3 indicate that one of the most difficult problems we are  
4 having and will continue to have at least for a few  
5 years is developing objective quality standards. That is  
6 something that we are going to have to spend a lot of  
7 time and attention on.

8 At the bottom of 14, improving client-staff re-  
9 lationships. Raising the question of whether lawyers  
10 in the field are sometimes unduly paternalistic in making  
11 too many decisions for clients. There might not be much  
12 disagreement about what I have there, but it might turn  
13 out to be difficult to shape attitudes on the part of our  
14 staffs toward that end.

15 On recruiting and retaining personnel, on Pages  
16 15 and 16. What I have tried to do is, with the aid of  
17 corporation staff, identify some of the central issues in  
18 that area and to make some suggestions for dealing with  
19 them.

20 Item 17, trying to eliminate restrictions in  
21 the act. I put it as a long-term goal because I think  
22 it is something we are not likely to see happen over the  
23 short-term.

24 On Page 17, Section H, on decision-making;  
25 amounts to a ratification and a confirmation of what may

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1 be a unique feature of the legal services movement, and  
2 that is that we have a lot of participation by persons  
3 who are affected, including both clients and staff, in  
4 that we are less authoritarian than some other agencies,  
5 and in that I have dealt with the problem of the role of  
6 poor people at the local level.

7           Indeed, on client participation, I think there  
8 are nine places in these documents where that item is  
9 dealt with; each in its individual way because I think  
10 that the problem of client involvement and client parti-  
11 cipation is not one problem but several problems.

12           I have tried to deal with each one of those  
13 separately so that we do not get lost in what can often  
14 turn out to be just talk. Instead, I have tried to focus  
15 the discussion on specific problems and as far as I could,  
16 specific ideas to help deal with those problems.

17           Page 20, making the dollars go further. I am  
18 really coming, there, back to the idea of goals; the  
19 importance of impact work and the importance of helping  
20 clients pull themselves out of poverty. I have given a  
21 number of examples because I want to be sure that we are  
22 understood as to what we are talking about.

23           Once again, that may prove to be a subject of  
24 some controversy. To put it quite specifically, if you  
25 adopt Section I, you will not be maintaining necessarily

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1 a low profile, at least with impact work. On helping the  
2 poor escape poverty, I think that's probably less con-  
3 troversial, although it is a little more novel. It is  
4 something that we have not emphasized.

5 Passing on to Section J, the use of regulation  
6 as a tool for achieving corporation goals, Page 24.

7 What is being said there is that the corporation is not  
8 a check writing machine. The corporation has policies  
9 that are laid down in the act; the policies that it  
10 adopts.

11 If it adopts this plan, there may be some addi-  
12 tional policies such as emphasizing certain goals like  
13 impact and helping poor people achieve or work their way  
14 out of poverty.

15 And, that the corporation has to have tools to  
16 implement these policies. The basic tool that it has  
17 had, of course, is funding. Defunding, special condi-  
18 tions, short funding, and it may even be that in the long-  
19 term we will need to have additional regulatory devices.

20 What those devices will be and whether or not  
21 they can be achieved, whether they are necessary, I don't  
22 know. All I am saying is that we have to think about  
23 the use of regulation as a tool for achieving corporation  
24 goals.

25 Incidentally, I should add something. I think

1 that everybody on the board understands this, but the  
2 audience ought to understand it. These ideas are not  
3 my ideas. I mean, this represents a distillation of the  
4 wisdom of the thirty-odd people mentioned in the trans-  
5 mittal letter, plus the hundreds and thousands of other  
6 people whose names I never knew and whom I've never met,  
7 but who participated in the next steps process and in  
8 other processes and who have been on staff and board,  
9 who have been in the community.

10 What I tried to do is: to put together in a  
11 coherent form the wisdom that those persons have brought  
12 forward for dealing with our long-term objectives.

13 Alright, K on 25, reducing the load on the  
14 legal system. Sympathetic but critical support to ef-  
15 forts to use alternative forms of dispute resolution  
16 which will lessen the need for professional legal ser-  
17 vices.

18 And then last but far from least, on Page 26,  
19 dealing with the aging process. What can we do to make  
20 sure we do not turn into another insensitive, creaking,  
21 slow-moving bureaucracy. I have made a couple of sug-  
22 gestions, including a fixed percentage of the budget for  
23 research and development.

24 Thank you.

25 CHAIRPERSON RODHAM: Thank you for doing that.

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1 Are there any substantive comments or reactions to the  
2 long-range plan that we might get into before we start  
3 focusing on the short-range?

4 MR. SACKS: I guess for my own sense of organi-  
5 zation, I would like to, if we could Howard and maybe we  
6 can, divide the long-range goals into goals and strate-  
7 gies. There is a little bit of mixture there; they are  
8 somewhat different, obviously.

9 I am not sure what disagreement there is,  
10 certainly I would agree that we should maximize the im-  
11 pact of legal services activities on the condition and  
12 situation of the poor.

13 I think that that might be more of a strategy,  
14 maximizing impact, and that goes to quality, and it goes  
15 to priorities and recurring patterns of problems and so  
16 on. But it fits within number 3 on Page 2 where you say:  
17 use legal services to assist the poor in creating and  
18 utilizing economic opportunities to escape poverty. That  
19 is broader and it might fit under that.

20 I am not trying to be too bureaucratic, but I  
21 am just trying in my own mind to fix this out as to  
22 make it as simple as possible. I think what is important  
23 is we understand it so if we do come to an agreement, we  
24 can really implement it rather than it just being another  
25 piece of paper that we have sat around and talked about.

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1 I certainly agree with high quality legal as-  
2 sistance to all who need it. I think the problem with  
3 that and we can talk about it, I would raise the issue,  
4 the word: all (Interruption) yeah, I know, I know, you're  
5 not taking a position. I think we need to talk about,  
6 I think that both from a realistic point of view and  
7 from, on my part, a philosophic point of view; we ought  
8 to concentrate on the poor.

9 What we define as the poor, I think there are  
10 many different modes being developed now, legal clinics  
11 and prepaid legal plans in insurance and so on that may  
12 not address effectively a group that badly needs repre-  
13 sentation, the lower-middle class; but, at least it's  
14 happening and we, even by 1990 or the year 2000, are never  
15 going to see the kind of resources that, no matter how  
16 efficient we are, in addressing those problems.

17 I would also submit, and it's strictly my  
18 opinion now, that the problems are quite different,  
19 frankly. I think you would really get into a hornet's  
20 nest trying to, in some ways, coalesce the problems of  
21 the lower-middle class and the poor, at least the way I  
22 view it.

23 What I would say is, in terms of goals, the two  
24 broad goals of high quality legal assistance provided to  
25 those eligible for our services, or otherwise cannot

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1 afford legal assistance and second, the use of legal ser-  
2 vices to assist our clients in creating and utilizing  
3 economic opportunities to escape poverty.

4 I would add a third of, I have always, and this  
5 is strictly now, we are in the area of opinions now, and  
6 I am just speaking personally for myself. This program  
7 at its best is not what legal aid was and that is its  
8 great difference. It has always seen itself philoso-  
9 phically at its best as a general counsel to the poor and  
10 that makes a big difference in how you handle your pro-  
11 grams and how you look at your client community.

12 It is one thing to open your door and say you  
13 are just a normal lawyer practicing normal law; waiting  
14 for the client to walk in the door. That means you do  
15 not set priorities. That means you don't identify with  
16 current patterns of problems. That means you don't work  
17 on economic assistance programs. You don't work on com-  
18 munity development corporations. You don't get any of  
19 that because you sit, you wait for that first client to  
20 walk in.

21 Once you view yourself as a general counsel to  
22 the poor in that community, as part of a program where  
23 the board is representative of the people you are serving,  
24 then, you see, you began to identify all these problems  
25 that a general counsel in a corporation or a general

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1 counsel of a labor union would identify. You have this  
2 whole panoply of problems in occurring patterns and I  
3 would hope that somehow we can define that strategy  
4 because it is awfully important, at least from my experi-  
5 ence as a legal services lawyer.

6 I always felt that the difference between the  
7 programs that seemed to use their resources most wisely  
8 and get the greatest impact, viewed themselves as that,  
9 and those who didn't, continued to just let the door  
10 stay open and people walk in on a case-by-case basis and  
11 never saw the forest out there.

12 That has nothing to do with law. I don't want  
13 to get into this thing about law firms versus non-law  
14 firms, it is just basically being priorities and effi-  
15 ciency and identifying those patterns of problems.

16 I would hope that we could: one, set up goals,  
17 and then talk about long-term strategy and then get down  
18 with your tactics, but those which are really impor-  
19 tant, which are concrete; how in the next three years  
20 to implement to start moving towards those strategies  
21 and goals.

22 CHAIRPERSON RODHAM: Bob?

23 MR. KUTAK: Howard, I am very impressed with  
24 and, indeed, I guess I should really say, excited by this  
25 document. I think I would like, just as an immediate

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1 reaction, tell you that I am envious that I didn't do it,  
2 we are proud that somebody in our ranks did, and that I  
3 think it is one of the most important pieces of paper  
4 which we have had before us since I have been on this  
5 board.

6 It is so good in so many respects that I am in  
7 a curious position of seeming to appear shortsighted in  
8 making some comments and not just saying: let's go with  
9 it. I would like to take a few minutes to walk through  
10 what you have walked through and give you some thoughts  
11 which I had in connection with it.

12 In looking at the expressed goals, I did have  
13 a considerable difficulty, perhaps because I couldn't  
14 perceive them in a way that Mickey has characterized  
15 them, but it's a difficulty in really distinguishing  
16 between goals 2 and 3.

17 I realize there is a distinction and it is  
18 essential, but it is terribly subtle and I wonder whether  
19 or not in our efforts there isn't a way to bring them  
20 together.

21 But still to add a third, not that I neces-  
22 sarily think in terms of the trinity, but that there is  
23 a third that does come to my mind that might really be  
24 a goal for the corporation and I pick up, really, from  
25 the general counsel for the poor theme of Mickey's, and

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1 that is a goal of organizing or developing the ways and  
2 means of utilizing the resources and experiences of the  
3 corporation to leverage, if you will, or to facilitate  
4 the bars' and others' efforts to provide legal services.  
5 That what we should be is, not only a provider, but a  
6 stimulator, a leverager, if you will.

7 In other words I guess, to not only be a person  
8 or an entity that itself is doing and is itself com-  
9 municating, but is also serving as a catalytic agent,  
10 if you will, for others to do whether they are, as you  
11 point out in your draft, on a federal, state, local or,  
12 indeed, private level.

13 But I think this is a very important goal of  
14 ours because as you make it very clear, the task is too  
15 large for any single entity and yet it needs an inte-  
16 grating and coordinating body so there is, so to speak,  
17 a drum beat that all can march to and at least be guided  
18 by.

19 I think this function is perhaps almost unique  
20 in our capacity, in our operation, and I throw that out  
21 as perhaps one goal. Let me, as I move on to the speci-  
22 fices of your long-range plan, quickly pass over, because  
23 as I say, there is so much in what you have said, that  
24 I am only going to pause on things that I particularly  
25 stopped at myself.

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1 I continue moving really until I get to 'G',  
2 that is, restrictions on activities. I think our goal  
3 here, if you will, or our plan here, if you will, in  
4 struggling to lift restrictions on the act that deprived  
5 clients of services is not only to be perceived of in my  
6 mind as now hampering the rendition of legal services,  
7 but really, if you will, almost denying the lawyer the  
8 functions he or she has under the code of professional  
9 responsibility.

10 We not only poorly serve clients, but we don't  
11 even permit good lawyering. I think that one section,  
12 which curiously is probably the briefest in all of your  
13 sections, may need some amplification because in the act  
14 itself we subscribe to the various central notion that  
15 all work must be done consistent with the code of pro-  
16 fessional responsibility.

17 That code of effective representation doesn't  
18 tie the hands of lawyers in any way, and yet we have,  
19 in many ways, are tying the hands of lawyers by the  
20 amendments that have been, or the limitations that have  
21 been imposed. I think that might be developed in some  
22 fashion.

23 Moving quickly on because I don't mean to take  
24 up much to the board in this opening remark, I curiously  
25 stumble on 'J', Page 24. Maybe it's my orientation as

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1 a drafter of regulations, but I thought this was a curious  
2 provision. It was the only one that, if I could delete  
3 it I would. Almost all together or at least trim it  
4 around some way because I sense, as you have heard me say  
5 perhaps to your impatience and frustration at our com-  
6 munity meeting last week, I sense a temptation on the part  
7 of our board, certainly on the part of our corporation,  
8 to begin to put paper between problems and people.

9 That it seems to us that the temptation is to  
10 write another regulation, to develop another set of  
11 guidelines, to think in terms of a bureaucracy or a large  
12 government organization, rather than a working profes-  
13 sional group. Maybe what we really should do, or at  
14 least do equally as well, is to call for evaluation of  
15 all of the paper we have printed and circulated.

16 I clearly felt a yearning listening to the  
17 tenor of our conversations at that meeting last week in  
18 Boston, that we have had those regulations out for five  
19 years, maybe we should step back and re-evaluate them.  
20 Are they really fitting and proper? Do they really serve  
21 the experiences and the practical day-by-day-like kind  
22 of our problems?

23 We wrote them in a vacuum. We wrote them kind  
24 of on a clean slate. To be sure, we had terrific input  
25 from the field, but that was five years ago. We were

1 young and we were eager and maybe we thought we could  
2 find the right words and phrases that would have worked  
3 our way through the problems that we were facing.

4 We have never gone back and examined that paper  
5 and wondered whether or not it's even appropriate, much  
6 less needed as much as we have. So I would at least say,  
7 rather than simply looking at ways to continue to use  
8 regulations, it may well be ways to get away from regula-  
9 tions and rules and guidelines so that we don't stifle,  
10 inadvertently, initiative and imagination in trying to  
11 come up with things.

12 Now that doesn't mean that I denigrate or  
13 desparage the use of regulations, general counsels'  
14 opinions or any kind of efforts to be consistent and  
15 uniform; but at least I throw that out as a danger.

16 I couldn't say too much about the comments on  
17 Page 26 and that is Section L, on maintaining the corpora-  
18 tion as a vital and responsible institution. I think if  
19 we said nothing else, that would be enough. What I  
20 hear you all saying is something I think we really should  
21 do and what I understand law schools do and that is a  
22 self-evaluation.

23 We require it from others. Maybe we should re-  
24 quire it of ourselves. We should not only search for  
25 ideas but maybe we should re-examine that which we have

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1 already adopted to see if they continue to be germane  
2 and relevant and, indeed, even valid; and so I really  
3 stress that. I stopped there because that is the end of  
4 your long-range plans. But, I could only tempt us with  
5 the next section by perhaps having it stopped with a  
6 quotation from one who I am going to have to resort to,  
7 Bartlett, to find again, but it almost should start out  
8 with: that the future is not what it used to be.

9 I really think that that could be the hallmark  
10 of this report because the future isn't what it used to  
11 be and you have done a great deal to help us realize  
12 that.

13 But, let me say I think your job is a profes-  
14 sional job, Howard. It is a perscacious job and,  
15 certainly, a far-seeing set of proposals. I suggest that  
16 it is not only timely but refreshingly so. Whether we  
17 buy any of these suggestions or others that are going to  
18 be thrown on the table; I hope this plan be adopted be-  
19 cause I think your proposals are needed.

20 CHAIRPERSON RODHAM: Revius?

21 MR. ORTIQUE: I don't want to get into any  
22 specifics because I am sure that before we finish this  
23 we will get into the specifics, but I do want to say a  
24 couple of things about the paper, three things I guess.  
25 One, of course, is to echo all of the kind things that

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1 were said in particular by the others with reference to  
2 the job that Howard did and I think I told him that this  
3 morning earlier, how I felt, so forth.

4 But I think it is most important for us to  
5 underscore the statement that Mickey passed over hardly  
6 and I will only bring it back because I am afraid that  
7 someone may have missed it and that is that this corpora-  
8 is created for the poor.

9 Not for the middle-class folks and it is not  
10 for the rich. It is for the poor and that has got  
11 to be our number one goal, sight, whatever, now. In  
12 thinking in those terms, I got a little bit concerned  
13 that far too frequently we think of the legal services  
14 program as being the cure-all for all of the problems  
15 that the poor have and I don't think that that is what  
16 it was designed for. I don't think it is capable of  
17 being that.

18 We, no matter how much money we get in legal  
19 services, no matter how efficient we get, we cannot be  
20 the means by which the poor escape from that category  
21 as being poor. I think that the justice system is just  
22 one institution that the poeple of this country and the  
23 people of the world rely on to improve their status and  
24 to compete.

25 I think that we have got to be realistic in

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1 that we have got to understand that improving the justice  
2 system or making the justice system amenable to and  
3 available to the aspirations of poor people is just one  
4 piece of the total pie.

5 That is not to denigrate the role that we have  
6 to play, and certainly it is a very important piece of  
7 the pie. We have got to keep our attention focused on:  
8 how can the poor exercise its powers, whatever powers  
9 they are, in keeping with the assistance that the corpora-  
10 tion can give to them because, then, I think you come  
11 down to the real long-range goals, when you assist them  
12 in utilizing whatever advantages we are able to give  
13 them rather than feeling that we are the answer for them,  
14 you see.

15 And it is something that I would like us to  
16 keep in the forefront.

17 MR. SACKS: Revius, would you please, once  
18 more, your last sentence?

19  
20 MR. ORTIQUE: It is really the point that this  
21 institution is, in my view, a facilitator, if you please,  
22 for the poor to make it possible, along with all the  
23 rest of society, to move forward really; but, that we  
24 are not the answer to their problems, you see.

25 I think that, I guess I need to stop there

1 because I do want to place some emphasis on some things  
2 that are said about the short-range goals; except to say  
3 that we should not allow an overview, or long-range  
4 philosophy to cause us to neglect the opportunities  
5 that the immediate future holds.

6 That is that, despite all the limitations that  
7 we recognize that we have now, and there are certain  
8 happening out there in society that we have got to  
9 quickly take advantage of and one of the things I don't  
10 hear mentioned, although I hear dispute resolution  
11 being addressed as a practical matter, I think of the  
12 small claims courts which were designed and are growing  
13 around the country where it is said people are not there  
14 with lawyers.

15 Our small claims court, as feeble as the at-  
16 tempts are, no one expects, if someone walked in with a  
17 lawyer, you would probably feel very much out of place.  
18 A small claims court is designed to assist people in  
19 bringing their problems before that person who is not  
20 elected, he is just, the Bar Association and the Supreme  
21 Court got together and said, alright, you are the referee  
22 in the small claims court.

23 And the clerk of court provides them with a  
24 form that you fill in the blank spaces and you pay \$1  
25 and you are before the court and you argue your case,

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1 whether you are using case law, or common sense, or  
2 whatever, you are able to attempt to resolve your prob-  
3 lem and if that referee or the person who is sitting  
4 doesn't satisfy you, you can go to the more formal  
5 courts de novo.

6 But it seems to be working quite well and I  
7 think that we have got to quickly move into whatever  
8 mechanisms are available locally and get our corporation  
9 attuned to that type of change that is taking place,  
10 immediately.

11 So, I don't want us to become philosophers over  
12 this. There is one other point that I missed and I  
13 should back track. That is that even though we want to  
14 get away from the past, we have got to have some appre-  
15 ciation, and Bill and I were talking about this last  
16 night, and Bob too; we've got to have some appreciation  
17 for the mechanics of the system as it presently exists.

18 We are not going to make it over overnight and  
19 poor people, unfortunately, and I say unfortunately have  
20 to live with that historical system that is there and we  
21 would be very unwise not to take note of it and use  
22 whatever parts or portions of it that are good for what  
23 we are trying to do and to earnestly attempt to decide  
24 which portions should be left for history and not for  
25 our purposes.

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1 CHAIRPERSON RODHAM: We did not get a vote this  
2 afternoon on the Hill. They, after setting our vote for  
3 three o'clock, adjourned until two-thirty. So we will  
4 be back again next week to try again.

5 As I understand it, nothing was voted on per-  
6 taining to our appropriation bill.

7 Dan, did we have any votes at all this afternoon?

8 PRESIDENT BRADLEY: Did we?

9 CHAIRPERSON RODHAM: Yes.

10 PRESIDENT BRADLEY: No, we had no votes on our  
11 bill. We had a vote on where they should put the Embassy  
12 of Israel and that is what consumed most of the, I mean,  
13 the American Embassy, but they just adjourned. They are  
14 going to leave it in Tel Aviv instead of New York.

15 (Interruption)

16 PRESIDENT BRADLEY: The debate was Miami, Tel  
17 Aviv or Jerusalem.

18 (General Laughter)

19 CHAIRPERSON RODHAM: Miami? Tel Aviv?

20 So we'll be back Tuesday?

21 PRESIDENT BRADLEY: We'll be back to that then.

22 CHAIRPERSON: Why don't we turn now to the short-  
23 range plans unless anybody else has some comments.

24 Cecilia?

25

1  
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1 MS. ESQUER: This plan, we talked about, you  
2 know, reviewing where we've been and what recommendations  
3 we've received for the future, I had some time to look at  
4 a couple of documents.

5 I looked at the discussion papers for the next  
6 step's process and it was really interesting to see what  
7 types of initiatives were suggested in those discussion  
8 papers and what types of issues were presented and it was  
9 really gratifying to see that we have made larger strides  
10 than I had thought to accomplishing some of the things  
11 that were suggested in the next step's process.

12 There were suggestions of things like improving  
13 the monitoring and evaluation efforts, you know, by the  
14 corporation, and in assisting programs to improve in the  
15 quality of services that are delivered and some of the  
16 specific things that were discussed are actually in pro-  
17 cess today.

18 I thought it was exciting to see that type of  
19 progress.

20 One of the things that I had forgotten that I  
21 had read in the next step discussion papers, I thought  
22 was something we should have done a long time ago and I  
23 would like to bring it back up and include it, suggest  
24 it as an inclusion in the long range goals for the  
25 corporation.

2 1 I think it would probably fit under 2 but kind  
2 of should be set out.

3 There was one section that dedicated itself to  
4 client involvement and what the role of clients within a  
5 corporation was and the conclusion of that particular  
6 discussion group and the people who put the paper together,  
7 I think is one that I would like to offer as an addition  
8 here.

9 That is that we should increase the participation  
10 of clients in the delivery of legal services. I feel that  
11 all of the other comments, which I totally agree with,  
12 Howard, and I think are excellent points, talk to increas-  
13 ing and assisting the clients in making decisions about  
14 the type of legal services that are delivered, but I  
15 would hope that long-range-wise that we could go one step  
16 further and see what we could do as far as how we increase  
17 the participation of clients in the delivery mechanism  
18 itself.

19 MR. SACKS: You're talking about pro se  
20 advocacy?

21 MS. ESQUER: Right. You could really bring it in  
22 as a longer range goal. I know you do mention pro se  
23 advocacy but I think that particular discussion paper is  
24 one that is very well put together and would really be  
25 worth our while to represent because I really think that of

1 all of the issues that were discussed I think that is the  
2 one issue that has received the least amount of attention.

3 MR. SACKS: Could you identify that for me?  
4 I'm not sure --

5 MS. ESQUER: It's in the next step's thing.

6 MR. SACKS: Not this minute but when you get back  
7 would you send me a cite and I will read it and then I'll  
8 be in a position to deal with your suggestion.

9 MS. ESQUER: Okay.

10 MR. ENGELBERG: Howard, first of all I want to  
11 thank you, like everyone else has done, for the enormous  
12 amount of good work you've done.

13 I know that you put out that sheet this morning,  
14 which is very helpful, about what you did not try or  
15 weren't able to do.

16 MR. SACKS: It's not that I wasn't able but what  
17 I deliberately decided not to do.

18 MR. ENGELBERG: Okay. Going. And this would be  
19 a question both for the long range plan and the short range  
20 plan, I guess it has to do with where we go from here in  
21 terms of the process, my feeling was that we had to come  
22 to grips with some sort of, let me ask you this.

23 You're not suggesting that we ignore at some point  
24 some sort of funding strategy both in the long run strategy  
25 and particularly in the short run strategy?

4  
1 I thought that one of the purposes of this whole  
2 exercise was to give a philosophical base to, ultimately  
3 toward a funding rationale so that when we do future  
4 budget messages that we could do that, and I guess my  
5 question is, how do we? I mean I don't have any great  
6 answers.

7 MR. SACKS: The long range plan, I have gone as  
8 far as I think the knowledge will carry us. In the short  
9 range plan, I am suggesting a point of view, a position,  
10 that is bound to be controversial. I've not put any  
11 numbers in it but I've taken a position that can be debated  
12 and there're some other details in there.

13 But's that's all I can say. Maybe some other  
14 people can carry it further. But at least in the long  
15 range plan, I've gone as far as the knowledge base, I think,  
16 permits.

17 CHAIRPERSON RODHAM: Steve, do you want to  
18 respond to that?

19 MR. ENGELBERG: Maybe I sort of misunderstood.  
20 Well, that's all right, let's let the discussion  
21 go on.

22 CHAIRPERSON RODHAM: Any other points on the  
23 long range plan before we look at the short range?

24 I think that really we need to look at the  
25 short range because some of what Howard suggested there

5  
1 will, I think, move our discussion along better than if we  
2 continue to talk about the long range plan and generalities

3 Howard, do you want to.

4 MR. SACKS: Let me just say one thing about the  
5 long range plan.

6 The long range plan can be dealt with as a piece  
7 of rhetoric or it can be dealt with as a document that  
8 constrains decisions by the board and other elements of  
9 the corporation.

10 If you adopt a long range plan, I hope you will  
11 treat it, not as a piece of rhetoric, but as something  
12 that really will influence the decisions we make.

13 Let me just point out a few examples. If you  
14 really want to emphasize impact work, that means we have  
15 to be prepared to take a certain amount of heat. There is  
16 going to be a program in Butte, Montana that's going to  
17 alienate local people and we're going to hear about it.

18 Or, similarly, if you want to emphasize impact  
19 work, that means that when you fund new programs, you will  
20 have to think very seriously about staff components of  
21 those programs, because the DSS study indicates that  
22 staff elements of programs do a great deal of the impact  
23 work.

24 Or, to take another example, if you are going  
25 to, if you really think that incentive funding should have

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6  
1 a high priority, that's going to mean that some programs  
2 are going to get more money than other programs.

3 Or, to take one final example, if we're really  
4 serious about preventing the bureaucratization of the  
5 corporation and we think that putting aside a certain  
6 amount of money for research and development is a good  
7 idea, and you think about two percent, that's \$6 million.

8 That's a lot of money.

9 You may disagree. Some people may say three  
10 percent, some people one percent.

11 But, if you adopt a long range plan, I trust  
12 and hope that that's going to be a commitment that will  
13 bind us to do some of these things. Otherwise, I think  
14 it's really been a useless effort.

15 So, all I'm really saying is that whether you  
16 agree with the plan or disagree with it, I hope that you  
17 will treat it seriously.

18 MR. MCCALPIN: Howard, you've just caused me  
19 to speak. I hadn't intended to. But if you're telling  
20 me that a vote for this commits me to \$6 million for a  
21 year for research and development, the vote is "no."

22 MR. SACKS: That's what I was hoping to flush  
23 out.

24 MR. MCCALPIN: Well, you did. I don't have  
25 any problem with it in an aspirational sense. But I do not

7 1 view this as a firm commitment to a specific number.

2 I understand the importance of not becoming a  
3 bureaucracy. I understand the importance of research and  
4 development. I think that our needs in that respect may  
5 fluctuate from time to time and that at some time two  
6 percent may not be enough and at another time it may be  
7 way too much.

8 I did not regard this as committing me to a  
9 specific course of action. I regarded it as a group of  
10 principles which we ought to consider in making decisions  
11 but not in a strictly binding sense.

12 MR. KANTOR: I've got another comment. I was  
13 lost somewhere along the way. I think it was when  
14 Engelberg walked in.

15 I don't know. Maybe it wasn't when you walked  
16 in, Steve.

17 Seriously, if you're going about long range  
18 plans, you know, strategy is one thing, goals are another.  
19 I don't think there is any doubt about goals around the  
20 table. I think we're all saying about the same thing.  
21 Maybe we could start and all agree to that and do with  
22 it. If the Chair wants to vote, vote, and if it's a  
23 consensus go ahead and then let's talk about long range  
24 strategies. I'm not so sure that we're going to have the  
25 same unanimity of long range strategy.

8  
1           Maybe so. But I'm certain that once you get  
2 your strategies and tactics on short range we're going to  
3 have a lot of disagreements.

4           I hope as we do along -- I don't think we're going  
5 to be able to say, you know, here's the package and we've  
6 adopted it, and so on.

7           Can we start with goals and make sure everyone  
8 agrees where we are and where we want to be?

9           CHAIRPERSON RODHAM: I have no argument with  
10 that at all but I thought it might be useful, since  
11 Howard put this together and obviously his short range  
12 plans rest on his long range goals, I thought it would  
13 be useful for him to briefly describe what he saw as the  
14 short range so that we would have that also.

15           MR. KANTOR: What I'm saying is that I think that it  
16 in some ways adversely affects our view of what the long  
17 range, what the goal is.

18           I think at least if we can start with agreement  
19 on the goals and then on the strategy it makes it a lot  
20 easier to discuss, I don't know, maybe you disagree, a  
21 lot easier to discuss the short run.

22           MR. ORTIQUE: While we're trying to set up a  
23 modus operandi here, I would like very much before we  
24 even decide on goals that we would have reactions from  
25 staff, for example, to both of these documents, reactions

9 1 from the field, to both of these documents. I really  
2 think we ought to have that in our possession before  
3 we adopt anything.

4 MR. SACKS: I'm not construing silence here as  
5 acceptance. All I'm saying is, I hope, that I hope the  
6 document will be treated seriously as in some way a  
7 constrainer of decisions, whichever decisions you decide  
8 to make.

9 But for the moment, if you would like me to go  
10 on and talk about the short range plan, I'd be happy to  
11 do that. Indeed, that may help the discussion on the  
12 long range plan because you will see the implications of  
13 the long range plan, at least, the way I see them  
14 developing from the long range plan.

15 CHAIRPERSON RODHAM: Well, we seem to have two  
16 different ideas about how we should proceed. If we could  
17 get Mickey and Steve to pay attention for another minute --  
18 know, this is what happens when hyperkinetic children  
19 grow up.

19 (General laughter.)

20 MR. KANTOR: Steve never grew up.

21 CHAIRPERSON RODHAM: I heard it the first time.  
22 Maybe somebody way in the back didn't hear it.

23 What I was saying was that there are two differ-  
24 ent possible approaches that we could take. We could take  
25 Mickey's suggestion which is to stop and try to see if

1 we're in some kind of consensus about the goals and then  
2 proceed from there wherever that leads us. Or, let  
3 Howard go ahead with his description of the short range  
4 plan and, since it does, in his opinion, and probably  
5 others too, have implications for what the goals might  
6 be, and then see where we stand on any kind of consensus.

7 Now, I have no preference. I think that it  
8 might be useful to maybe spend some time doing that.

9 Mickey has to leave which is one of the reasons  
10 why I would like to make some progress on this before  
11 he ups and goes. He has some strong feelings about the  
12 goals.

13 You're going to be leaving shortly, you might  
14 want to just go ahead and tell us anything else that's  
15 on your mind about this.

16 MR. KANTOR: I've got to go in about fifteen  
17 or twenty minutes.

18 I would just very quickly say that the three  
19 goals I think we've, at least I would agree with, I won't  
20 speak for anyone else.

21 I think we ought to in the long run be looking  
22 for maximum impact and that involves both the implication  
23 of our clients in the various processes as well as  
24 accountability of institutions to our clients, and deal  
25 with economic opportunity.

11 1 Both of these, Howard has, economic opportunity  
2 and the success of our client community involved in  
3 economic opportunity, we ought to have a part in.

4 And third is that we ought to make it finally  
5 at some point, somewhere out there, the client's program.

6 We've always wanted, I think at its best it's  
7 been somewhat that, it's not now, let's not fool our-  
8 selves, but at some time down the road it ought to be.

9 The strategies I would adopt to get there, one  
10 would be identifying and addressing current patterns or  
11 problems and deal with those in a priority setting and  
12 emphasize those areas of representation which go to  
13 community and economic development.

14 Second, increase available resources for repre-  
15 sentation. That means a lot of things, not just lawyers.  
16 That means a lot of different things. I'm not going to  
17 bore everyone with going through it. Most of you here  
18 in the audience and certainly on the board understand  
19 what I mean.

20 Third is quality. I think there's no way to  
21 escape that, as a strategy now, I'm talking about  
22 implementing these. We've got to have quality representa-  
23 tion.

24 And, last, but not least, is the accountability  
25 aspect which involves the accountability of our programs

12 1 and this corporation to our client community.

2 And then I'd set out, and most of these Howard  
3 has, and I just would, we might have different emphases,  
4 eight different areas of short range tactics to get there,  
5 to meet these strategies.

6 One would be strengthen the support centers  
7 national and state because there is no way to identify  
8 recurring patterns.

9 MR. SACKS: I'm sorry, did you say short or long?

10 MR. KANTOR: Short run, these are tactics.  
11 Strengthen our support centers on national and state level.

12 Second, develop a plan for use of paralegals,  
13 new technology, et cetera, which increase our efficiency  
14 and our ability to handle large numbers of matters which  
15 we're faced with in a more efficient way.

16 Third, refurbish our system of evaluation,  
17 monitoring, management, training, supervision, material  
18 production.

19 Fourth, and we're just not doing it and this  
20 board has go to do it, client board training. We've  
21 got to do it. It's a sham. We're operating under  
22 illusion here that clients really are involved in an  
23 effective way in these programs, on the board, and until  
24 we recognize that and put some money into client board  
25 training, we're not even coming close to meeting the goal.

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Fifth, set up funding priorities and standards which meet these strategies or recurring patterns and so on and so forth.

Sixth, recruiting, hiring and retention. It's not the late sixties anymore and we all know it. Ted Mitchell is sitting right there. He knows how tough it is, not just in Micronesia, all around the country.

We've got to get the best we can find, staff and lawyers. We're not getting them now, I don't believe. And we've got to do something about it.

I wish I had all the answers but I don't. I don't have even a portion of them. But we've got to concentrate on that in the short run.

The only product we have are people. And we're not getting the best people available.

Some of that is just economics. If that's the problem, we've got to learn how to address that in some way.

Seventh, is, and I agree with Bob Kutak, remove as many restrictions as politically possible, in the short run, from the statute. Some of that just may not be possible but we ought to start working on it.

And last is also Bob Kutah's point and I think a very good one which is review those regulations. We may not want to make any changes. We may want to make a

14 1 lot of changes. I don't know. But it doesn't make any  
2 sense for this, of all places in the world, for the Legal  
3 Services Corporation to be somehow so bureaucratized that  
4 we can't take a new, fresh look at everything and say,  
5 and determine whether or not it fits where we are today  
6 and where we want to go in light of whatever, adopt as  
7 strategies and goals.

8 I would start with the three goals, go on to the  
9 four strategies, and then implement in the short run  
10 eight short tactics.

11 Maybe there are ten, maybe there are six, maybe  
12 there is no consensus, but after reading Howard's piece,  
13 which was so well done, and in discussions with other  
14 people and some of my experience, that's where I would  
15 come down.

16 MR. ENGELBERG: How would you then go from there  
17 to funding? Assuming we adopted everything you said, how  
18 do you start putting some numbers with that?

19 MR. KANTOR: I can't give you specific numbers.  
20 Once you understand the strategy, if programs aren't  
21 setting priorities and not identifying recurring patterns  
22 and problems and not addressing them on a short and long  
23 run basis, certain programs will and certain won't, and  
24 those programs that are doing it are getting the lion's  
25 share of resources because that's where you ought to be

15 1 putting your money in order to deal with those problems.

2 MR. ENGELBERG: What I'm asking is, I think it's  
3 somewhat a narrow but important question, assuming we  
4 adopted everything you are talking about as a plan, when  
5 we start making budget presentations to the Congress,  
6 you know, we've gotten away from the formula method of  
7 asking for money, do we simply define how many more  
8 support centers we're going to fund, how much more money  
9 we're going to put into the field, and just put a number  
10 on it?

11 Or, can you see any other method for saying to  
12 the Congress, this is how much money we need on a yearly  
13 basis?

14 MR. KANTOR: I think one way of doing it, and  
15 this is right off the top of my head, after X amount of  
16 time in dealing with these and beginning to develop a  
17 real analysis of the recurring problems and patterns, and  
18 my guess is we have a lot of it already, that we go to  
19 the Congress and we say it's going to cost a certain  
20 amount of money nationwide to address these problems with  
21 our legal services program.

22 These are recurring patterns. We can address  
23 them in an efficient manner. If we have this money, we'll  
24 do it through local programs and support centers in some  
25 sort of ratio, not having to get into, you know, Baltimore

1 program gets this and Micronesia gets that, but just in  
2 terms of what are the recurring patterns and problems.

3 MR. ENGELBERG: You're saying, though, that you  
4 don't think you could come up with that. If you adopted  
5 your type of plan, there's no way to really then plug  
6 that into some kind of formula, funding formula.

7 You know, it's basically, you have to have a  
8 budget presentation and say, this is what we want to do,  
9 and this is how much it's going to cost?

10 MR. KANTOR: Yes. I think funding formulas are  
11 real difficult, in my personal opinion. I think if we're  
12 talking about flexibility and creativity and being  
13 responsive to the client community and so on, to have  
14 rigid formulas becomes a real problem.

15 That's just a personal point of view.

16 CHAIRPERSON RODHAM: That has always been the  
17 perpetual problem that we've faced. This is not the first  
18 time we've talking about our hopes and goals for the  
19 Legal Services Corporation.

20 On the one hand, what you've talked about, which  
21 are really problem-oriented strategies, support centers,  
22 technology, paralegals, et cetera, and then Steve's  
23 question, which is a very narrow question but which I  
24 think is one that we're going to have to answer in some  
25 way, really the question that confronts us after this

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1 minimum access completion, and that is, if you take a  
2 problem approach, how do you then, how do we then decide  
3 how much technology is good enough and necessary enough  
4 as compared to how much more strengthening the support  
5 centers.

6 How do you begin to weigh and balance among  
7 these problem-oriented approaches because what we've  
8 always done is allocate the programs, allocate to geo-  
9 graphical areas for the delivery of pretty much the same  
10 kind of services, hopefully high quality or as high as  
11 we are able to afford.

12 But we knew pretty much what we were trying to  
13 buy by the money that was given to grantees.

14 If we begin to talk about these things that you've  
15 talked about as strategies, you know, how do you present  
16 the approach in a way that makes sense in a funding, under  
17 funding circumstances?

18 How do you talk about much we give to that?

19 MR. ORTIQUE: I think that one of the things  
20 that we're going to have to do is be broad enough and  
21 big enough to recognize that we are not the only geniuses  
22 in this field, the field of funding.

23 I think we've waited too long already because  
24 we've had so many other things to do that we haven't been  
25 able to get to it.

8  
1 But maybe every state in this country has a  
2 surplus. They have pushed funds into health and human  
3 resources because the federal government said every state  
4 has to have a department of health and human resources.

5 Nobody's ever said you ought to have a justice  
6 department, legal services department, in every state.

7 Few states have given very much attention by  
8 state appropriations and so forth and yet, I remember  
9 down in Georgia, wasn't it, where suddenly the legal  
10 services program was without funding and the state legis-  
11 lature provided a big chunk of money, millions of dollars,  
12 a couple of million dollars. Some short range effort.

13 What I am saying is that we've talked about  
14 foundation funds, we've talked about trying to get bar  
15 associations to help, but the solution is not going to  
16 be found in those meager resources.

17 The solution is going to be found in local levels,  
18 not the cities. They're broke so there's no sense in  
19 looking there.

20 It seems to me that we can tie into what  
21 Mickey's saying. We can talk about funding, if we can  
22 ever recognize that the states have some responsibility  
23 in this area.

24 It's difficult. It just seems to me that that's  
25 an approach that will have to be explored.

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1 CHAIRPERSON RODHAM: Mickey, we have a few  
2 minutes. Is there anything else?

3 MR. KANTOR: No, I think I've said enough.

4 MR. TRUDELL: I like a couple of things that  
5 Mickey said, particularly, I think, the idea of turning  
6 the program over to the people that it's meant for, in  
7 terms of involving them more in a sincere way and to make  
8 sure that more resources are spent on preparing them to  
9 kind of run their own lives, I guess call the shots, as  
10 opposed to always having to go and orchestrate for them.

11 I think lawyers, by and large, are very crafty  
12 at doing that.

13 You know, I think the concern about, you know,  
14 the lay advocate, paralegal, what you call them, they're  
15 all the same thing, is extremely important.

16 I know in some areas, you know, a number of  
17 lawyers in the past and I'm sure even today, kind of take  
18 an excursion through a particular area of the country or  
19 a segment of society and the people there at the local  
20 level are never really given encouragement or enough  
21 control to really, I guess, be in charge of their own  
22 destinies.

23 I see that very much in the native American  
24 area where the resources are meager. I briefly scanned  
25 Ted Mitchell's paper in terms of attaching the dollar

1 amount to handling of a piece of litigation. When some  
2 of the programs have meager resources and then all of a  
3 sudden what a program receives is spent, I know in the  
4 Indian area, for instance, when the water rights go out,  
5 it eats up almost all the resources you have or a good  
6 percentage of them.

7 So where does that leave the client? Or the  
8 person that has the consumer-type problem or the other  
9 types that a lot of people prefer not to deal with after  
10 they've dealt with a few of them?

11 I think that's very important. I know there is  
12 a lot of idealism attached to that. But I think the  
13 Legal Services Corporation is probably the last federal  
14 entity or agency or whatever you want to call it that  
15 really is the only hope that a lot of people have.

16 How you turn that into dollars, I don't know.  
17 I think that naturally dollars are a means to an end but  
18 money isn't everything.

19 I know there are some reservations in the country  
20 and particularly in the Northeast that will not accept  
21 federal dollars. They've got all kinds of strings attached  
22 to them.

23 I guess, shifting to Bob's comment about  
24 regulations, I would hope that the corporation doesn't  
25 strangle itself with regulations and become like all the

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1 other bureaucracies.

2 I think that we can find a way to really increase  
3 the resources and deal with some of the things that  
4 Mickey's raised.

5 I think, I share his concern that we aren't  
6 getting the best people that are coming out of schools  
7 or whatever, and I don't know how you turn that around so  
8 that we begin to get more people wanting to go into  
9 legal services.

10 CHAIRPERSON RODHAM: Ramona?

11 MS. SHUMP: Well, I'm outnumbered, to begin with,  
12 but let's put it this way, and I don't mean to come across  
13 as entirely contrary, I just want to say that I can  
14 agree and I can appreciate many of the things that have  
15 already been put forth by Howard, some of the comments  
16 that have been made around the table, especially those  
17 from Mickey and Dick and the Judge.

18 I think that perhaps we may need to seriously  
19 consider taking on the responsibility of, if we're talking  
20 in terms of dollars and if we're talking in terms of  
21 allocations, and yet we're talking in terms of allowing  
22 poor people to become smart enough, wise enough, educated  
23 enough to perhaps get themselves away from the pits of  
24 poverty, so people like to refer to poverty as, that  
25 perhaps in order to help us to help ourselves and in order

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1 to help us to learn, when you talk in terms of training,  
2 when you talk in terms of dollars, perhaps we ought to  
3 consider, as a board, putting forth some directives to  
4 all of our grantees and actually putting a figure that  
5 we would not like to see but that we want to see or that  
6 we direct be set aside for the purpose of doing the very  
7 thing that may be the only hope of getting poor people  
8 out of some of their misery, and that is to say, one  
9 half of your, one half of one percent...don't get  
10 excited, I'm not saying one half of your entire budget,  
11 Bill...you looked at me as though you thought I was out  
12 of my mind...one half of one percent, one percent, one  
13 fourth of a percent, of your budget be set aside for the  
14 purpose of providing those clients with some training,  
15 with some education, in order to enable them to help  
16 themselves.

17 The Judge spoke about the small claims court.  
18 Perhaps that works well in some parts of the country. Let  
19 me assure you that it does not work well in all parts of  
20 the country.

21 Let me inform you of another fact.

22 The small claims court was set up, supposedly,  
23 to help poor people resolve some of their issues without  
24 having to hire a lawyer, without having to find legal  
25 representation. But let us remember that there are many

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1 poor people who don't even know how to read or write,  
2 couldn't begin to fill out the forms that are necessary,  
3 would be so frightened of stepping into a formal-type  
4 situation, whereby even though they could represent  
5 themselves by talking or arguing or what have you, that  
6 they will never type to resolve those types of problems.

7 To begin with they feel inadequate, to begin  
8 with they do not have even the self-confidence to go in  
9 alone, let along to attempt to resolve their own problems.

10 So I would ask you to very seriously consider  
11 some of these suggestions put forth in Howard's document,  
12 to very seriously consider the comments and the effect  
13 on poor peoples' lives that our actions will take.

14 CHAIRPERSON RODHAM: Howard, do you want to go  
15 on to the short range plan?

16 MR. SACKS: Okay. Well, it's designed for the  
17 next three fiscal years and it's based on the assumption  
18 that we're not going to get large amounts of additional  
19 funding and considers the possibility that we might have  
20 an actual cut during that period.

21 I've divided it into really five sections,  
22 creating the future, preparing for the future, maintaining  
23 the present, testing the present, and improving the  
24 present. And as you no doubt have seen, there is some  
25 inconsistency among those headings. We can't do everything

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1 and I'm suggesting some priorities.

2 So far as creating the future is concerned,  
3 I think we ought to do a national study on legal needs  
4 of the poor. But I do want to revise the figures that  
5 I have put at the top of page two, based on some informa-  
6 tion that I go from Gerry Singen after this thing was  
7 sent to the typist.

8 It now appears that a more realistic figure  
9 than \$200,000 would be \$400,000. And knowing what has  
10 happened in the past, I suggest that you not write down  
11 \$400,000. I suggest you write down \$500,000.

12 I think it's going to take more time. My guess  
13 is if we start today, three years.

14 CHAIRPERSON RODHAM: Why? Why three years?

15 MR. SACKS: Well, Gerry can speak to that,  
16 and others. Allan can speak to it. You've got to find  
17 a contractor. You've got to select an instrument.  
18 You've got to pretest the instrument. You've got to  
19 worry about, at least what I think you ought to worry  
20 about is not simply conducting a census of your needs  
21 but trying to figure out how substantial they are, what  
22 do they really need, free legal services.

23 And, of course, I guess, I've been burned, as  
24 everybody has been burned, by DSS.

25 Now, I may be wrong. But...

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1 CHAIRPERSON RODHAM: There's a whole lot of  
2 difference between going out and asking somebody something  
3 and going out and setting it up and making it run and  
4 then asking somebody something.

5 MR. TRUDELL: Howard, would it be appropriate  
6 to ask you to give me an idea of what you want to study.  
7 What kind of needs are you talking about? I'm sure you've  
8 thought of some, some areas, or whatever.

9 MR. SACKS: I assume it would be some kind of  
10 a survey instrument in which you would select various  
11 groups, various sampling basis, poor people in all sections  
12 of the country. You'd have a fairly elaborate survey  
13 instrument and you go out and you find people and you have  
14 to conduct fairly detailed interviews. Then you have to  
15 tabulate and analyze the data.

16 Drafting that instrument won't be an easy thing.  
17 And, of course, you always have to pretest an instrument  
18 to make sure that it gets the information you want and  
19 it isn't biased, et cetera.

20 And, before that time, you've got to find a  
21 contractor. And that may take a few months, to select  
22 the person or the firm that you want and then of course,  
23 I know what's going to happen.

24 It's going to come in and the staff's going to  
25 work it up and it's not going to please everybody and

1 we're going to spend three months or maybe even longer  
2 going over it to make sure that it says exactly what  
3 we want to say because it's going to be a critical legal  
4 document, maybe even more important than DSS.

5 In other words, it will kind of set the boundaries  
6 of what we're going to be aiming for in the next 20 years.

7 So, that's why I'm pessimistic.

8 MR. ORTIQUE: The one thing that bothers me most  
9 of all about your statement, your statement particularly  
10 just now, is this. We are going to do this and we are  
11 going to do that and we are going to do the other, why is  
12 it that we could not decide that the people who are most  
13 affected by this would have the major hand in developing  
14 whatever you want to do for them?

15 I would suspect that they know more about what  
16 their needs are than anybody else in this room. And that  
17 as long as we impose our middle class thinking on what  
18 they need, they are going to stay in trouble.

19 It just appears to me that, with some guidance,  
20 yes, they may need, they may not know the skews and the  
21 curves and that sort of thing, but I'd be willing to  
22 bet that they could come up with some pretty good notions.

23 The only guidance that I see that we need to  
24 them is making certain that we cover the broad picture.  
25 For example, I'm sure that there are some folks in this

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1 room who think that the National Clients Council speaks  
2 for all of the poor people in this country. That's not  
3 true.

4 But I would suspect that we could identify  
5 sufficiently those persons who do speak for the poor, that  
6 it would not be necessary, one, to hire a contractor,  
7 such as we did with the DSS study.

8 Two, that it certainly wouldn't take two years  
9 or whatever, this long term, to do it. Or at least that  
10 they could come up with enough that we could work from  
11 now until the end of the century on and we still would not  
12 be able to complete the job that they would put before us.

13 I would hope that philosophically that we would  
14 not continue to think of dealing in terms of what we feel  
15 are the needs of the poor or what we would like to find out  
16 about the needs of the poor.

17 CHAIRPERSON RODHAM: Bill?

18 MR. MCCALPIN: I think it's unfortunate, Howard,  
19 that you were, that you were sort of cut off at the pass  
20 on the short range plan with the very first comment.

21 But as long as we're stopped there, let me offer  
22 a couple of thoughts based on my own experience.

23 In 1965, I was given a responsibility for  
24 determining the legal needs of the public in terms of  
25 legal services.

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We looked at it. We marched up to the kind of thing you're talking about here and we finally decided that the need was so perfectly obvious that it was pretty silly to waste a lot of time and effort in order to quantify it when everybody knew it was there.

So, we just went ahead and worked on as assumption, that there was a very large, unmet need for legal services, and began devising devices to try to solve that problem without trying to say that it was this size or this size or whatever.

Well, there were those that weren't satisfied with that kind of approach. So somewhere along the line, about 1970 or so, I suppose, Randy Throwrer of Atlanta was handed the job of doing precisely what you're suggesting here, to go out and quantify the unmet needs for legal services in the United States.

Throwrer, you will be interested to know, it took a half a million dollars and five years.

They retained the National Opinion Research Center at the University of Chicago, a very highly qualified, prestigious group that did exactly the things you're talking about.

They sat down to figure out what they wanted to do first and then they sat down with an instrument to try to get it and they tested the instrument and they

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1 redid it and they tested it some more because one of the  
2 real problems of this thing is that unmet needs or needs  
3 for legal services are a little like beauty, it's what-  
4 ever's in the eye of the beholder.

5 You can have two folks who live next door to  
6 each other and all their circumstances in life are vitually  
7 the same and yet they will have very different perceptions  
8 about what are their needs for legal services.

9 Throwrer's job got finished. It's a monumental  
10 work. It's a published book about like that and it's  
11 reams of demographic data like this which I think are  
12 only going to be published to the public this summer,  
13 in terms of the raw data.

14 And yet I'm not at all sure that with all that  
15 work of nearly ten years that we have really advanced  
16 ourselves in terms of anything useful.

17 I appreciate the fact that this is addressed  
18 in this context as one of the ways to getting to what  
19 Steve has been reaching for this afternoon, how do you  
20 get to a funding formula. What is your data base, your  
21 data background for going to the Congress and saying you  
22 need more dollars.

23 Maybe in that limited respect it would be useful  
24 and helpful but I want to say to you that I think that in  
25 terms of helping the people and the programs around the

1 country it ain't going to make a damned bit of difference  
2 when you get through.

3 MR. SACKS: Hillary, if you want to discuss  
4 these issues, I have something to say about this, but I  
5 don't want to cut off discussion and I don't want to  
6 deviate from your plan of having the short range plan  
7 presented as a whole. So, rule on my attempt to get the  
8 floor.

9 CHAIRPERSON RODHAM: Well, I think that, Howard,  
10 in a way, I don't want to cut you off, but I'd like to  
11 hear from other people first because I think that you've  
12 obviously given a lot of thought to this and you're stated  
13 your position which is that we need this kind of a survey.

14 Steve?

15 MR. ENGELBERG: I agree with you. My questions  
16 about a funding formula don't mean to imply that I think  
17 that we either have to or should, I don't know. I can  
18 see some strong arguments developing on funding formula  
19 and I understand that if we do then we are stuck with  
20 some methodology problems.

21 My concern is, I would start, before we even  
22 began to approve such a thing, I think we should all look  
23 at it very similarly and find out what it is that this  
24 study could do that is different from what Throwrer did  
25 in his report. I realize that was attempting to look at

1 all. I'm no social scientist but it just strikes me  
2 that it is a very, very difficult job and if we were going  
3 to develop a funding formula, I would want to be sure that  
4 we couldn't kind of extrapolate from the data that we've  
5 got and just make some assumptions.

6 We do have some pretty good census data. You  
7 know, the two or the 10,000, and we can sort of make very  
8 strong assumptions that the number of poor people who  
9 don't have any access to services, and that apparently  
10 is what Bob is going to do.

11 Anyway, I just want to say, I totally agree with  
12 your concerns, and my question about the funding formula  
13 earlier, you know, where we go from here, I don't necessar-  
14 ily think they have to have a formula but I am very  
15 troubled.

16 CHAIRPERSON RODHAM: Go ahead.

17 MR. TRUDELL: I think what you're hitting on,  
18 Steve, regardless of what we say, the fact that we've  
19 been going by one, it's going to be pretty hard to get  
20 out of that mode.

21 MR. ENGELBERG: You mean the two for 10,000?

22 MR. TRUDELL: I mean in terms of increasing the  
23 dollar amount or whatever. Congress really is, especially  
24 for expansion, and everything.

25 CHAIRPERSON RODHAM: Let me ask the question

1 in another way. Dan was just remarking to me, you know,  
2 we are going to get new information, up-to-date informa-  
3 tion, that will approximately show that there are at  
4 least 25 million poor people by the most meager of  
5 definitions.

6 And we've served about a million and a half.  
7 So that clearly we are not serving, even if assuming only  
8 one in ten we didn't serve, had legal problems, which  
9 is a more than liberal, perhaps absurd, assumption, we're  
10 not even serving anywhere near the population of poor  
11 people in terms of dealing with their legal problems.

12 And I'm not sure whether the gross content of  
13 analysis that, just looking at those figures, numbers  
14 served, would lead us to is any less effective than going  
15 to all this time and trouble and expense to come up with  
16 a more specific laundry list of what the legal needs might  
17 be given the problems of that.

18 This would also put us down the road if it's  
19 going to take three to five years to get it down, we will  
20 just be treading water. We're going to be going back up  
21 to the Congress saying, how about money for the handi-  
22 capped or how about money for technology, and maybe we  
23 can take the problem-oriented approach that Mickey  
24 talks about.

25 But I lean more in the direction of what Dick  
and Steve are saying which is that we've got to be able to

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1 come up with something that moves on beyond the minimum  
 2 access to try to make sense to people. I worry about  
 3 not having anything to say except that we're doing another  
 4 study for three years. I find that to be kind of hard to  
 5 live with.

Tape #7B  
 6/20/80  
 Legal

t. am

6 MR. SACKS: Another way to create resources  
 7 is to experiment with technology. If it works, great.  
 8 If it doesn't work, I think we ought to find that out.

9 So, another way of making the dollars go farther  
 10 is support and support of course also has some relation-  
 11 ship to impact work as has been noted.

12 Technology is going to cost money. Support is  
 13 going to cost money. And I've given some figures just to  
 14 indicate the range of money we are talking about. On the  
 15 bottom of 29, I've put down something that you ought to  
 16 read very carefully because it's controversial, suggest-  
 17 ing that we ought to go back and ask for money for pro-  
 18 grams that have some chance of getting through, if they  
 19 have intrinsic merit and fit in with the plan.

20 A program for services to the institutionalized  
 21 I think is a good example.

22 The second thing I think we ought to ask money  
 23 for is money to narrow the gap between the best-funded  
 24 programs and the worst funded programs, a very complicated  
 25 and difficult problem, but I think we ought to begin to

1 narrow those, that portion of the gap which is unjusti-  
2 fied. I think some of the portion can be justified,  
3 some can't.

4 And then at the top of page 30, I am saying  
5 something that a lot of people will disagree with and  
6 that is that we shouldn't seek funds for general expan-  
7 sion until we work through some of the difficulties of  
8 how we're going to allocate the funds if we get them.

9 I think the funding allocation problem is an  
10 extremely difficult one.

11 So far as preparing for the future is concerned,  
12 on page, that's Section B, page 30, continued experimenta-  
13 tion with delivery system, I won't bore you with that.  
14 We've spent enough time on that. Except to point out  
15 that delivery system means not only lawyers but what the  
16 right combination of pro se advocacy training and the  
17 use of paralegals and the use of lawyers, we've got to  
18 come up with more knowledge about that.

19 The infrastructure of the corporation which  
20 I define broadly to include client participation and  
21 therefore continued experimentation with various forms  
22 of training for board members conducted by various  
23 agencies.

24 To my knowledge, for example, to be very  
25 specific, I think we've had at least three forms of client

1 bar training, some conducted by the corporation, some  
2 conducted like that QUIP project in Pennsylvania, and  
3 some conducted by NCC. Different ways of doing it.

4 We ought to find out what works best.

5 On maintaining the present, on page 32, all I've  
6 said is to, what you already know, that just to keep up  
7 with inflation we might need an appropriation of \$325  
8 million but if we get only \$325 million that means we  
9 couldn't do some other things, like technology, and sup-  
10 port.

11 I come down very hard on the side of not  
12 sacrificing the future just to maintain the present.  
13 To put it very concretely and clearly, as far as I am  
14 concerned, if we got \$310 million, to take a figure out  
15 of the air, I would not be prepared to put it all into  
16 cost of services.

17 I would want to reserve some of it to get ready  
18 for the future and that means technology support. It also  
19 means emphasizing certain goals like impact and helping  
20 poor people extricate themselves from poverty.

21 So, that is a position that I'm sure will be  
22 debated.

23 Now, testing the present, I've just picked out  
24 some items that are listed on the top of page 33, things  
25 that I think we need to study and learn about, not only

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1 obvious things like the Legal Services Institute which  
2 is being given the strictest scrutiny but I think that  
3 the Reggie program, although it's been effective in its  
4 major goal of recruiting minority lawyers, I think it  
5 isn't clear whether regionalization might be helpful,  
6 whether it ought to be better integrated with retention  
7 activities.

8 A couple of other examples, of which the most  
9 important thing, I think especially in an era of short  
10 resources, we have to be prepared to test these.

11 Improving the present, I won't read what I've  
12 said about the board, but I think there are pertinent  
13 questions. I hope they're pertinent. I hope nobody feels  
14 insulted.

15 And I've said some things about the Washington  
16 headquarters that I hope will be accepted in the right  
17 spirit. I think there are questions about coordination,  
18 questions about whether the organization here in Washing-  
19 ton is organized in the most effective way.

20 And I've said something on page 35 about the  
21 problem of compliance with board regulations and statutory  
22 restrictions, an attempt to meet some comments I got from  
23 one board member who was very concerned about this  
24 aspect of our work.

25 And then on page 35, I end on what I honestly

37  
1 think is the right note, a affirmative, upbeat note,  
2 although there may be an opposite point of view. This  
3 paragraph could be rewritten and it would wind up with  
4 the sentence, let us maintain a low profile.

5 So that's the alternative, at least one alterna-  
6 tive, to what I've suggested.

7 And then on page 36 I say that if the plans are  
8 going to be meaningful, we've got to establish some device  
9 for monitoring and updating.

10 For example, if you want another short range  
11 plan for '83 and '86, I think you have to start thinking  
12 about it, not the way this one was thought about, put  
13 together in six weeks, but you'd have to start thinking  
14 about it late in calendar '81.

15 CHAIRPERSON RODHAM: Specific reactions to any  
16 of your specific recommendations.

17 I know, Bill, you often have expressed feelings  
18 about technology. Do you have any response to Howard's  
19 suggested emphasis there?

20 MR. MCCALPIN: Only, I think, Hillary, in a  
21 larger context.

22 I have a lot more problems with the short range  
23 program than I do with the long range program. And in  
24 spite of what I'm about to say, it's not because I don't  
25 think there will be a long range program, I do think there

1 will be and that's why I'm willing to be as optimistic  
2 as you are in the long range program.

3 I have the sense that the short range program  
4 is put together without an awareness or real appreciation  
5 of what's going on in the world around us. And I'm talk-  
6 ing about the world of today and tomorrow and not the day  
7 after.

8 To paraphrase Bob Kutak a while ago, I am very  
9 much afraid that the future is going to be what it was.

10 I think that we have some serious problems in that  
11 respect.

12 I think that you pay, you give a passing reference  
13 and pay some lip service to the fiscal move that I find  
14 prevails across the country today, began perhaps at least  
15 with Proposition 13 in California and continues on with  
16 the budget balancing efforts which are going on in the  
17 Congress now.

18 I don't know how it is in Connecticut or some  
19 other states but I can tell you there are a great many  
20 states around the United States, Michigan and my own  
21 state of Missouri and some others, which are doing  
22 exactly what the Congress of the United States is  
23 attempting to do with the budget.

24 They are talking about cutting back on expendi-  
25 tures, clearly balancing budgets. Indeed there is a whole

39 1 mood of fiscal restraint in the United States.

2 Last night on the plane coming in here, I read  
3 an article in the paper by Murray Weidenbaum, who is a  
4 celebrated economist who has been in Washington this last  
5 year. He said that he thought that there was going to be  
6 a strenuous effort in the short run future to cut down  
7 on the controllable portions of the federal budget.

8 I'd have to say that I guess we come within  
9 the controllable portion of the federal budget.

10 I think that in short that that fiscal mood  
11 which is prevalent in the country is more serious, it's  
12 more perilous, it's more imminent that the impression  
13 that I get from your short range plan.

14 There's another aspect that troubles me greatly.  
15 I find as I go across the country a sense in the organized  
16 bar of antagonism, of complaints about grantee activity,  
17 which is greater than anything that I have known in the  
18 last 10 years.

19 There are problems about eligibility. There  
20 are lots of complaints that the programs are representing  
21 ineligible clients.

22 I had a very good friend of legal services who  
23 represents a labor union come to me and say, what is the  
24 legal services law of western Missouri doing representing  
25 a member of the union who makes \$20,000 a year.

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1 This is a guy who has been active in legal aid  
2 in our city and he is upset.

3 The legislative advocacy has always been a sore  
4 point. I think that you can read into the debate and the  
5 action of the Senate last week that it is a continuing  
6 sore point there.

7 It is astonishing to me that that proposal that  
8 would have laid, what, 10-year prison sentences for vio-  
9 lation of legislative advocacy, lost by only three votes,  
10 on a vote of 36 to 33 in the United States Senate.

11 There are clearly many, many sore points on this  
12 area around the country.

13 Hillary, to come to the point that you raised  
14 and it is an interesting one and I expect it comes as a  
15 shock to guys like Ted Mitchell and Willy Cook and the  
16 rest and that is the complaint on the part of the private  
17 bar that they are outgunned by the programs, that the  
18 programs have more resources available to them than that  
19 individual lawyer who is in opposition to the program in  
20 the representation of a client in a case, a lawyer who  
21 doesn't sit in a 50-man or a 200-man law firm but who has  
22 a relatively small practice in a neighborhood and a city  
23 and is representing a client with Legal Services on the  
24 other side strains and sweats to file a brief which has  
25 relatively few authorities in it and he gets from the

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1 other side something that's been generated out of  
2 ALEXIS, out of a backup center, and he feels that he is  
3 totally outmanned and outgunned.

4 So, you ask about technology, I think we've got  
5 to do it. We've got to keep these resources available to  
6 our people. But I think we have to do it with a sensi-  
7 tivity to the fact that the programs are not always  
8 practicing against Cravath, and Hogan and Hartson, and  
9 Pillsbury, Madison and Sutro, and the giant firms of the  
10 United States, and that many of the small, Kutak, Rockwell  
11 what the hell, nobody mentions it...that many of the small  
12 and marginal practitioners around the United States who  
13 are representing the other side of disputes with legal  
14 services have the feeling that their tax money is being  
15 used to overwhelm them in the representation of that case.

16 I am astonished to find on the part of a respon-  
17 sible member of the bar an interpretation of the DSS  
18 study that we ought to defund all the staff office pro-  
19 grams and go entirely to private bar because that's what  
20 he views the DSS study as supporting.

21 It's very difficult for me to see how anybody  
22 could come up with that sort of interpretation of it but  
23 the fact of the matter is that that kind of interpretation  
24 exists around the country.

25 I think that we have some serious problems

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1 immediately before us. As many of you know, the general  
2 practice section of the American Bar Association has filed  
3 a report with recommendation which will be acted upon by  
4 the House of Delegates in August which would, in a very  
5 general, Mother Hubbard sort of way, call for greater  
6 participation by the private bar in the rendition of legal  
7 services to the poor.

8 I don't have any particular trouble with the  
9 phraseology of that recommendation. It's big enough to  
10 cover pro bono, ajudicare, and every way that we could  
11 probably, possibly induce the bar to get into the act.

12 However, the report which backs it up, is another  
13 very different thing. It is purely ajudicare and it is  
14 purely money for the private bar.

15 The progenitors of that report have even asked  
16 that they, rather than the president of the American Bar  
17 Association, be designated to represent that point of view  
18 before the Congress of the United States.

19 If that weren't bad enough, over the noon hour  
20 I learned that the Wisconsin state bar amendment has now  
21 been filed as a report and recommendation to be considered  
22 by the House of Delegates of the ABA in August.

23 As many of you well know, that amendment, which  
24 is going to be offered by Representative Sensenbrenner  
25 when the reauthorization comes up in the House, would

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1 mandate 65 percent adjudicare in any county of the United  
2 States with a population under 150,000 and 15 percent  
3 adjudicare money in any county of the United States with  
4 a population in excess of 150,000.

5 I don't know what the prospects of that are in  
6 the Congress of the United States, but I can tell you that  
7 the Wisconsin bar is active. They have contacted every  
8 state bar and the larger local bars in the United States  
9 to secure support for that proposition. And they are  
10 getting some support from around the United States.

11 That's why I'm inclined to say that, if you take  
12 all of that, together with the prospect that we may well  
13 have a Republication administration in the hands of an  
14 individual who has not been noticeably warm and friendly  
15 toward legal services programs in the past, and that the  
16 terms of office of six members or a majority of this  
17 board will expire a year from now and those replacements  
18 may be named by a new administration and indeed some  
19 people are already beginning to talk about the possibili-  
20 ty of a Republican Senate, I have to say to you, Robert,  
21 that it seems to me the future may well be peopled with  
22 people like Senator Murphy, Spiro Agnew and Howard  
23 Phillips, who was here in town not very long ago giving  
24 a speech to the Republication study committee of the  
25 Congress which repeated all of the things which

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1 Mr. Phillips said when he was in a position to do some-  
2 thing about them a few years ago.

3 That's why I say, Howard, the way I view the  
4 world today, it is a very difficult place. The immediate  
5 future for this program is fraught with a lot of problems  
6 and dangers and I don't see a clear recognition of that  
7 danger and urgency coming through in the short range  
8 plan. And I do believe that it is short range.

9 I would suggest to you that among the kinds of  
10 things that we need to be doing in order to shore up our  
11 own defenses...I am the guy, as you know, who made those  
12 comments to Howard he talked about a while ago and I did  
13 in my letter to him use the phrase "siege mentality"...  
14 I don't really believe in a siege mentality...but I am  
15 concerned about the fact that some of the things that we  
16 have been doing in the recent past have alienated our  
17 friends and given aid and encouragement to our enemies.

18 I think that we have to stop doing that. We  
19 don't have the luxury of being able to do that.

20 You have mentioned, and one of the things that  
21 your committee is doing, that you reported on this  
22 afternoon, is exactly the kind of thing that I think we  
23 need to recognize and be doing even more aggressively,  
24 and that is, requiring grantee compliance with the statute,  
25 with regulations, and with grant conditions, in terms of

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1 client eligibility, in terms of the composition of the  
2 board, in terms of...what's the other one you talked  
3 about that your operations committee was looking at?

4 MR. SACKS: Selection of board members?

5 MR. MCCALPIN: So the composition of the board,  
6 absolutely. And legislative advocacy.

7 I think that we need to be responding to com-  
8 plaints promptly, objectively, and fully.

9 We do have a system for responding to complaints.  
10 We do get to them.

11 I have kind of a gut feeling which is maybe  
12 unfair and I guess Dan and others would argue with me  
13 about it, but I have a feeling that when a complaint  
14 comes in with respect to a grantee, we treat it about the  
15 way the police board in our town treats complaints of  
16 police brutality. We just don't give them the credit,  
17 the credibility that the public thinks they ought to have.

18 I think that we take a long time to do something  
19 about them and I'm not sure that we answer them fully and  
20 with good reasons when we do.

21 We must, as your report points out, broaden the  
22 service and support base by involving the bar.

23 I think we've got to do a better job of publi-  
24 cizing what we're about, what we are doing. I asked this  
25 morning for a report on what we're doing in terms of

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1 involving the private bar in grants. Bucky Askew had a  
 2 memorandum which has been given to me in the meantime.  
 3 And we've been doing very well in the 1980 expansion  
 4 funds and to a certain extent in the '79 expansion fund.  
 5 But I don't think we're getting that word out.

6           You know, as I said the other day, Dan, I think  
 7 you ought to be announcing in Jefferson City, Missouri  
 8 with the president of the Missouri bar exactly what you're  
 9 doing in terms of those expansion grants in the state of  
 10 Missouri to give the lie to the kinds of erroneous  
 11 factual statements which are being made in these reports  
 12 and which are going to embarrass us in the very near  
 13 future.

14           I think that we have to be recognizing ourselves  
 15 and impressing on everybody connected with the program  
 16 the reality of the current national mood.

17           I think we ought to go back and take a look at  
 18 the state councils which are mandated by the act and which  
 19 we've never really paid any attention to. I think that  
 20 they are a means of defusing some of these problems that  
 21 we may have.

22           We've got some problem ones. But I think we've  
 23 got some pretty good ones but we really don't pay an  
 24 awful lot of attention to them and I think we ought to  
 25 do something about that.

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1           And, finally, it seems to me that what we have to  
2 do is learn at least to listen to what the other side of  
3 this whole thing is saying.

4           I wrote a little note, Howard, and after I thought  
5 about it later on, I hope it didn't come through that not  
6 very good copying machine in San Francisco when I sent  
7 this to you, that I looked at the people whom you had  
8 interviewed and talked with about this and I wrote "incest"  
9 in the margin.

10           MR. SACKS: And I want you to know that my  
11 relationship with all named people was perfectly proper  
12 and legal under the laws of all the states and foreign  
13 countries.

14           MR. MCCALPIN: All I really meant is that I  
15 think that we have to develop a sensitivity, to listen  
16 to other voices, as well.

17           MR. SACKS: If I'd had more time, Bill, I would  
18 have done out to see hostile congressmen, governors, and  
19 presidential candidates.

20           MR. MCCALPIN: I'm not talking about hostile,  
21 I'm just talking about people who weren't in the close  
22 family.

23           Well, that's the speech that's been rattling  
24 around in my head back and forth across the country for  
25 a few weeks. But it does seem to me that what we have to

1 do is give a keen ear to the kinds of things that are  
2 being said, to fortify our own defenses so that we can  
3 meet what I expect is going to be a serious onslaught  
4 in the immediate future.

5 CHAIRPERSON RODHAM: Any other responses?

6 Dan, you've been very quiet. We've let you  
7 recover from your time on the Hill this morning. Do you  
8 have anything you want to add?

9 PRESIDENT BRADLEY: I haven't recovered.

10 Howard and I have spent some time talking because  
11 one of the things that the staff has lacked in the past,  
12 at least since I've been here, in making decisions,  
13 preparing plans for the future which generally translates  
14 for this purpose into the preparation of a budget request  
15 for 1982, and I suppose, and I keep referring back to  
16 that infamous November 1979 audit appropriation staff  
17 meeting when the staff, in an audit appropriation commit-  
18 tee meeting when the staff presented certain refined,  
19 we thought, suggestions and ideas about the use of some  
20 scarce resources, unallocated, and it was clear in the  
21 discussions that the staff had had with the Hill, with the  
22 SEC, and others in the development of these recommendations,  
23 that we were out of tune with some of the judgments and  
24 some of the thoughts and some of the priorities of some  
25 of the individual board members.

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1           It was loudly and clearly expressed at that  
2 particular committee meeting.

3           What has been helpful to me and the reason we've  
4 had some of these discussions is that we're about to  
5 enter a major task; among others this summer, in that your  
6 staff will be working on the preparation of the budget  
7 that we will bring back to the committee and back to this  
8 board for some discussion in September and for further  
9 decision at the December board meeting.

10           I thought it was absolutely important before  
11 we get too far down that track, to hear the kinds of com-  
12 ments that you have expressed in Memphis and that you  
13 further expressed today.

14           Now, I'm still at a loss and we haven't decided  
15 on the process, as my friend Engelberg, who doesn't like  
16 the process. He realizes the importance of the process  
17 in terms of recommending a budget mark to you at the  
18 September board meeting.

19           Now, I don't...we have deliberately, Revius,  
20 and I suppose you are maybe one of the few board members  
21 that I haven't had this conversation with, we have  
22 deliberately and consciously not had a process at the  
23 staff level or with the field or with the client communi-  
24 ty that would result in a response or several responses  
25 to what we have been talking about at the Memphis meeting

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1 and also today. I deliberately, especially, did not want  
2 the staff to right now. Since staff has been involved in  
3 collective meetings with Howard and individual meetings  
4 with Howard, we have submitted individual proposals to  
5 Howard...but I tried to make it clear that the staff  
6 has not yet developed its own response, its own proposals  
7 to this board in terms of short term and long term plan.

8 That's exactly the point that I did not want  
9 to do until I heard from the mouths of...the wisdom here..  
10 as to the kinds of comments and I think that many of  
11 Bill's observations are correct. Unfortunately they are  
12 on point.

13 But, what does it really translate into? It  
14 means that sometime over the course of this summer, some  
15 of you, all of you, and the broader legal services com-  
16 munity will be involved in developing a budget document  
17 that for better or for worse translates into hard, cold  
18 budget request figures that will prioritize the sense  
19 of this process in terms of our recommendations to  
20 Congress.

21 And we are going to be making those decisions  
22 very shortly.

23 One thing, specifically, that I...that the two  
24 of us, Howard and myself...did talk about is, I thought  
25 that after this discussion today that the staff would at

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1 least have a sense of some of the concerns and the  
2 priorities and the issues and I have that sense and I  
3 think the staff does also as to how you would like to see  
4 the budget flow in the preparation for the fall.

5 Specifically, the only thing that I suggested  
6 to Howard, and we've talked about it and I just briefly  
7 mentioned it to our chairman, is that some of those  
8 issues that Howard specifically raised in the short term,  
9 because we've only got three or four months before we've  
10 got to have a budget almost prepared, that for instance,  
11 if it was the sense of this board today that the legal  
12 needs survey along the lines of how Howard presented it  
13 was an absolute, essential, critical priority of this  
14 corporation, then your staff would be guided by that and  
15 the budget that you see us develop would reflect that.

16 And the same thing is true for some of these  
17 other items like the national-state support, the impact  
18 work, the technological improvements.

19 What I was hoping, and it may not be possible,  
20 Hillary, what I was hoping was that there might be some  
21 range of consensus vis-a-vis the short range plan because  
22 it's that document that I think that immediately will  
23 impact upon the kind of budget that we will prepare for  
24 you for your September consideration.

25 With one caveat and I always get back to the

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1 basics and the basics are that the track that we are on  
2 in the United States Congress right now, the future fund-  
3 ing for the next two or three years, Howard, as you have  
4 been projecting it, has already been set, had tentatively  
5 been set by one house of Congress because they have  
6 already capped what our budget ceiling will be for the  
7 next three years.

8           Hopefully, we will not be limited to that and  
9 that remains to be seen. But we also have to work out  
10 our thing because I think that by the time this board  
11 meets in September you may know what your authorization  
12 level is going to be for the next three years and thus  
13 this board and your staff has to act and plan accordingly.

14           I hope that's not the case but I think that  
15 realistically, that it's more than a realistic possibility.

16           Now, Hillary, I want to say that in the context  
17 of getting back to the several discussions that I've  
18 had with Howard is that I would hope that when we left  
19 here today, and we have already put together the rough  
20 outline of a process that the staff and the field and  
21 the FCC and others will be involved in over the course of  
22 the summer in the preparation of budget options for you  
23 to consider at your September meeting, in doing that,  
24 there are several ways, you know, some of you individually  
25 can be involved, Howard can be there, the audit and

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1 appropriations committee will necessarily be involved,  
2 the provisions committee normally gets involved, but it's  
3 never been a refined process in terms of the substance  
4 committee, meaning the provisions committee, would make  
5 specific recommendations programmatically that we would  
6 then bring back to the audit and appropriations committee  
7 to see if they are willing to include that. And we  
8 haven't quite refined and perfected that process.

9           What I do not want to happen and I think that  
10 this process that we have started with ensure that that  
11 will not happen is that for your staff to come before  
12 you in September with a laundry list of the priorities  
13 as we the staff see them and we're out of tune with the  
14 sentiment and the judgments of this board.

15           It's imperative, it seems to me, that we try,  
16 and I think that this process has been very helpful to  
17 us, that we have some insight into your vision of the  
18 future direction for Legal Services and we're going to have  
19 for you, at the end of the summer, a budget that hopefully  
20 will reflect much of what you-all have been talking about  
21 at the last two board meetings and what we will continue  
22 to refine with several of the committees this summer.

23           CHAIRPERSON RODHAM: Bob?

24           MR. KUTAK: I usually listen with considerable  
25 care to what Bill has to say and I do so now. But I have

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1 to file something of a dissent.

2 I think probably the most important sentence in  
3 Howard's entire paper is found on page 30. Let me read it  
4 to you. It says, we are confident that the nation, through  
5 Congress, will eventually respond to the need for adequate,  
6 high-quality, opportunity-creating, legal services for the  
7 poor.

8 I submit that what we are about, the business  
9 of delivering legal services to the poor, is as essential,  
10 as effective, and as wanted a public service as any other  
11 kind of public service traditionally provided through and  
12 by government, be it health, be it housing.

13 And, indeed, if anything, we have learned in the  
14 last 10 years that those other needed public opportunities  
15 and public services are more assuredly provided by the  
16 ability of those that need them to get into adequate  
17 representation.

18 I think, Bill, that we have a lot of good  
19 working friends. And certainly over the last 10 years  
20 we've developed a lot of good working clients.

21 And I don't think that we can, nor is there any  
22 need, to give way to the politics of despair, which I  
23 feel somewhat has been said here.

24 We have to certainly keep our house in order.  
25 Or we put our house in order. But we mustn't abandon the

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1 premises. And I believe that what we've stated here at  
2 page 30 has got not to be false-sighted. That what we  
3 are about is not something that is a frill, is something of  
4 a frivolity, or something of a gimmick that we do-gooders  
5 are about, but is as essential and as legitimate and as  
6 indeed imperative as anything our social order can provide.

7 And we know what we are doing. And we communicate  
8 to others what we have done. We communicate its legiti-  
9 macy and its urgency. That we act with responsibility in  
10 doing so by delivering this kind of a message that Howard  
11 has so succinctly and I think so appropriately set down.

12 We don't have to despair but I think we will  
13 actually and surprisingly find a great number coming to  
14 our call and supporting our mission.

15 What we might have done is take a lot of our  
16 friends for granted. We might have trespassed above our  
17 boundaries, to keep to my metaphors.

18 But I do think the ground we stand on is us and  
19 that what we can do today, what we were not able to do  
20 prior to 1964 except in the most token of fashions around  
21 the country, with legal aid, is to demonstrate how much  
22 it is wanted and how many there are that need it and  
23 that if it is executed with sense and total responsibility  
24 it will remain and indeed it will grow because like other  
25 social services in this enlightened society it is

1 committed to preserving today, or most assuredly  
2 accomplishing, that those people who can't otherwise  
3 find someone working professionally. That way has been  
4 accomplished.

5 So, Bill, if we just remember what we're about,  
6 and recall to others the arguments we heard 10 years ago  
7 or 15 years ago about this kind of program, we'll prevail.

8 I think the record is too clear for that cause  
9 to be lost.

10 I just simply think that what we've got to do  
11 is be as good an advocate for the cause as we are, I  
12 think, for our clients.

13 CHAIRPERSON RODHAM: We now have the gnostic  
14 presentation of the view of the Legal Services Corporation.

15 I think it would be appropriate to hear from  
16 anyone in the audience that has anything to shed on the  
17 lightness or darkness of the approach.

18 Yes, sir?

19 MR. MARSHALL: Thank you. I'm Jake Marshall  
20 from Iowa, a member of the state board. I'm also the  
21 head of client council.

22 There were two things that came up that I would  
23 like to talk about. One was client training for boards.  
24 I think that's great. We don't have that in Iowa.  
25 To my knowledge, we've never had it. We just ha

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1 young women come on our state board who have no idea  
2 what they're doing there, none at all. They'll sit there  
3 for probably a year before they begin to understand what  
4 that board is all about.

5 I would like to see more client training on the  
6 boards but I would like to see it done not necessarily  
7 by staff entirely. I would like to see partial staff  
8 and partially some of the older members of the board to  
9 conduct this training for these people.

10 The second part, Mr. Sacks talked about a study.  
11 We've had studies. Everybody has studies. Then we have  
12 a study to study the study and then we have another study  
13 because we didn't like the studies we had.

14 As far as I'm concerned, all these do is create  
15 a lot of money for the contractor.

16 If you're going to have a study, and frankly,  
17 I'd like to see one done properly. I'm a poor person.  
18 I think frankly I'm intelligent enough to go out and  
19 interview people. I think there's a lot of other poor  
20 people in this country that are certainly as intelligent  
21 as I am and probably a lot of them more so that would be  
22 able to go out and interview people.

23 I'd like to see the poor people of this country  
24 do this.

25 What you get when you take middle

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1 out is like putting a middle class person in the ghetto,  
2 a middle class white in the ghetto, to ask a black man  
3 what he needs. He has no idea what that man needs.

4 It's the same thing as sending a black man from  
5 the ghetto in New York out to Iowa to ask me what I need.  
6 He has no idea.

7 So you take these middle class people and you  
8 bring them out of these big towns or wherever, it's the  
9 old saying, baby, if you ain't been there, you don't know.

10 If you haven't been poor, you have no idea what  
11 you're talking about.

12 So I'd like to see, under the supervision but  
13 not the dominance of Legal Services Corporation staff to  
14 run the study, but let the low income people have as much  
15 input and go out and do as much of the training as is  
16 possible.

17 I thank you.

18 CHAIRPERSON RODHAM: Thank you. Bernie?

19 MR. VENEY: I want to make a couple of points,  
20 I guess. My first point is, there was a point this  
21 afternoon when I almost raced to the table and kissed  
22 Ramona. Ramona, we thank you.

23 The feeling that there is someone on the board  
24 who understands and is deeply concerned is always, it's  
25 always nice to find your reaction to it. That is not so

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1 in any way diminish what the good judge said. I guess,  
2 though, I am always confused when the rhetoric or the  
3 statements greeted with a lot of non-verbal agreement,  
4 yes, yes, yes, particularly in light of what the board  
5 did this morning and what it failed to do in relation to  
6 the Pennsylvania program.

7 It seems some measure of inconsistency to me.

8 Bill, I hear what you say and I've made the  
9 statement before, when Bill McCalpin speaks, people listen.  
10 And I genuinely mean that because you bring a background  
11 and a wisdom and a caring that we all understand. It  
12 says, hey, stop, listen, and consider.

13 But, Bill, I hope you recognize the fact that  
14 there is a growing feeling around this country that Legal  
15 Services has got to maintain its difference, that it  
16 cannot be, as many other agencies, having identified its  
17 principles, then begin to back away from its principles  
18 for political reasons.

19 There may come a point, and this board will have  
20 to define what that point is, there may come a point when  
21 you will have to say, we recognize that we are going to  
22 draw a lot of heat and draw a lot of fire, but if we are,  
23 in fact, to provide access to justice for poor people,  
24 if we are, in fact, to provide economic opportunity for  
25 poor people, we have just got to continue on and trust

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1 that there is enough recognition on the part of the client  
2 community and others in this country that there is a need  
3 for something like Legal Services and something like the  
4 advocacy of Legal Services and we are going to take the  
5 risk that there will be the congressional and other  
6 support for that.

7 I read, with a great deal of interest,  
8 Senator Helms' opening statements during the debate.  
9 I was thoroughly confused because Senator Helms talks  
10 about access to justice, he talks about the correctness  
11 of Legal Services attorneys addressing problems such as  
12 housing and bankruptcy and a whole range of others, and  
13 yet, protests against some of the methods, I guess, or some  
14 of the kinds of cases that Legal Services programs bring,  
15 not recognizing that they are part of the full gamut of  
16 access to services.

17 I don't suspect that Jessie Helms is ever going  
18 to be persuaded as James Kilpatrick seems to have been,  
19 in terms of the efficacy of Legal Services. I suspect  
20 that on the other side of the coin, on the other side of  
21 the fence, there are those who understand and will keep  
22 the same enthusiasm and the same hope that Bob Kutak often  
23 expresses to this board and to the Legal Services communi-  
24 ty.

25 Without taking much more time, I just want to

1 address the question of the legal needs survey. The act  
2 requires that each program have a priority setting system.  
3 That is required by the act.

4 The Corporation, in my estimation, has never done  
5 a very good job in either enforcing that particular part  
6 of the act or its regulations regarding it, nor providing  
7 the technical assistance to programs around the priority-  
8 setting process.

9 I suggest that for me the Corporation spending  
10 money to help perfect the priority-setting process and  
11 helping the Legal Services programs truly involve all  
12 segments of the client community would not only get you  
13 to a point where you would be able to assess legal needs,  
14 but also a statement of which of those legal needs in the  
15 local perspective seems to be the most important, the  
16 most critical.

17 So I suggest to you, instead of spending \$500,000  
18 plus on another contractor, to yield yet another Alta-  
19 Utah-style delivery system study...that's an in joke  
20 between Revius and Bob Kutak and I because we're the only  
21 people in this assemblage, I guess, who really remember  
22 Alta terribly well...instead of doing that, why not  
23 consider perfecting the priority-setting process, consider  
24 factoring in present demand, consider factoring in what  
25 Ted Mitchell's paper shows you programs are growing more

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1 and more sophisticated in, and that is an assessment of  
2 costs for providing legal services in particular sub-  
3 stantive areas, and using that as your basis for determ-  
4 inging what presentations you will make to the Congress.

5 I suspect that that is going to take another  
6 year and a half, two years, to do, but I suspect also  
7 that it might have two benefits:

8 One, to get you to the basis of some legal  
9 need, and;

10 Secondly, to help programs perfect the system  
11 that is now highly defective in most of them but is man-  
12 dated by the Act.

13 CHAIRPERSON RODHAM: I think that is an excel-  
14 lent idea.

15 Would you have any specific, well, I am sure you  
16 do, any specific recommendations that you might be able  
17 to pass on to Howard and the rest of us as to how best  
18 that could be achieved?

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MR. VENEY: It is an excellent piece of work, I think. As has been said around this table by the board members and others, it is an excellent foundation piece.

Now, secondly, I had promised Howard a written piece of paper that I was unable to deliver because of other pressures. I will attempt to both give him the first paper I talked about and respond to the request you are making now.

CHAIRPERSON RODHAM: I think that would be excellent. Are there any other specific recommendations along the lines that Bernie, Bill McCalpin and Mickey Kantor have made? Are there any other that a board member or other person wants to throw into the discussion?

Howard and I have talked about this and Dan and I talked at length about it. If there were any decisions that could be made today, we wanted them. But we really did not believe there would be because I think that this kind of work is both too important and has too many ramifications to come to any decisions on very soon.

But if there are not, what we were particularly interested in doing today was to draw out from everyone who has read the papers and had a chance to think about them what are the other priorities and other suggestions.

I think Bernie's suggestion to me without knowing anything about it represents a very interesting

1 and potentially fruitful alternative to the needs study.  
2 That is one of the things that Howard was proposing as a  
3 way of getting at a funding approach that could be explic-  
4 able to people other than ourselves as to where we went  
5 from here.

6 A lot of Bill McCalpin's suggestions, aside  
7 from his general description of the current national mood,  
8 which we can or don't agree with, a lot of his specific  
9 suggestions are not very cost oriented. I mean, they're  
10 more attitudinal and more procedural. They would not  
11 require additional money.

12 Some of Mickey's suggestions would and others  
13 would not. I think there are and the gentleman from Iowa  
14 is pointing up a deficiency in what's an already existing  
15 program that of course takes money. But it's merely ful-  
16 filling what we already thought we were doing in terms of  
17 client board training.

18 Are there any other specific recommendations  
19 and suggestions? Because what I would propose that we do  
20 is try to get some responsibility assigned to assist  
21 Howard in the further refinement of this draft and plan.  
22 I think he's been taking detailed notes and I think that  
23 some of the others of us have as well.

24 I think he needs some help at this point.  
25 He has laid out for us the broad outlines of where he

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believes we should go based on what he has studied. And I think it would be very useful if some of us could assist him and assist the staff that is also helping Howard in coming up with some specific recommendations.

Like, for instance, Bill on your'sthey're not funding recommendations. If our complaint procedure is not working fairly or adequately, what can we do to improve it? Is it merely that we need to act or to improve our image in the way we treat complaints? Or is it that we need to shape the procedure differently?

In Cecilia's recommendations, which of course were also joined by Revius, Ramona and the gentleman from Iowa, what kinds of short term and long term recommendations based either on next steps or our own experience do we want to make for client involvement, given both the best case and the worse case sort of analysis?

I mean, one thing is to start with just the bare minimum, as the gentleman from Iowa points out. If we're still not training client board members, then we're still not doing what we thought we were hoping to achieve as a minimum in terms of client involvement. I think we need some sort of firm recommendations as to how we can better improve that process.

Another area we talked about is the technology area. We're still not of any one mind about the best way

4  
1 to proceed on that. I think a lot of these issues, and  
2 particularly in the technology area, we should have steps  
3 to take.

4 The Audit and Appropriations Committee rejected  
5 the large proposal for going into technology but there  
6 may be some short term proposals that would be useful to  
7 explore.

8 If some of us could take some responsibility  
9 for reviewing some of these areas and thinking about what  
10 we needed to recommend or what kinds of steps we would  
11 like to take, then what I would propose is that we do that  
12 by certainly no later than August.

13 Then have a sort of committee of the whole meet-  
14 ing in conjunction with the Audit and Appropriations  
15 Committee which is set up for sometime in August to review  
16 the budget process and to try to determine what kind of  
17 recommendations we would be willing to make both to the  
18 staff and to ourselves for budget planning.

19 But what I really need now are some people who  
20 will either allow themselves to be drafted or who will  
21 volunteer to assist Howard in some of these areas so that  
22 he doesn't have to labor alone on this.

23 MR. TRUDELL: Hillary, I think that now, we were  
24 just briefly talking to Dee in the hallway a little while  
25 ago in terms of the real need for coordinating what's

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1 going on. You've got these three task forces. You've  
2 got the work that Howard's done. You've got this meeting.

3  
4 September is not that far away and I would hope  
5 that the board would really be prepared at that meeting.  
6 That means that some of this work has to be carved up for  
7 the various committees, rather than just leapfrogging  
8 over them. Or if the decision is to just leapfrog over  
9 them, then that's fine with me too.

10 I think Dee and some of the PAG people that  
11 have been working on these task forces, after they've  
12 heard what's been discussed today and we really haven't  
13 heard from any of them yet, I don't know if they're going  
14 to make any statements.

15 How do we get to September in an orderly  
16 way and to the point where we have to approve the budget  
17 for fiscal year '81 -- because you know there is a lot of  
18 idealism, a lot of rhetoric in both documents.

19 CHAIRPERSON RODHAM: Well, Dick, that's what  
20 I'm seeking. I know full well that Bruce Morrison, Dee  
21 Miller and Bernie and other people will be thinking very  
22 hard and working very hard on these issues either as part  
23 of corporation task forces or because that's their lives  
24 and they're involved in it.

25 But what I'm looking for is what the board is  
going to do. Who on the board is going to be willing to

1 work with whomever to go forward on some of these issues.  
2 Now, its been mentioned repeatedly that we need to review  
3 the regulations and see whether or not they're suitable.

4 Well, I would be glad to work on that or Bob  
5 Kutak who already has some experience. I'm not making  
6 any recommendation. I am looking for some advice. What  
7 we did was tell Howard that we wanted him to produce these  
8 documents by today so that we would have them to review  
9 and we could then make some judgments to go forward on.

10 I do not pick up from anyone on the board that  
11 anyone wants to take any action on anything in any of these  
12 documents. What I instead sense is a feeling that we've  
13 explored a lot of these issues.

14 What the board members want to do is to  
15 dig more deeply into some of them and to come up with more  
16 specific recommendations which I think we have to do very  
17 quickly or else we lose another year. And if that's the  
18 case, what I'm looking for is some guidance.

19 Obviously we'll coordinate whatever we do, but  
20 I'm just trying to get from the board what it is we're  
21 willing to do. Now if all we're willing to do is tell  
22 Howard we will write to him and call him and provide some  
23 information to him then let's be clear that's what we're  
24 going to do.

25 But if we're willing to do more than that as

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1 individuals or as members of the committee, if any commit-  
2 tee wants to take on part of it as a responsibility, then  
3 I need to hear that.

4  
5 MR. SACKS: Let me take the initiative. If you  
6 want to continue to work on this, what I will do for  
7 example is, having heard Bill's comments, very carefully  
8 I will go back and think about it and I will send a draft  
9 by him on the sections that are most concerned and see  
10 what he thinks.

11 So I will draft my own assistants unless some-  
12 body on the board wants some other structure. But if you  
13 would like me to carry forth, I will do it. But I must  
14 have this. I cannot do any work after about the 5th of  
15 August. For the next three weeks I'll be out of the  
16 country.

17 This means that if there are other comments  
18 about this from other board members, staff or field,  
19 I've got to have them in the next ten days so I know  
20 where the sore points are so that I can begin to try to  
21 address them.

22 So, especially for board members that may not  
23 have said something, if you've got problems, I need to  
24 hear from you very quickly. Because if you wait until  
25 September we can't draft on the floor. At least we never  
do successfully draft on the floor. All of the drafting

1 ought to be done this summer.

2  
3 CHAIRPERSON RODHAM: Well, it has to be or  
4 it's of no use to us.

5 MR. KUTAK: Going back to my favorite question.  
6 If we agree that we have to be looking toward some funding  
7 rationale, again I don't want to use the word formula.  
8 I think Dick's right. Dick and I share the same dilemma.  
9 We may politically be trapped into the formula, although  
10 I'm not particularly delighted by that prospect either.

11 The question is, Howard, do you have some idea  
12 of how you would try to develop a funding rationale?  
13 Whether you're talking to us, to the budget people in the  
14 corporation, to the funding committee at PAG, etc. Am I  
15 wrong? It seems to me that that's a missing piece here.

16 MR. SACKS: That's a very good question. I  
17 would suggest that it needs to be more sharply pointed out.  
18 But as a beginning, I would say that my ideas about a fund-  
19 ing strategy would begin at the bottom of page 28 and run  
20 through the top of page 30. If I had to talk to budget  
21 people, if you take those items, that's where I would be-  
22 gin.

23 MR. KUTAK: You mean, let me get a clarification.  
24 You're saying that you would take the existing in effect  
25 field services base of the budget, the so-called non-  
disgressionary type?

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MR. SACKS: Right, the \$300 million.

MR. KUTAK: Whatever that figure is. Okay.

And then your proposal which needs sharpening would be that for a short range budgeting rationale you would then try to, assuming the board adopted these, you would then say that our budget over the next say three years would consist of the field base, staff running the corporation, etc., plus the costed out figure for these items, technology, etc.

MR. SACKS: Plus cost of service. Because that's going to be a continuing source. Cost of service adjustments, that's got to be added on.

MR. KUTAK: I understand. So in other words what you're saying is one funding basis is to take what you've got, figure out what's a fair request to make for cost of living increases or cost of services increases. And then, if the board adopted these, to tack these on.

And then I take it your answer on the long range plan would be that you would not try to come up with any cosmic figures of the long range. Which I happen to agree with. I think that's probably asking for trouble.

PRESIDENT BRADLEY: One of the things that we specifically and I hope that's satisfactory, is that Howard and I, and Howard has worked extraordinarily well with the staff and with the field, I think he's spoken to

1 more than those incestuous persons. I mean the other  
2 staff persons he's spoken with.

3  
4 What we had anticipated doing is that because  
5 the staff is now hard at work, we have various task  
6 forces as you know, we have Howard's effort at work, and PAG  
7 through it's FCC is already seriously at work looking at  
8 some of these issues and will be meeting very shortly.

9  
10 Hardly a day goes by that Bernie doesn't sug-  
11 gest not only what we're doing well but that he expresses  
12 very well what we are not doing so well. What we're  
13 going to do this summer, and we haven't refined it down  
14 to the nth degree in terms of the dates, there are going  
15 to be specific program activities that the staff is going  
16 to present to the Provisions Committee. In effect, to see  
17 what kinds of involvement, what kinds of ideas and sug-  
18 gestions the Provisions Committee has.

19  
20 We're going to take that information back to a  
21 meeting of the Audit and Appropriations Committee as we  
22 finalize a tentative, proposed, recommended, hypothetical  
23 kind of discussion working draft of a proposed budget for  
24 1982. We're going to meet in August with Steve's commit-  
25 tee prior to coming back to this board with the discussion  
of what will in effect be a fairly comprehensive proposal  
from this process for you to have a specific crack at  
before we refine the budget at the December board meeting.

1           So that schedule is already sort of in place.  
2           And I think that will produce something that will for  
3           better or for worse, i.e., whether or not we're going  
4           to move off of the funding formula, what percent for the  
5           cost of service. Whether or not we're going to implement  
6           the cost variation study.

7           The whole range of things that all of us -- we've  
8           got all the intelligence, we've got all the information --  
9           so the process and the track that we're on is to come  
10          back to you with the budget recommendation to see if it's  
11          consistent with the kinds of things we've been talking  
12          about at the last two board meetings.

13          I submit that the options that we will be  
14          discussing at the Provisions Committee, especially but  
15          even important at Steve's committee in August, will  
16          address those issues that all of you have been wrestling  
17          with right now.

18          MR. ENGELBERG: For the first time I'm starting  
19          to see a possible structure here. Maybe it was all there  
20          all the time and I just didn't understand it. But I would  
21          be very comfortable with trying to develop a fairly prag-  
22          matic budget plan because again I think that's really the  
23          bottom line of what we're talking about over the next three  
24          or four years, which would essentially be: 'Look,' we'd say,

25

1 to the Congress, 'we have a base of programs out there.  
2 Maybe they're not all the best in the world, but as a  
3 while, the quality is very high.'

4  
5 In effect a defense of what we have, and  
6 you know, I think this could be done very strongly. The  
7 pragmatic need for this type of delivery, etc., and this  
8 is what it cost to run it. You know, you make the obvious  
9 points about how woefully underfunded it is.

10 Then you get into the cost of service adjust-  
11 ments, etc. Then, sort of along the lines that Mickey  
12 suggested, without getting into specifics. I would think  
13 the board and I would like to get on with it, which is  
14 what Howard is trying to do.

15 If the board could set down and reach consensus  
16 on maybe ten strategies which might include client train-  
17 ing, beefed up support. I think each of us have our own  
18 sort of things that we're very interested in.

19 But if we can reach consensus on those, I guess  
20 what Mickey refers to as, I'm not sure, strategies or  
21 tactics. And then basically cost them out, which I guess  
22 we can do. It's not that difficult. And do it in a way  
23 that we could say this is a three year or a four year plan.

24 Again, I would be very comfortable with that.  
25 And I don't think that is a funding formula. I mean, you  
start with a base but you don't have to get into a kind of

1 next steps or minimum action. Again, what I'm looking for  
2 is a very persuasive budget rationale for the Congress.

3  
4 So then, if a guy like Early says -- he's on the  
5 Appropriations Committee: Why do you need any more money?  
6 You're already covering the country. You don't just  
7 say you don't understand. We can say. Using the best data  
8 we've got. We've got to be honest, and I like your approach  
9 Bill, which is 'why try to prove the obvious.' It's so easy  
10 to prove unmet needs.

11 I don't mean to ramble on but for the first time  
12 I'm starting to see that that can develop a rationale.  
13 And I like that. And I like the idea that after a lot  
14 more input from the field and the clients and everyone  
15 else, that we start to get on with it.

16 I think there are a half dozen things today,  
17 I'm not suggesting that we do them, we could probably  
18 reach a consensus on. Probably there's fairly widespread  
19 consensus on the board on the points about client train-  
20 ing, specifics of it I don't know.

21 But, we can't come up with a figure today. I  
22 think that would be unrealistic. But we could say to the  
23 staff that this is what we want to do and the magnitude  
24 of it, and you tell us how much it's going to cost. I like  
25 the idea of being able to sort of focus in and sort of come  
up with a fairly pragmatic approach to the question of

1 MR. TRUDELL: Hillary. I can't speak for the  
2 Provisions Committee as a committee. I speak for myself.  
3 In a sense, no one is jumping to Howard's assistance in  
4 terms of board members.

5 Maybe a logical thing to do is once Howard is  
6 able to digest a lot of the comments made here today,  
7 I'm sure over the next couple of weeks, I think the Provi-  
8 sions Committee would be more than happy to see you kind  
9 of divide up your plans and whatever, and the areas that  
10 should be at least thrashed out by the Provisions Commit-  
11 tee to give you some feedback.

12 I don't think we should take up a lot of time now  
13 to really discuss the refined effort until the next board  
14 meeting. And you know, then some decisions can be made  
15 in terms of what things probably require more discussion  
16 by both the Audit and Appropriations Committee and the  
17 Provisions Committee.

18 You're saying you will be out of touch after  
19 August 5 for three weeks?

20 MR. SACKS: Two weeks.

21 MR. TRUDELL: Two weeks.

22 CHAIRPERSON RODHAM: You know what I would like  
23 to suggest, Dick, Howard? I don't want to put you on the  
24 spot. But you're talking about asking for individual  
25 comments and that includes not just board members but

1 everyone who's here and anyone who's not, within the next  
2 ten days. That takes us to the end of June.

3  
4 Then you're talking about having a draft ready  
5 based on that by when? Do you have any idea?

6 MR. SACKS: Oh, I would have a draft ready by  
7 the end of July. It's even possible, and that is if  
8 everyone will cooperate, I will be able to send out seg-  
9 ments of it to particular people and get back responses.  
10 And then put it through another draft so that by the time  
11 I leave in early August you will have a draft that will be  
12 ready for board discussion.

13 So I can't promise that I could circulate  
14 another whole draft and get back comments. But at least  
15 I will make contact with all people who have expressed  
16 interest and criticisms and so forth. And see if I can  
17 work out some measure of agreement.

18 CHAIRPERSON RODHAM: I think then since we're  
19 not looking at a document being ready until really the  
20 end of July to prepare, to Howard and to give time for  
21 everyone to participate, I think then Dick we could have  
22 the Audit and Appropriations Committee and the Provisions  
23 Committee.

24 That's why I was talking about a committee of  
25 the whole sort of around the Audit and Appropriations  
Committee meeting time which has to go forward to some

1 together and consider the plan as well as the budgetary  
2 implications and the provision implications. And I would  
3 like to continue to proceed along that route.

4 MR. SACKS: When would you have that meeting?

5 CHAIRPERSON RODHAM: Well, unfortunately we have  
6 to have an Audit and Appropriations Committee meeting in  
7 August.

8 PRESIDENT BRADLEY: We were talking, Steve, when  
9 we met, we even spoke about a date I believe.

10 MR. ENGELBERG: No, Gerry was going to be back.

11 MR. SACKS: Let me suggest that in view of some  
12 of the conversations that went on today, I think we have  
13 to be thinking in terms of an earlier date than we were  
14 talking about last week. We were talking about a date  
15 which was again within two weeks of the board meeting.

16 We found today there simply isn't time to  
17 get things on the agenda of the board, to get materials  
18 out to the board members in advance of the board meeting.  
19 I think we just can't do it.

20 CHAIRPERSON RODHAM: You know, I'd like to ask  
21 the president, I know it's pressing you but I really think  
22 it would be helpful to have that meeting when Howard was  
23 still in town. I would like to have it the last week in  
24 July. Now, that will press Howard a little bit more but  
25 I would feel more comfortable about having it the last

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1 week in July and being able to have as many board members  
2 to attend as we possibly can.

3 That way we won't run into the ABA meeting and  
4 a lot of other stuff that goes on in August.

5  
6 MR. McCALPIN: I leave on the 27th of July.

7 CHAIRPERSON RODHAM: If everybody has a calendar,  
8 can we kind of look at that right now.

9 MR. McCALPIN: The board meets on the 28th.

10 CHAIRPERSON RODHAM: You leave when to go?

11 MR. McCALPIN: The 27th of July. And I'll be  
12 back the 8th of August.

13 CHAIRPERSON RODHAM: How about the 21st, the  
14 22nd or the 23rd? Are those dates good?

15 MR. ENGELBERG: Monday the 21st is alright with  
16 me.

17 MR. SINGSEN: The Audit and Appropriations  
18 Committee on any date in July would not be able to receive  
19 and review third quarter drafts.

20 MR. ENGELBERG: Gerry, one thing that I'm very  
21 concerned we get done at this committee are these guide-  
22 lines on the budget review. And I assume that say if we  
23 did it on the 21st, does that give you enough time to get  
24 them prepared and get them out?

25 MR. SINGSEN: You want it a month in advance of  
the meeting. So it does not.

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1 MR. ENGELBERG: No, if you get it in two weeks.

2  
3 MR. SINGSEN: In terms of when they would be  
4 prepared, I think realistically given schedules, it's  
5 two or three weeks before they're going to be prepared.

6 MR. SACKS: Two weeks from now.

7 MR. ENGELBERG: If you could get it to us say  
8 two weeks before the meeting.

9 MR. SINGSEN: That's two weeks from now.

10 CHAIRPERSON RODHAM: That's okay.

11 PRESIDENT BRADLEY: I'm saying I don't think  
12 they're going to be prepared then.

13 MR. SINGSEN: For the purposes of what we're  
14 talking about, the principal purpose for this committee  
15 meeting is not so much to review the third quarter budget.

16 PRESIDENT BRADLEY: He's talking about the  
17 guidelines for the committee review.

18 CHAIRPERSON RODHAM: The president has suggested  
19 that it would be better to have the meeting on Tuesday  
20 the 22nd or Wednesday the 23rd.

21 MR. SINGSEN: Why?

22 CHAIRPERSON RODHAM: Just a better time.

23 PRESIDENT BRADLEY: In terms of the staff get-  
24 ting ready for all of the information in these materials.

25 MR. MCCALPIN: Hillary, you talked about build-  
ing something around the Audit and Appropriations Committee

1 meeting. Are you talking about more than one day?

2  
3 CHAIRPERSON RODHAM: Hopefully not more than  
4 one day, but one full day. If we can manage that.

5 MS. ESQUER: How are we going to kind of meld  
6 the work that has been done by the different task forces  
7 and the staff? Because I think that before Howard's  
8 paper is kind of cut in stone, particularly the short  
9 range plan, we really need the benefit of all the work  
10 that has been done to date.

11 I know there has been an awful lot of  
12 discussion that would be valuable to us because we really  
13 haven't had time to do that. I think the long range  
14 thing is no problem. But the short range thing, I think  
15 we would want some input from some of the task forces.

16 MR. SACKS: I've generally kept up with that  
17 and I don't think that they're likely to produce results  
18 in the next month that would radically affect what goes  
19 into the short term, long term plan. Now, Gerry really  
20 knows better than that. He ought to hear that statement  
21 and see if I'm wrong.

22 You've got three task forces running. What  
23 I've said is I don't think you're going to get results in  
24 the next month or six weeks but if so, not so definitive  
25 that they would really affect the content of the long  
range or the short range plan.

1 MR. SINGSEN: Certainly some of the issues that  
2 the working groups have been discussing have come close  
3 enough to conclusions so that there is solid material that  
4 would be available at that time. The short term effect  
5 very much is dependent on the decisions on authorization  
6 and appropriation.

7 I don't think a future funding formula is likely  
8 to come out in the short term plan generally because I  
9 think implementation of the new funding formula is going  
10 to await the presence of additional money. But decisions  
11 about marginal money that's available in the short term  
12 plan clearly are not going to be.

13 There's going to be information coming from  
14 the working groups and from the participatory process  
15 this summer. It is in the same time frame that you're  
16 talking about. Just moving a little bit faster than its  
17 been talked about until now.

18 MR. SACKS: I'll do the best I can. I assume  
19 that Dan and Gerry and the others will keep me informed  
20 and I will try to keep up to date with the latest develop-  
21 ments.

22 CHAIRPERSON RODHAM: Any others?

23 MR. SACKS: Now let me just understand. I'm  
24 going to get comments from everybody by June 30?

25 CHAIRPERSON RODHAM: Right.

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1 MR. SACKS: Then I'm going to work with individ-  
2 ual board members and others in drafting sections with  
3 their criticisms and suggestions. And then by the meeting  
4 to be held on July 22 or July 23, I'm going to have either  
5 new sections of both plans or hopefully redrafts of both  
6 plans. I don't guarantee you that I can get them out to  
7 you a week in advance, but I will at least have them here  
8 when you show up.

9 MS. SHUMP: Howard, let me understand what you  
10 said previously. Did you not say that you wanted to do  
11 your own drafting and that you wanted to call whomever  
12 you felt was necessary to call upon in order to get the  
13 comments that you're seeking? Is that what you said?

14 MR. SACKS: No. I need two things. First of  
15 all I need comments from people. Anybody's got any  
16 problems with any sentence, the location of any comma or  
17 hypen, I'd like to have it by the 30th of June.

18 MS. SHUMP: That's all?

19 MR. SACKS: That's all. Beyond that, then if  
20 I get serious, substantive suggestions like I've got  
21 from Bill, Mickey, Steve, Revius and you, I will try to  
22 get back to you by telephone or letter saying here's what  
23 I propose to do. What do you think about it?

24 MS. SHUMP: So then you are going to be con-  
25 tacting whomever you want. You don't want people

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1       bombarding you?

2  
3               MR. SACKS: Well, I want people certainly  
4       bombarding me with ideas and suggestions. By all means.  
5       If you go home from here and on the plane you read some-  
6       thing and say, gee that's terrible, you really ought to  
7       revise it to read such and such, by all means send it to  
8       me. Sure.

9               MS. SHUMP: Okay.

10              CHAIRPERSON RODHAM: Okay. The next item on  
11       the agenda is the President.

12              MR. ENGELBERG: Excuse me. The Provisions  
13       Committee will attend the meeting on the 22nd?

14              CHAIRPERSON RODHAM: Everybody's going to meet.  
15       We're going to meet here in Washington.

16              MR. SACKS: I take it what you have in mind is  
17       after the meeting which will be a committee of the whole  
18       meeting on the 22nd or the 23rd, I will then take it back  
19       and use those new comments and suggestions and try to turn  
20       out a draft that will be mailed out in early August.  
21       And that will be put on the agenda for the September meet-  
22       ing?

23              CHAIRPERSON RODHAM: Right. Let me put it this  
24       way. If the Audit and Appropriations business cannot be  
25       done on the 22nd, I still think we should meet, as many of  
26       us wish to go over Howard's draft. So if you can't do

1 your Audit and Appropriations business, let us know. But  
2 then I think that we will meet any way to see where we go  
3 with this.

4 MS. SHUMP: Is this only for the 22nd?

5 CHAIRPERSON RODHAM: Yes. Yes, here in Washing-  
6 ton.

7  
8 MR. TRUDELL: We have to travel on Monday. That  
9 was the thing. Sunday will be an easier day to travel.  
10 The reason I ask is that Cecilia and Bill, and I assume  
11 Bob, they're the ones further west. And we have to give  
12 up Monday and Tuesday.

13 MR. KUTAK: You don't want the Committee on  
14 Operations here do you?

15 CHAIRPERSON RODHAM: Everybody who can be here,  
16 Bob.

17 MR. SACKS: I think it's very important, Madam  
18 Chairman, because the thing I fear most is that somebody's  
19 going to raise a point at the September 5 meeting and say,  
20 you know I've just been thinking that third paragraph on  
21 page 13 really doesn't sing. And I suggest we do so and  
22 so.

23 PRESIDENT BRADLEY: I think that in considera-  
24 tion of half the board members who would have to spend a  
25 day in transit which overweighs the other considerations,  
I would prefer that we do it on a Monday, the 21st.

1 MR. ENGELBERG: So, it's the 21st now.

2 PRESIDENT BRADLEY: Yes, I know that Mickey  
3 would also prefer a Monday meeting rather than a Tuesday.  
4

5 CHAIRPERSON RODHAM: The next item on the  
6 agenda is the President's Report.

7 PRESIDENT BRADLEY: Which my chairman has  
8 instructed me is to be relatively brief.

9 MR. KUTAK: Are we meeting Sunday? I mean  
10 this weekend. Are we going through all day tomorrow?

11 CHAIRPERSON RODHAM: Well, it depends.

12 PRESIDENT BRADLEY: If I can finish the Presi-  
13 dent's Report you won't.

14 CHAIRPERSON RODHAM: No, we are going until we  
15 finish whatever business we have. But if we can finish  
16 this evening, we'll finish this evening.

17 MR. ENGELBERG: There's no other business.

18 PRESIDENT BRADLEY: I've got a matter to bring  
19 up. Several specific items. Number one, I've tried to  
20 keep most of the affected board members informed. But  
21 now I can inform the entire board.

22 As you know we've been patiently working, and I  
23 emphasize the patience, with the White House in getting a  
24 decision on the nominations of these five board members  
25 who have already been renominated, I mean the White House  
has made the decision to renominate the five.

1           The long FBI investigation has taken much longer  
2 than the White House had anticipated and we had to send  
3 the names out to the five field offices. They notified  
4 me today in the Vice President's Office that the Presi-  
5 dent has in fact, the day before he left for Europe or  
6 wherever he is, has in fact signed the document trans-  
7 mitting the five names to the Hill.

8           However, the FBI has not completed the paper-  
9 work on one of the five and they would prefer to complete  
10 that before they transmit all five of them. They told  
11 me they thought that would be done today and that they  
12 expected the nominations to formally go to the Executive  
13 Clerk's Office momentarily.

14           We're already working with the leadership of  
15 the Senate and the committee in trying to get swift and  
16 complete and positive action on these nominations. But  
17 some of you know that we're getting close to the adjourn-  
18 ment and to the election. There's a possibility that we  
19 may not be able to get the names confirmed. But that's  
20 our top priority.

21           Number two, and I just wanted to make some notes  
22 here. I wanted to thank the D. C. Bar. This is the first  
23 time that the board has met on the eighth floor. We are  
24 joint tenants with the D. C. Bar. We have the use of this  
25 facility in the daytime and they use it at night.

David Elwinger, who I think was here this

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1 morning, who's the executive director, wanted me to on  
2 behalf of the D. C. Bar to welcome each of you here and  
3 we will continue to have our committee meetings here  
4 because Mr. Kutak thinks it's much cheaper to meet here  
5 than at the Mormon's Center. And it's much more con-  
6 venient for the staff.

7 We have a large number of staff present today  
8 and it gives them the opportunity to come here and meet  
9 and see the board in action. Three or four items that  
10 I think are worthy of note. I'm happy to report to you  
11 that in terms of individuals this is like 20-20 Magazine.

12 George Brown who has long been involved in  
13 legal services, who is sort of the founder of the legal  
14 services program and our first executive director in  
15 Memphis, Tennessee back in the early 70's, was just  
16 recently appointed to the Supreme Court of the State of  
17 Tennessee. The first minority appointment in the history.

18 There was a death on the bench and Governor  
19 Alexander, who incidentally is a Republican, appointed  
20 George who has been very, very involved in legal services  
21 for a long time. Unfortunately, that's a good note. On  
22 a sadder note, A. C. Wharton who most of you know suc-  
23 ceeded George Brown in Memphis and has been one of the  
24 leaders in legal services, has just resigned as director  
25 of his program and has been appointed the public defender  
for Memphis and Shelby County, Tennessee. And we hate to

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1 see A. C. go.

2  
3 Also, Clyde Cahill who many of you know has  
4 long been involved in legal services as the director of  
5 our program in St. Louis has recently been appointed and  
6 confirmed to the federal district court bench.

7 MR. McCALPIN: He will be sworn in Monday and  
8 I think it might not be a bad idea for you to send a  
9 telegram.

10 PRESIDENT BRADLEY: I'll do that. As a matter  
11 of fact, I've already sent him an express of congratula-  
12 tions on behalf of the corporation. Terry Hatter who is  
13 one of the early leaders in the legal services field has  
14 also been sworn in as a federal district court judge in  
15 Los Angeles.

16 And what I do -- a lot of the legal services  
17 people are now being appointed to a lot of these positions  
18 and on behalf of the corporation and the board we immedi-  
19 ately send the necessary communication.

20 Also, some of our friends at the ABA who are  
21 leaders are leaving. Lowell Beck, most of you know, who  
22 is the number two staff person there has recently resigned  
23 and Hillary and I have communicated a formal certificate  
24 of appreciation to him for his support of legal services.

25 And unfortunately Raoul Rodriguez who is the  
staff person has decided to accept a position back here in

1 Washington and we are communicating our regrets to see  
2 him leave as the principal legal services staff person.  
3 Steve has consistently asked me and I just wanted to  
4 change horses.

5 MR. SACKS: You know Bert Early has resigned too.

6 PRESIDENT BRADLEY: Yes, I'm sorry. That was  
7 on my list. Bert Early who is the executive director of  
8 the ABA has announced his resignation a year hence. And  
9 it's my understanding that the ABA is starting the process  
10 soon. And we will be sending a special commemoration too  
11 for his strong support of legal services.

12 Steve, shifting to the legislative front, if  
13 I could just briefly because we're not going to go into  
14 any details on what's been transpiring on the legislative  
15 front in the last few days?

16 Larry is preparing a detailed memorandum  
17 excerpting the Senate debate next week and an analysis is  
18 being prepared that will be sent to each individual board  
19 member.

20 There has been very little action on the appro-  
21 priations bill. Today we were prepared to go. We were  
22 there all day. Our bill was on the floor. There was  
23 general debate about the state justice judicial appropria-  
24 tion.

25 There was only, I suppose, two references

1 immediately to the legal services bill and it appeared  
2 they were not going to be able to have enough votes by the  
3 end of the day. So they put the entire appropriation off  
4 until next week although the one congressman we knew who  
5 had an amendment to reduce our appropriation by \$45 million.  
6 He called me aside, I'd been meeting with him the last few  
7 days.

8 He said: Dan, I'm going to withdraw my amend-  
9 ment. I've determined that the guys have been doing such  
10 a good job that most that I can get is 50 votes, so I just  
11 want you to know I'm not going to offer the amendment.

12 I think that Charlie didn't mean that as a  
13 compliment but it's a realization of the fact that in the  
14 last month or two there has been an extraordinary effort  
15 made by the field, by the client community, by all of  
16 their supporters, the ABA, especially the NLADA, by the  
17 client council.

18 We have an unbelievable network going on right  
19 now. We've got six or seven persons here at the corpora-  
20 tion that are working full time. Especially Dick Scott  
21 who is taking a leave of absence from his program in  
22 Michigan.

23 All I can tell you is that it's the top priority  
24 of the corporation and I wanted Steve to hear this because  
25 he is afraid we're not doing enough.

1                   The absolute top priority of the corporation,  
2 and I think this is true generally, we feel is dedicated  
3 to getting a favorable bill and favorable appropriation.  
4 As I whispered to our chairman a few minutes ago, for the  
5 first time I'm fairly optimistic that we're going to have  
6 a pretty good legislative year and it's principally  
7 because a lot of people I feel have been working very hard.

8                   I want to thank all of those persons for  
9 doing so. Other than that, Madam Chairman, on the item  
10 that I missed this morning, and we can come back to it if  
11 the board is willing to. It's certainly my understanding  
12 and it's the staff's understanding that on the million  
13 dollars we had talked about, about the continuation of some  
14 of the DSS programs, the staff is operating under the  
15 impression that the million dollars is annualized base.

16                   So the staff, after the completion of the DSS  
17 report which now is based on your action this morning  
18 are going forward with the judgment as to which of those  
19 programs should be continued and the grants we will be  
20 awarding to them will be annualized grants.

21                   That is the operating principle under which I  
22 have been proceeding, and will continue to proceed in that  
23 direction unless the board instructs me to the contrary.  
24 Those are the only items that I wanted to at this moment  
25 bring to you.

1 CHAIRPERSON RODHAM: The next thing is the  
2 future meeting date.

3 PRESIDENT BRADLEY: Hillary, excuse me just a  
4 moment. There's so much on my mind with this legislation.  
5 This won't take but a couple of minutes. We have added an  
6 additional few members to our staff, especially at the  
7 senior staff level. And there are a couple of those per-  
8 sons here. I'd like for Mario, our general counsel, to  
9 introduce our new deputy general counsel.

10 MR. LEWIS: It's my pleasure. Her name is  
11 Linda Hanton. She comes to us from the Mexican-American  
12 Legal Defense and Education Fund out of San Francisco.  
13 She graduated from the University of Santa Clara Law  
14 School, practiced with California Rural Legal Assistance  
15 in the City of Modesto, California for a few years. And  
16 is a native of Wyoming.

17 PRESIDENT BRADLEY: Ms. Moulton, all of you  
18 know, has added a couple of people to her top staff as  
19 division directors, unit directors. And I'd like her to  
20 introduce those.

21 MS. MOULTON: I'd first like to introduce Jody  
22 Smith who's joined OPS as the director of a new unit  
23 charged with regional operations and support services.  
24 Jody most recently was deputy director of the New Orleans  
25 program, and before that was a staff attorney for four

1 years in North Carolina, and is going to be charged with  
2 some of the more difficult areas of our operations with-  
3 in the local training grant process and really bringing  
4 some rationality to a rather far flung regional and  
5 localized operation.

6 I'd also like to introduce John Mola who's been  
7 on board for two or three months as the director of the  
8 Legal Training Unit. Because he was promoted from within,  
9 he didn't come on with quite the same fanfare as we give  
10 to people that we've managed to entice from the field.

11 John came to us about a year and a half ago  
12 from Rhode Island Legal Services where he was director of  
13 training and litigation and had been a staff attorney  
14 before that.

15 CHAIRPERSON RODHAM: The future meeting dates  
16 were set forth in the board book for reminders, informa-  
17 tion.

18 MR. ORTIQUE: I'd like to move formally that the  
19 September meeting be in New Orleans, Louisiana. Do I have  
20 a second?

21 MS. SHUMP: I'll second.

22 PRESIDENT BRADLEY: Is that an ERA state or a  
23 non-ERA state?

24 MR. ORTIQUE: We're not going to answer that  
25 question because the city is an ERA city. Our mayor and

1 our council have passed resolutions. I can't change those  
2 Baptists in upstate Louisiana. There's nothing I can do  
3 about them.

4 CHAIRPERSON RODHAM: It's been moved and  
5 seconded. Bob, you have something to say?

6 MR. KUTAK: I'd take it as a humorous side. I  
7 hope we don't make any decisions on whether or not these  
8 United States are ERA or not ERA.

9 CHAIRPERSON RODHAM: Some are just more equal  
10 than others.

11 (General laughter.)

12 MR. McCALPIN: Is there any question, any pro-  
13 priety, any tradition or history?

14 MR. TRUDELL: We may entertain San Diego some-  
15 time.

16 MR. McCALPIN: Well, I withdraw the question.

17 CHAIRPERSON RODHAM: The only thing that I  
18 would ask the President's advice on is the additional  
19 expense because we are concerned about keeping that down  
20 and being as frugal as we possibly can. And I don't know  
21 what the additional expense could amount to.

22 MR. ORTIQUE: You can get tickets early enough  
23 so that you get all those breaks, even the peanut bags.  
24 How much staff do you plan to bring, Dan?

25 PRESIDENT BRADLEY: Well, that would be a fairly  
key meeting because of the discussions about the audit

1 and those presentations and the debate. And we have  
2 costed it in the past. And clearly for the type of meet-  
3 ing we're talking about, probably the cheapest place is  
4 here in Washington.

5 I think probably what I can do, if that's  
6 satisfactory, is to do today a cost analysis and see if  
7 there's an appreciable difference in the cost between  
8 New Orleans and here and ask the board to either permit  
9 the chairman to make the decision.

10 CHAIRPERSON RODHAM: Well, one of the alterna-  
11 tives is since that meeting, because of the budget consid-  
12 erations, is unusually heavy with staff it might be more  
13 appropriate to have Revius' motion apply for the December  
14 meeting. Because that would not include so many people  
15 coming from Washington to be there because of the budget  
16 considerations. I think that is a way of getting to New  
17 Orleans.

18 MR. McCALPIN: Is he amending his motion?

19 CHAIRPERSON RODHAM: No, I'm just suggesting  
20 that.

21 MR. KUTAK: As much as I would love to be in  
22 New Orleans, Revius, and I hope that I can, I think that  
23 now that we for the first time have a facility where the  
24 board can meet with convenience and I rather with the  
25 maximum economy, that it is in our interest to really be

1 here and to save as many costs as we can. I say that  
2 most reluctantly but I really think the precedent is a  
3 good one to follow.

4  
5 CHAIRPERSON RODHAM: Well, why don't we get the  
6 cost figures. But I think it would be more economical and  
7 better to have the September meeting here given everything,  
8 and let the president work with Revius to see what it would  
9 cost us to have the December meeting in New Orleans.

10 I mean, anyone would rather be in New Orleans  
11 than here. Certainly for eating purposes if nothing else.  
12 But see if you can get that information. So we will meet,  
13 if that's alright, in September here.

14 MR. ORTIQUE: Alright.

15 CHAIRPERSON RODHAM: And make some plans for  
16 December. Is there any other board business. Yes, sir.

17 MR. ORTIQUE: I hope you understand the nature  
18 of my remarks. But it just seems to me that when you get  
19 to a point where you're getting reports from the field,  
20 from the clients all over the country, being concerned  
21 about what takes place at their board meetings and their  
22 ineffectiveness. And, I can speak specifically about  
23 three areas, Berkeley, California, Colorado Springs in  
24 Denver and New Orleans. Clients cannot get matters on the  
25 agenda, cannot be hear or are asked to leave meetings.  
That's right, asked to leave meetings.

1 MR. McCALPIN: Board meetings?

2 MR. ORTIQUE: Actually board meetings. It's  
3 getting to be a little much. And I think that that then  
4 drifts away from staff operations into policy. I think  
5 what we've got to do is find a mechanism or ask the staff  
6 to develop a mechanism that will guarantee that board,  
7 client-board members can have an effective voice.

8 Now, one of the things that we suggested out in  
9 Colorado Springs -- I had a delegation of 15 to come up,  
10 Denver and Colorado Springs-- I was in attendance totally  
11 away from this and never dreamed that I was going to be  
12 approached by legal services people but just happened  
13 that the newspaper report mentioned that I was going to be  
14 there.

15 We suggested to them that they attempt to amend  
16 their bylaws. This was in February. They've had a meet-  
17 ing. Attempted to amend the bylaws that five board  
18 members could insist that something be on the agenda.  
19 Just get it on the agenda. That was rejected summarily,  
20 just out voted.

21 Now that just seems to me is most unfair for us  
22 to be given good service to the involvement of the clients  
23 and saying that clients must have active participation  
24 and then we not be able to develop those mechanics. Now  
25 that situation in New Orleans is kind of standard.

I have not tried to determine just what their

1 problem is but it's something that may get to be quite  
2 embarrassing to us as a board and I understand the attor-  
3 neys wishing to preserve their powers on the board, and  
4 that's built into the statute.

5 So, for board members to be asked out of meet-  
6 ings and for board members not to be able to get things  
7 on the agenda, I think moves into our realm and I would  
8 like to hear from staff. That's the reason why I've tried  
9 to shy away from getting into any particulars.

10 I'd like to hear from staff on our next  
11 meeting what suggestions they might make to us as a  
12 board to assure that we're talking about realistic  
13 participation by clients.

14 CHAIRPERSON RODHAM: I think that's very  
15 important. Clint, Bucky, I see you're taking notes. But  
16 I think it would be useful to make some kind of effort  
17 to survey the programs with the help of the clients  
18 council to find out how widespread this is and see what  
19 additional efforts need to be taken to make sure that we  
20 can remedy it.

21 Any other new business? Is there a motion that  
22 we adjourn?

23 MR. MITCHELL: Can I talk for just a few minutes?  
24 I really think I ought to put in a word for the rural  
25 programs.

1 CHAIRMAN RODHAM: This is Ted Mitchell.

2 MR. MITCHELL: My name is Ted Mitchell, director  
3 of the Micronesia Legal Services Program. At the risk of  
4 becoming identified as the Don Quixote of the legal  
5 services program, and I was prepared to say at the outset  
6 that I really couldn't perceive any potential of you agree-  
7 ing with me, but after the discussion about the Sacks  
8 paper I think there may be some hope.

9 The hobby horse I'm riding is rural programs  
10 and the need to give them enough money so that the ulti-  
11 mate quantum of legal services that reaches the client  
12 is roughly equal from one end of the program to the other.  
13 It's just a rough estimate of my own that rural programs  
14 are underfunded from a few percent to 100 percent or even  
15 greater.

16 The Micronesian program, our best estimate is,  
17 is probably underfunded by about 75 to 80 percent. This  
18 disparity is due of course to higher costs in rural pro-  
19 grams for personnel, for travel, for communications and  
20 very often for supplies and other items.

21 I don't think I need to repeat for the sake of  
22 this group all of the reasons why Erlich and others gave  
23 in the past for not doing anything about helping out the  
24 rural programs to equalize the urban and rural funding.

25 There are lots of reasons not to do it.

1 They include everything from a blind adherence to a com-  
2 fortable formula, a simpleminded idiotic formula that had  
3 a lot of utility I guess in certain circles, to the notion  
4 that was advanced by Erlich and others. Their notion  
5 was that there's absolutely no way to identify the dif-  
6 ferences, the true differences, between urban and rural  
7 programs.

8 I mean, there are a lot of reasons that can be  
9 advanced for not doing it. There's only one reason for  
10 doing it and that is it's the only right and rational  
11 thing to do.

12 I'm encouraged by Mr. Sacks' paper to see that  
13 special needs of rural programs are included and really  
14 are ranked as the first specific goal of funding alloca-  
15 tion. And I'm encouraged by that. But redress for the  
16 rural programs is long overdue now, long overdue.

17 It's been an inequity that was built into the  
18 seven dollar major formula from the beginning. And it has  
19 costed people in rural areas just incalculable in terms of  
20 what they haven't gotten in terms of legal services.

21 A word or two specifically, if I may. And I  
22 really need to go into something. I'm not going to sug-  
23 gest what. I don't know. One of the reasons advanced  
24 for not doing anything about tinkering with the seven  
25 dollar formula is there's no money. It's all been spent

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1 or committed. Well, I'm not so sure, not so sure.

2 Just to challenge you in one small way, these  
3 programs like all others have nonrecurring needs that  
4 really cry out at times. The Micronesia program has  
5 twenty typewriters, 1970 vintage that the tropics  
6 about have taken back. We don't have money to replace  
7 them.

8 Talk about fancy word processing machines. What  
9 quality of legal services can we offer when we don't have  
10 any more typewriters? I think something ought to be done.  
11 Certainly I challenge you to think hard about it and see  
12 if something can be done about it. Soon. Now.

13 A word to you specifically about Micronesia,  
14 and as I said in the paper I presented to you, this is a  
15 colossal absurdity that I find myself a victim of:

16 24,000 square miles, 2,000 islands, 200 inhabited  
17 islands. \$10,000 is the cost for one board meeting. And  
18 that's a small board. That's cut down from 41 to 9.  
19 \$25,000 is the cost for one staff meeting. \$10,000 is  
20 the cost to mount a litigation effort -- to go to Hawaii  
21 4,000 miles away to the nearest federal district court  
22 and get an injunction against the Defense Department.  
23  
24

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Now, all of these expenses, by type, are shared with other rural programs, but they do not exist in urban programs. The cost of a Board meeting in San Francisco is the cost of a pot of coffee. Yet in its wisdom the Legal Services Corporation has declined to classify this most rural of all rural programs as rural.

We're classified with Manhattan. I described how that happened in the paper I provided you but basically what happened was that they work out a formula that's based solely on density and then they cut out our oceans.

So Micronesia, this 24,000 square mile area the size of continental United States ain't rural anymore. We got little clusters of people all over the place and all the terribly high costs of trying to serve them.

There's not much at stake at the moment, obviously, because in total there's very, very little in absolute dollar terms that have been set aside to help out the rural program. And even if the money were a larger amount, as long as rural programs have to compete, as long as the money is divided up on a discretionary way by the Seattle regional director, we won't get a penny anyhow because our relationship is best portrayed by Ken Teasey in his book, *One Flew Over The Cuckoo's Nest*.

I'm the not so totally innocent Mr. McMurphy and the regional director is really Nurse Ratched. I suggest

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1 to that as long as, it's a small matter, very small matter  
2 in your scale of values I'm sure, but as long as you permit  
3 this organization to put the Micronesian legal services  
4 program in the same class as Cal's, you're being party to  
5 a terribly gross absurdity.

6 I also have some notes here that I want to use,  
7 if I may, just to say a few words about another item in the  
8 Sacks paper that I thought was very, very important and I  
9 also want to try to end on a positive note if I can, but  
10 first some more unpleasant observations.

11 Mr. Sacks correctly identifies the bureaucratic  
12 issue I think and it's more of consideration, but for some  
13 reason he fails to report what I thought was universally  
14 recognized, that LSC is already afflicted with the bureau-  
15 cratic disease. Some would say it's in the terminal stages  
16 already.

17 If I understood human beings and human organiza-  
18 tions well enough to tell you the solution to the problem,  
19 I'm sure I wouldn't be here; but I have a few observations  
20 I would like to make and I'll try to put them in some  
21 systematic form and send them to you.

22 If I were not privy to your true function as a  
23 Board of the legal services program, I'd sit in the gallery  
24 and I would, for the life of me conclude that you were  
25 the governing body of the Minnesota mining and manufacturing

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1 or some other industrial concern just judging by the vocabu-  
2 lary you use: delivery systems, mechanisms and similar  
3 terminology that is more suited to describing a manufac-  
4 turing process that takes raw materials and makes a final  
5 physical product out of it and it's delivered then to the  
6 consumer.

7 I just don't find that whole approach, which is  
8 characteristic of LSC since its beginning, I don't find it  
9 useful in trying to understand what we're all about and how  
10 to do things better because at base what we're concerned  
11 with are human relationships not manufacturing processes  
12 or systems.

13 And I just think all of our worries have to begin  
14 with that basic fact, as I see it, in mind. And good legal  
15 services aren't delivered, I mean, they're performed and  
16 they're performed in a relationship between two or more  
17 human beings and they are largely if not, they're are al-  
18 most entirely the result of characteristics of the lawyer,  
19 the person who happens to be the lawyer, and the client.

20 And the practice of law, it just seems so obvious  
21 to me, is things that are happening between those two or  
22 more people and between those people and judges and opposing  
23 parties and opposing counsel and a whole complex of human  
24 relationships and if the lawyer is trying to do anything,  
25 he or she is trying to produce, to alter in some ways the

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1 behavior of those human beings in that whole complex set of  
2 relationships that range all the way from the individual to  
3 the entire nation, the world, I suppose, for that matter.

4           So how is that kind of thing, how do you enhance  
5 that? You don't enhance it with monitoring at all, you may  
6 kill it with the kind of authoritarian, hostile, tight-  
7 fisted attitude and practices that characterize some of  
8 your regional offices.

9           Somewhere the answer lies in the kind of people  
10 that are attracted to and kept in this particular kind of  
11 human activity, those human relationships. The lawyer has  
12 got to be smart, sensitive, understanding, dedicated, very  
13 slow to discourage. The relationships have to be based on  
14 mutual, they have got to be characterized by mutual trust.

15           And an ability to work together between lawyer-  
16 client, lawyer-lawyer-lawyer, lawyer-staff lawyer, boards  
17 and the program, the grantee and you people, the source of  
18 the money. And I just offer it as what may strike some of  
19 you as a crackpot theory, that as long as the legal services  
20 program approaches its grantees in its function of manage-  
21 ment of the grants in the way that it's been approached up  
22 to now, suspicion, hostility, in greater or lesser intensity  
23 but it's nothing more or less than hostility and aggression,  
24 you're going to do one of two things; you do one thing,  
25 you're going to drive out of the legal services programs

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1 the very kind of people, human beings, that you need to do  
2 a good job practicing law, performing legal services.

3 There have been times, I swear to you, when I have  
4 had lawyers come to me and say, I've got to get out of this  
5 program. That regional office's attitude, the bureaucracy  
6 is beginning to affect me. I've got to spend all of my  
7 time contending with Seattle.

8 That's a lawyer who has all of these qualities  
9 I described earlier, an excellent lawyer, who just can't  
10 tolerate the atmosphere, can't thrive, can't survive, he  
11 chokes to death in the atmosphere created by the kind of  
12 grant management that I've referred to.

13 I just want to suggest that when you go about  
14 rethinking this year about the amount of paper you've pro-  
15 duced and the regulations you've generated, and I agree  
16 that you should do that, I think you ought to take a look  
17 at your vocabulary, look at the way you think about us,  
18 and the way you relate to us and all these intangible things  
19 that affect our happiness, our willingness to keep on  
20 beating our heads against so many brick walls that exist  
21 anyway without you creating more for us.

22 Maybe that's too vague and sort of intangible  
23 to be of any use, but by God it works in my program. I  
24 don't know exactly, you know, how to write it down in a  
25 regulation, I don't think it can be done, but year after

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1 year after year after, how many, fifteen years now, of  
2 trying to make sure that you get the right people in and  
3 keep them in and keep them happy and keep them productive  
4 performing high-quality legal services for the clients you  
5 care about, it's along these lines that you tend to succeed  
6 more often than not.

7 And if I treated my staff the way you treat me  
8 I wouldn't have a good staff, I'd have a bunch of docile  
9 bureaucrats.

10 Thank you.

11 PRESIDENT BRADLEY: Let me respond to my old  
12 friend.

13 MR. MITCHELL: I didn't mean to provoke you  
14 today.

15 PRESIDENT BRADLEY: I know but I wanted to be-  
16 cause many of your observations, Ted and I fortunately go  
17 back enough years that we go out at night still and drink  
18 beer and cry on each others shoulders about these same  
19 items that he just felt like he needed to bring to this  
20 Board today.

21 I just hope, Ted, and you know that I've said  
22 this to you privately just recently that those of us on  
23 this Board and those of us in positions of ultimate, I  
24 suppose, responsibility to the Corporation can address the  
25 concerns that you raise and you've already indicated to me

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1 to me and I file it away and I won't play it back to you,  
2 hey Dan, we're getting better, things are changing, there's  
3 some movement, what did you do to so and so, what did say  
4 to them because it's a whole new different attitude.

5 And I am concerned about some of the things that  
6 you're concerned about. I would probably take exceptions  
7 to your characterization to some of the staff persons be-  
8 cause I also work with those same staff persons that you  
9 work with and I understand.

10 But to end, and not to cut you short, because  
11 specifically, as you know, some of the concerns that you  
12 have raised about our rural formula, I just happen to think  
13 that on a lot of those issues you have some very real legi-  
14 timate points.

15 And in preparing our budget that we'll be pre-  
16 senting to the audit and appropriations committee, I'm  
17 specifically going to address some of those concerns. It's  
18 not an easy answer as this Board and this committee has dis-  
19 cussed, in terms of the cost variation study, Mickey my good  
20 friend keeps telling me, Dan, you've got to fund Los  
21 Angeles more than you fund Fresno, California.

22 People in Fresno tell me that that's unacceptable  
23 because there are additional costs in the rural areas that  
24 you don't have in the urban areas and I, quite frankly,  
25 don't know the answer. But I think that probably Micronesia

1 does have some unique characteristics. But to end on a  
2 positive note, and I was not going to say this but I want  
3 to, not because Ted chose to end our meeting today, but  
4 last Monday I had the privilege of being invited to the  
5 Department of the Pentagon, I never thought I'd live to see  
6 it, but I got an invitation, a grave, engraved fancy invi-  
7 tation, to be present at one of the most impressive cere-  
8 monies I've attended in my life and a chauffeured car from  
9 the Defense Department came over and I go over representing  
10 the Legal Services Corporation to watch the Department of  
11 Defense bestow an unusual medal to Mr. Ted Mitchell.

12           It was the most impressive ceremony I think I've  
13 ever witnessed. Generals, admirals, you've never seen,  
14 you'd think we were getting ready for the assault on  
15 Russia, and they had a slide presentation showing the his-  
16 tory of Micronesia going back to the time where we prac-  
17 tically leveled those islands when we were dropping the  
18 bombs, you know, the A-bomb tests there.

19           And it picked up with an admiral narrating the  
20 slide show and it was, Ted Mitchell this is your life and  
21 it was the most impressive hour and a half ceremony I've  
22 ever seen whereby a slide presentation showed what had  
23 happened, what the Department of Defense and the Atomic  
24 Energy Commission had done to those islands and a flat out  
25 statement by the military brass that was present that, yes,

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1 the Department of Defense was totally insensitive and did  
2 not care about those hundreds of persons that they had dis-  
3 placed. And it took Ted Mitchell going to court and forcing  
4 the Defense Department to realize the human characteristics  
5 of those four or five hundred displaced islanders and as  
6 we sometimes do, OMB and the United States Congress said,  
7 my God, it would cost a hundred million dollars to reset-  
8 tle these few natives. Why don't they go off and live  
9 happily on some other island?

10 And the Admiral said, we were wrong and Mr.  
11 Mitchell was right and it took him three or four years to  
12 convince us, then when we realized he was right, we joined  
13 forces with Mr. Mitchell and went to the United States  
14 Congress with his clients, with Mr. Mitchell, with the  
15 Chiefs of Staff of the United States military command and  
16 we persuaded Congress to appropriate one hundred million  
17 dollars to just relocate a few small families on their  
18 native islands and by the time the General got through,  
19 tears were streaming down, it was just incredible.

20 And I sat there as proud as I've ever felt in my  
21 own experiences of the fact that here the entire military  
22 command of the United States government recognizes the con-  
23 tribution that a legal aid lawyer can make into the lives  
24 of, created in a society and it was very, very impressive.  
25 And all of us Ted commend you and your program for what

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1 you have done.

2 MR. MITCHELL: Thank you.

3 CHAIRPERSON RODHAM: Thank you.

4 MR. MITCHELL: Well, the positive note I wanted  
5 to end on, and this will now seem fabricated I suspect,  
6 but it's not, is that the best thing you've got going for  
7 you now is Dan Bradley. Really, I'm serious. I mean,  
8 Harellich was a total disaster.

9 How anybody could take an organization from  
10 scratch and turn it into a bureaucracy almost instaneously!

11 PRESIDENT BRADLEY: Ted, I think you've said  
12 enough.

13 MR. MITCHELL: But there's a totally different  
14 tone and attitude in the headquarters staff, in the presi-  
15 dency of this organization, which is a step in the right  
16 direction.

17 CHAIRPERSON RODHAM: Do we motion to adjourn?  
18 Great. We are adjourned.

19 (Thereupon, at 5:55 p.m., the meeting adjourned.)

20

21

22

23

24

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C E R T I F I C A T E

This is to certify that the attached proceedings in the aforementioned matter were held on June 20, 1980 and that this is a true and accurate record thereof and that this is the original transcript thereof.

Neal R. Gross  
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