

THE LEGAL SERVICES CORPORATION

BOARD OF DIRECTORS

MEETING

OPEN SESSION

\*\*\*\*\*

Friday, August 26, 1988

11:30 a.m.

The Sheraton Grand Hotel  
Ballroom East  
525 New Jersey Avenue, N.W.  
Washington, D.C. 20001

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 547

WASHINGTON, D.C. 20005

(202) 628-2121

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## P R O C E E D I N G S

1  
2 CHAIRMAN DURANT: I want to call to order the meeting  
3 of the Board of Directors for the Legal Services Corporation.  
4 Today is Friday, August 26. It is approximately 11:20.

5 We will begin with the invocation from Col. Ernest  
6 Miller, the Director of the National Public Affairs for the  
7 Salvation Army. He serves on the Board of Directors at the  
8 Emergency Food and Shelter program funded by the Federal  
9 Emergency Agency.

10 Col. Miller, thank you for coming. We appreciate you  
11 being here.

12 (Invocation by Col. Miller)

13 CHAIRMAN DURANT: Thank you, Colonel. The first item  
14 is to discuss our agenda. There is a -- Maureen, was there a  
15 calling of the Board relative to this Executive Session?

16 MS. BOZELL: Yes, there was. I just need to require a  
17 majority.

18 CHAIRMAN DURANT: Excuse me, Maureen, in the future,  
19 if you could reach every Board member that is possible.

20 MS. BERNSTEIN: Clark, with all due respect, my  
21 feeling on this is that a majority may be what is necessary to  
22 decide, but that every individual member has to vote.

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1 Therefore, we should do that over here.

2 CHAIRMAN DURANT: Why don't we do that now?

3 MS. BERNSTEIN: There needs to be a roll call vote of  
4 everybody.

5 CHAIRMAN DURANT: Do you want to offer a motion  
6 relative to the Executive Session?

7 MOTION

8 MS. BERNSTEIN: I move that a portion of the meeting  
9 be closed to discuss personnel, personal litigations, vested  
10 Board matters and the government Sunshine Act as referenced in  
11 the first page of our Board book.

12 CHAIRMAN DURANT: Is there a second to that motion?

13 MS. SWAFFORD: Second.

14 CHAIRMAN DURANT: Any discussion?

15 (No response)

16 CHAIRMAN DURANT: Let's do an individual polling. All  
17 those in favor signify -- I am going to do it by coming down  
18 the line. I want you to signify by saying aye or nay. Ms.  
19 Benevidez?

20 MS. BENEVIDEZ: Aye.

21 CHAIRMAN DURANT: Ms. Miller?

22 MS. MILLER: Aye.

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1 CHAIRMAN DURANT: Mr. Valois?

2 MR. VALOIS: Aye.

3 CHAIRMAN DURANT: Ms. Swafford?

4 MS. SWAFFORD: Aye.

5 CHAIRMAN DURANT: Ms. Bernstein?

6 MS. BERNSTEIN: Aye.

7 CHAIRMAN DURANT: Mr. Mendez?

8 MR. MENDEZ: Aye.

9 CHAIRMAN DURANT: The chairman votes aye. Mr.  
10 Wallace?

11 MR. WALLACE: Aye.

12 CHAIRMAN DURANT: Mr. Smegal?

13 MR. SMEGAL: Aye.

14 CHAIRMAN DURANT: Mr. Eaglin?

15 MR. EAGLIN: No.

16 CHAIRMAN DURANT: Mr. Uddo?

17 MR. UDDO: Aye.

18 MR. MENDEZ: The motion carries. I think we need a  
19 certification from General Counsel. Is he here?

20 GENERAL COUNSEL: I think I already have based on the  
21 vote of the majority that was taken by the Secretary.

22 MR. MENDEZ: The first item will be an approval of the

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1 agenda. I take it, LeaAnne, that your motion on the Executive  
2 Session is consistent with the notice that was in the Federal  
3 Register; that it should take place during the luncheon break  
4 from 12:00 to 1:30?

5 MS. BERNSTEIN: I think, yes.

6 MR. MENDEZ: Do I understand you have some amendments?

7 MR. UDDO: I have some amendments to the agenda which  
8 I had discussed with Mr. Wear prior to the meeting. I believe  
9 that we had some misunderstanding about I wanted them to appear  
10 on the agenda.

11 First, I did want to have on the agenda the question  
12 of the creation of a new position in the Executive Offices  
13 called Counselor to the President, which I would like to discuss  
14 in terms of its consistency with the regulation since it was not  
15 done by the Board.

16 MR. EAGLIN: What position?

17 MR. UDDO: Counselor to the President.

18 MR. EAGLIN: No, on the agenda.

19 MR. UDDO: On the agenda? I am going to add it to the  
20 agenda.

21 CHAIRMAN DURANT: Do you mind if we just add your  
22 three right at the end; is that okay?

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1 MR. UDDO: It depends how long we are going to be  
2 here.

3 CHAIRMAN DURANT: We all have planes we want to catch.  
4 I assume we will get through everything.

5 MR. SMEGAL: That is item 6?

6 MR. UDDO: Yes, that is all right. Let's add it to  
7 item 6. Then, I also ask that we discuss -- I had originally  
8 asked that we discuss Mr. Wallace's proposal about the  
9 relationship between Board and staff members.

10 Mr. Wear said he wanted a little more time to look at  
11 the whole thing, but he was agreeable to putting on there the  
12 question of a periodic president's report to the board members  
13 between Board meetings with respect to Board activity and the  
14 interim between Board meetings.

15 The third thing, I had requested that there be some  
16 report in --

17 CHAIRMAN DURANT: That would be item number 7?

18 MOTION

19 MR. UDDO: Number 7. I do not know if you want this  
20 item number 8 or not because of the way it was going to be  
21 handled? I had requested that there be a discussion of and a  
22 report on the hearing that you and I attended on August 4 with

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1 respect to the questions raised about your expenses. I felt  
2 that the Board ought to be given a formal report.

3 Mr. Wear said he would do that during his President's  
4 report. Since a President's report did not appear on the  
5 agenda, I was concerned that we get that on the agenda. He said  
6 that he had been informed that the practice had been he would  
7 give a report even though it was not listed on the agenda.

8 So, it does not matter to me whether it is done by  
9 listing it on the agenda or at some point he was planning on  
10 doing it anyway.

11 CHAIRMAN DURANT: Will you put it in as a part of your  
12 report?

13 MR. UDDO: Yes.

14 CHAIRMAN DURANT: We will insert your report in the  
15 appropriate place in the agenda. So, we will not make it a  
16 separate item? You will include it in his President's Report.

17 So, your motion, then, is to add as item 6 and item 7  
18 the creation of a new position of a Counselor to the President  
19 as item 6 and item 7, a request regarding a President's Report  
20 between Board meetings regarding Board activity?

21 MR. UDDO: One of the things that had been proposed by  
22 Mr. Wallace in his letter to the Board, which is about two years

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1 old now --

2 MR. WALLACE: I would just say that my consideration  
3 and my hope would be that the report would be a little broader  
4 than Board activity. I do not have any objection to amending  
5 the agenda. In fact, I support amending the agenda.

6 MR. UDDO: You take the word "Board Activity" out, and  
7 we can discuss it much more broadly than that.

8 MR. WALLACE: Absolutely.

9 CHAIRMAN DURANT: Periodic President's Report. Is  
10 there a second to Mr. Uddo's amendment to the agenda?

11 MS. MILLER: I second.

12 MS. BENEVIDEZ: I second.

13 CHAIRMAN DURANT: Is there any further discussion?

14 MR. EAGLIN: Yes, I think at some point during today's  
15 meeting, we need to address the matter about the schedule of our  
16 future meetings. I hope that we can do that in public rather  
17 than the usual Executive Session.

18 I think some of the dates and locations --

19 CHAIRMAN DURANT: Do you want to make a formal -- when  
20 we are done with Mr. Uddo, unless he will take it as a friendly  
21 amendment -- we can add as item 8, scheduled future board  
22 meetings.

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1 MR. EAGLIN: That is fine with me.

2 MR. UDDO: Fine.

3 CHAIRMAN DURANT: We will take that as a friendly  
4 amendment then. Do we need a second to that amendment? No.  
5 Did the seconder have any objection to that, Ms. Miller?

6 MS. MILLER: No.

7 CHAIRMAN DURANT: Any other discussion?

8 (No response)

9 CHAIRMAN DURANT: All those in favor of those three  
10 additions, then, to the agenda, signify by saying aye.

11 (A chorus of ayes)

12 CHAIRMAN DURANT: Opposed?

13 (No response)

14 CHAIRMAN DURANT: Motion carries.

15 LeaAnne, I think we will need it in a form of a motion  
16 that the Executive Session, since it was not in your original  
17 motion, be held during the luncheon break.

18 MR. MENDEZ: I do not think so.

19 MS. BENEVIDEZ: I am authorize that a portion of the  
20 meeting is going to be closed. If you want me to move it --

21 CHAIRMAN DURANT: I ask for unanimous consent then  
22 that we do it when we break for lunch at noon. Is there any

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1 objection?

2 (No response)

3 CHAIRMAN DURANT: Hearing none, that is when we will  
4 do it. The next item on the agenda is the approval of the  
5 minutes of our July 1 and March 25 Board meeting. Is there any  
6 motion to adopt them? If there are any changes, we can discuss  
7 that.

8 MOTION

9 MR. WALLACE: I move we adopt the minutes of March 25  
10 as printed in the Board book.

11 CHAIRMAN DURANT: Is there a second to that?

12 MS. BENEVIDEZ: I second.

13 CHAIRMAN DURANT: Any discussion on the March 25  
14 minutes?

15 MR. EAGLIN: Yes.

16 CHAIRMAN DURANT: Mr. Eaglin.

17 MR. EAGLIN: On page 17, at the end of the first  
18 paragraph, there is the indication that with respect to the vote  
19 to reduce the budget from \$305,000 to \$250,000, it says that I  
20 abstained, and then it mentions that the motion carried.

21 CHAIRMAN DURANT: Where?

22 MR. EAGLIN: Page 17, the last sentence of the first

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1 paragraph. The connection, at least from my end, the connection  
2 by phone to New Mexico was very poor. I recall answering "no"  
3 to that vote, but Ms. Bozell pointed out that the transcript  
4 indicates that it was recorded as "I do not know." Perhaps part  
5 of that was interpreted --

6 CHAIRMAN DURANT: Did you want your vote recorded as a  
7 no?

8 MR. MENDEZ: My recollection -- I have the specific  
9 recollection that you voted no.

10 MR. EAGLIN: I do too. It says I abstained.

11 CHAIRMAN DURANT: I would ask unanimous consent that  
12 Mr. Eaglin's vote to that meeting be recorded as "no." Is there  
13 any objection to that?

14 (No response)

15 CHAIRMAN DURANT: Ms. Bozell, if you would make that  
16 correction to the minutes.

17 MR. EAGLIN: That was essentially the only part of the  
18 meeting that I could comprehend. So, I cannot really speak to  
19 the rest of the minutes.

20 CHAIRMAN DURANT: Any other comments on the minutes,  
21 Mr. Smegal?

22 MR. SMEGAL: I started with the July 1 because that

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1 the was the order in the Board book. I am still working on  
2 March. I have no changes at the moment.

3 CHAIRMAN DURANT: Mr. Mendez.

4 MR. MENDEZ: Page 24, the last paragraph. I know you  
5 are fond of working, but this is --

6 CHAIRMAN DURANT: Where are you coming from?

7 MR. MENDEZ: Before the motion.

8 CHAIRMAN DURANT: At the bottom of the page?

9 MR. MENDEZ: For the motion, then you abstain. Then  
10 the motion carried six to one, two abstentions and two no votes.  
11 I do not know how you get six to one with two no votes.

12 CHAIRMAN DURANT: I do not know what the record  
13 reflects. I have no recollection of that particular vote. Ms.  
14 Bozell, do you? Would you check the minutes and see what  
15 correction is in order?

16 Any other amendments, deletions, additions,  
17 corrections?

18 (No response)

19 CHAIRMAN DURANT: Any further discussion on the March  
20 Board meeting minutes?

21 (No response)

22 CHAIRMAN DURANT: All those in favor of adopting them

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1 with the corrections as noted, signify by saying, aye.

2 (A chorus of ayes)

3 CHAIRMAN DURANT: Opposed?

4 (No response)

5 MR. EAGLIN: I have to abstain for the most point.

6 CHAIRMAN DURANT: Motion carries with one abstention.

7 Is there a motion on the July 1 Board minutes?

8 MOTION

9 MR. WALLACE: Move to adopt the July 1 Board minutes  
10 as printed in the Board book.

11 CHAIRMAN DURANT: Is there a second?

12 MR. MENDEZ: Second.

13 CHAIRMAN DURANT: Any discussion? Mr. Smegal?

14 MR. SMEGAL: I recall on page 6, the first motion  
15 paragraph, I recall there having been more specifics as to the  
16 contract with Mr. Wear. My recollection may have been confused  
17 by the fact that we had some of that discussion in the closed  
18 session, such as the length of that contract.

19 Is this correct, Maureen? Did we not get into  
20 contract terms?

21 MS. BOZELL: That is correct. There were no details in  
22 the opening session.

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1 MR. WALLACE: Mr. Chairman, as I recall, I think I did  
2 mention on the open session, it was my view that it ought to be  
3 a one year contract. I remember distinctly Mr. Valois saying,  
4 "If you all want me to negotiate this, you need to let me  
5 negotiate this."

6 I did not put any details of the contract in my  
7 motion, leaving it up to Mr. Valois' good officers to do the  
8 best deal he could.

9 MR. SMEGAL: You recall that?

10 MR. WALLACE: I do. It was an open session. I think  
11 it was an open session.

12 MR. EAGLIN: It was an open session.

13 MR. SMEGAL: Will there be some report from Mr. Valois  
14 on that fact? I have not seen a contract. I have read about it  
15 in some newspaper articles.

16 MR. VALOIS: Mr. Smegal, I am sure that President Wear  
17 would be happy to show you a copy of it. There is nothing  
18 secret about it. I had planned to make a report. You all told  
19 me to work it out. I did that.

20 It was signed and executed, filed where it should be  
21 at the office of the corporation. The terms are two years and a  
22 salary and some severance arrangements. I cannot recite it for

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1 you, but I am sure Mr. Wear would be glad to show you a copy of  
2 it.

3 CHAIRMAN DURANT: Mr. Wear, will you send a copy to  
4 Mr. Smegal if there is one available and to every member of the  
5 Board?

6 MR. SMEGAL: I do not think this is the appropriate  
7 time because we are still considering approval of the minutes of  
8 the July 1 meeting, I believe. It seems to me, Mr. Valois, I  
9 would like to have a report from you as to how this contract  
10 with Mr. Wear -- where it may differ from the contract with Mr.  
11 Bayly or with other contracts.

12 If you will recall, we have had some public  
13 controversy over several of these contracts. I recall Mr.  
14 Bogart's contract being subject to public comment on several  
15 occasions. I would certainly like the benefit of knowing of  
16 your negotiations in such a way that you feel are not  
17 privileged, to the extent that this agreement is different than  
18 prior agreements such as Mr. Bayly's. I will forego a response  
19 until an appropriate time.

20 MR. MENDEZ: The minutes are first, are they not?

21 CHAIRMAN DURANT: Yes, that is what we should be  
22 talking about. There is a motion and then a second on the July

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1 1 minutes to adopt them as in the Board book. Any further  
2 discussion?

3 MR. EAGLIN: Mr. Chairman, one of the concerns I have  
4 about the July 1 minutes is that before the -- well, let me  
5 direct you to page 3 first. The heading "Re-convention of the  
6 Board," it seems to me there was a significant amount of  
7 discussion once we got into the Executive Session, perhaps one  
8 half hour or 45 minutes, that was properly or should have been  
9 in open session.

10 I have a concern that that is not summarized here and  
11 reported. You may recall that we began questioning each other  
12 as to whether that debate was properly in the Executive Session  
13 rather than in the open. I think that discussion should have  
14 been summarized and put in the public record here.

15 CHAIRMAN DURANT: You mean there was a discussion, you  
16 are saying?

17 MR. EAGLIN: We were discussing how we were going to  
18 proceed and a number of other aspects about whether there was a  
19 vacancy, just other matters that should have been debated in  
20 open session. So, I am concerned that it is not recorded here.

21 CHAIRMAN DURANT: What you would like is a broader  
22 summary of the minutes?

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1 MR. EAGLIN: Before we got into the interviews --

2 MR. MENDEZ: Mr. Chairman, I do not believe that that  
3 is the correct statement of what I perceive transpired. I  
4 believe that everything that transpired there was appropriately  
5 in the Executive Session. I believe we had Mr. Shea advise us  
6 that that was appropriate in the Executive Session.

7 CHAIRMAN DURANT: I think what Mr. Eaglin is referring  
8 to is the discussion prior going into the Executive Session. Is  
9 that correct?

10 MR. EAGLIN: There is some discussion after we closed  
11 the doors, after the persons left. There was an extensive  
12 debate that went on for quite awhile before we got into  
13 interviews. Questions began to be raised among Board members  
14 about whether what we were saying properly should be said in the  
15 Executive Session rather than in the open.

16 MR. WALLACE: Mr. Eaglin, when I recall that, I wonder  
17 if there is any difference from what we said when we came back  
18 into open session. If you will see on page 5, in public  
19 session, we did raise the question of whether we were moving too  
20 fast, whether we needed a wider pool of candidates.

21 We have Mr. Valois' explanation. I think I said  
22 something in open session which did not make it in here. I

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1 certainly agree with everything you say that some of this  
2 discussion took place in closed session.

3 I guess I just do not remember anything that went on  
4 in closed session that is any different from what went on later  
5 in open session that is already reflected in these minutes. I  
6 understand your position on it, I am just not sure there is  
7 anything we can add to these minutes that is going to make them  
8 much more complete than they already are.

9 MS. BERNSTEIN: Could I ask that Mr. Shea, in  
10 conjunction with the Secretary, examine the portion of the  
11 Executive Session that did not relate to the specific -- that  
12 were not the interviews themselves, summarize those and provide  
13 those revisions for the Board?

14 I think that is just the easier way. I agree with  
15 you, Mike. I think we covered all those things. The reason we  
16 covered them in public was because every time we started getting  
17 into a subject that there was going to be concern about, we  
18 dropped it and said we would do it in public.

19 I agree with you, Paul, that some of that got started  
20 -- is that appropriate to just ask him to summarize that section  
21 of it, please?

22 CHAIRMAN DURANT: Is that okay? Any other discussion

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1 on Mr. Wallace's motion on approving these July 1 minutes.

2 MR. WALLACE: I think the appropriate motion at this  
3 point then, Mr. Chairman, would be to move to table. We can  
4 hear a report from the General Counsel and the Secretary at the  
5 next meeting, unless somebody has another idea.

6 MR. MENDEZ: I think we ought to approve all of the  
7 minutes before we open the meeting and then just supplement it  
8 the next time.

9 CHAIRMAN DURANT: I think that is good.

10 MR. WALLACE: All right.

11 MS. BENEVIDEZ: Mr. Durant, on page number 2, the  
12 third paragraph, second from the last sentence where it says,  
13 "in interviews of candidates," is it possible to insert the  
14 figure number 2? We only had two candidates? This way, it  
15 seems like there were a few of them. We only had two  
16 candidates.

17 CHAIRMAN DURANT: I do not think that is a problem.  
18 Can I ask unanimous consent that it be indicated that there were  
19 two candidates that were interviewed at that particular time?

20 (No response)

21 CHAIRMAN DURANT: Hearing none, Lorraine, would you  
22 make sure that that is included, please? Any other comment or

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1 discussion?

2 (No response)

3 CHAIRMAN DURANT: All those in favor of Mr. Wallace's  
4 motion then to adopt the July 1 minutes, signify by saying aye.

5 (A chorus of ayes)

6 CHAIRMAN DURANT: Opposed?

7 (No response)

8 CHAIRMAN DURANT: Motion carries. The next item on  
9 the agenda is a discussion of LSC monitoring procedures. This  
10 has been put on the agenda at the request of Mr. Eaglin. Mr.  
11 Eaglin, I will permit you to initially comment on this item, and  
12 then we can introduce the people at the table.

13 MR. EAGLIN: Thank you. Could I also do that?

14 CHAIRMAN DURANT: Please, absolutely.

15 MR. EAGLIN: I did ask for the monitoring to go on the  
16 agenda today because of a concern that I have had about the  
17 monitoring that is about to resume of Legal Services of North  
18 Carolina and a great deal of concern that I have about the  
19 document requests, copies that are to be sent up to Legal  
20 Services.

21 It brings back to my mind, then, concerns about a  
22 number of matters; the cost of the monitoring of this program

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1 and then related to that, whether similar costs are being  
2 incurred by other programs.

3 I do not understand the need for the extensive copying  
4 of documents. There is a massive amount that has been  
5 requested. I am puzzled as to how our staff can comprehend all  
6 of that. Fortunately, we are able to have a panel from North  
7 Carolina.

8 Dick Taylor is the Executive Director of Legal Service  
9 of North Carolina. It is headquartered in Raleigh. It is a  
10 confederation of a number of programs. You will hear a greater  
11 description of that.

12 With him is his Board Chair, Ms. Lillian O'Brien of  
13 Ashboro, attorney in private practice in Ashboro; and also the  
14 attorney for Legal Services of North Carolina, Mr. John McMillan  
15 of Manning, Fulton and Skinner in Raleigh. I do not know who  
16 the fourth person is on the panel, sorry.

17 CHAIRMAN DURANT: Is that Norman Johnson? He is an  
18 attorney from Salt Lake City, Utah representing the ABA Standing  
19 Committee on Legal Aid. Dick, the floor is yours.

20 MR. TAYLOR: Thank you. I think they are going to  
21 designate the lawyer to speak first and then if I can go down--

22

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1 CHAIRMAN DURANT: They are all lawyers, are they not?

2 PRESENTATION BY JOHN McMILLAN

3 MR. McMILLAN: I am here today with Lillian O'Brien  
4 who is president and chair of the Board of Legal Services of  
5 North Carolina and a distinguished leader of the practicing bar  
6 of our state; Dick Taylor, who is the Executive Director; Norman  
7 Johnson from Salt Lake City, Utah, who is a member of the  
8 American Bar Association's Standing Committee on Legal Aid and  
9 Indigent Dependents.

10 We are here to talk about monitoring. Legal Services  
11 of North Carolina recently received notice from the Legal  
12 Services Corporation of its intention to conduct a monitoring of  
13 our program in the fall of 1988.

14 We have also received a request for production of  
15 documents, a copy of which will be distributed to you along with  
16 Dick Taylor's letter requesting modification of that document  
17 request. We are not here to bring before you particulars of the  
18 proposed monitoring visit or the request for the production of  
19 documents.

20 Dick Taylor will follow through on negotiations which  
21 have already begun between our program and your staff with  
22 regard to that monitoring. We are hopeful that an agreement can

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1 be reached at the staff level so that the corporation can  
2 exercise its legitimate oversight responsibilities without  
3 unduly interfering with the ability of our program to represent  
4 our clients.

5 CHAIRMAN DURANT: Mr. McMillan, can I interrupt you  
6 for a ministerial thing? I just had a note that it is 11:45. I  
7 want to make sure that you have a full opportunity to present  
8 whatever you want to present. We have to let the hotel know  
9 something in terms of these lunch arrangements. Can you give me  
10 a rough idea of the time frame; tell me when you prefer to go?  
11 I want you to go straight through without interruption because I  
12 think that is fair and better, whatever.

13 MR. McMILLAN: I would think we would be completed  
14 within 30 minutes unless there are questions.

15 CHAIRMAN DURANT: All right, we will say 12:30. Sorry  
16 to interrupt you. I apologize.

17 MR. McMILLAN: We are also not here to oppose the  
18 monitoring of our program or any other program by its fund  
19 resource. Legal Services of North Carolina wants to be  
20 monitored. The members of its Board and the Boards of each of  
21 its component programs want information about the performance of  
22 the programs and suggestions for how they could be improved.

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1           Our project directors and staff members want  
2 constructive criticism about how they can provide better  
3 services to the over one million people in North Carolina with  
4 low incomes who are eligible to receive those services.

5           We are here to discuss with you our policy level  
6 concerns about the manner in which monitoring and investigation  
7 of our program has taken place in the last four years and our  
8 firm belief that this pattern should not be repeated in the  
9 upcoming monitoring.

10           While we welcome monitoring, we would hope that it  
11 could be more meaningful than it has been in the past, both to  
12 us and to you. In 1984, LSC conducted a seven month long  
13 investigation of LSNCS migrant component. This investigation  
14 included extensive conversations by corporate investigators with  
15 adverse parties in compliance with LSC in pending federal court  
16 litigation with no notice to the program.

17           After complaints by the North Carolina Bar Association  
18 and the American Bar Association about the manner in which the  
19 investigation was conducted, then LSC president, Donald Bogard,  
20 issued a report finding the migrant attorneys in compliance in  
21 all respects with law and professional ethics.

22           In September of 1984, LSC sent a team of twelve

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1 monitors to do an on-site monitoring of LSNC and its affiliated  
2 programs. In their oral de-briefing, these monitors were  
3 complementary of LSNC and its programs.

4 Despite repeated requests, the corporation has never  
5 released the problematic report from these monitors. In 1985,  
6 the Corporation conducted an investigation of the manner in  
7 which our lawyers represent poor people before the North  
8 Carolina General Assembly.

9 In August of 1985, this board conducted a hearing on  
10 the legislative advocacy of LSNC lawyers and received a draft  
11 report from LSC investigators which was highly critical of our  
12 legislative advocacy.

13 Our program responded to each of the allegations of  
14 irregularities. Programs legislated representation had the full  
15 support of the organized bar and the leaders of the legislature  
16 in North Carolina.

17 It was about three years ago this week when we came  
18 and spoke before you, brought bar leaders with you and presented  
19 documents to you. No final report of that investigation was  
20 ever released.

21 In 1986, LSNC was subject to the most extensive and  
22 expensive monitoring ever undertaken of a legal services

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1 program. The Legal Services Corporation sent 38 monitors to  
2 visit every LSNC program for a total of 405 person days.

3 The visit lasted from August 18 through October 31 in  
4 1986. By the admission of LSC officials, it cost the  
5 corporation several hundred thousand dollars in expenses and  
6 fees. Tens of thousands of pages of documents were shipped to  
7 LSC prior to the visit.

8 The Legal Services of North Carolina central office  
9 alone sent 156 pounds of paper to the Legal Services Corporation  
10 prior to August 1, 1986. Each of the other LSNC offices sent  
11 similar quantities of documents in response to the LSC request.

12

13 During the lengthy visit, even more documents were  
14 requested and provided. The papers on this table are the  
15 reports and program responses from that visit, from the 1986  
16 monitoring visit.

17 They include much less paper than the documents which  
18 LSNC provided to LSC prior to and during the visit in 1986. In  
19 March of 1987, LSC issued this 1,400 page draft monitoring  
20 report of the '86 visit.

21 The report was critical of LSNC and the program was  
22 given 45 days in which to prepare a response. LSNC did respond

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1 by submitting these 16 volumes containing 5,500 pages of  
2 narrative comment and appendices refuting, we believe, all of  
3 the critical allegations contained within the draft report about  
4 our program.

5 In a number of respects, changes were implemented in  
6 our program as a result of a draft report. These are described  
7 fully in the response to the draft report in these 16 volumes.  
8 In October of 1987, the Legal Services Corporation issued this  
9 final report from the 1986 visit.

10 The final report is, in all respects, completely  
11 identical to the draft report including typographical errors  
12 with certain portions of our narrative comments appended. In no  
13 instance were any of the comments which were made in these  
14 documents incorporated in any way except by being attached to  
15 the final report.

16 In no instances where the program had described  
17 changes in program operations because of the earlier criticism  
18 were those changes noted in the final report. In December of  
19 1987, LSC sent three more teams of monitors to the Legal  
20 Services of North Carolina central office and two of its  
21 component programs.

22 The monitoring focused on access to documents and

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1 records. A draft report from the 1987 on-site visit was  
2 received in March of 1987. Comments were made in April. On May  
3 10, the final report from the 1987 on-site visit was received by  
4 LSNC.

5 In that final report, which was about the access to  
6 documents, a summary is contained on page 1. It says, this  
7 monitoring was met with complete access to all of the requests.  
8 Two months later, on July 11, 1988, Legal Services Corporation  
9 notified our program of its intention to once again monitor LSNC  
10 and its component programs.

11 The document requests, which were received two weeks  
12 later, is on its face onerous and burdensome. In addition to  
13 seeking materials, many of which had been repeatedly submitted  
14 to the corporation in previous monitoring cycles, it seeks  
15 information that has been provided in the refunding process.

16 The three notebooks at the far end of the table are  
17 LSNCs 1988 Refunding Application with Legal Services  
18 Corporation. The sheer volume of paper, which this program has  
19 been required to produce for the Legal Services Corporation in  
20 just the last 15 months and the level of scrutiny which this  
21 program has been undergoing the last four years, raises at least  
22 two important policy questions which this board ought to

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1 consider.

2           The first, is this routine oversight or has our  
3 program been singled out for some purpose? If so, what? The  
4 second, can the costs associated with this level of scrutiny be  
5 justified? What we suggest and endorse is essentially contained  
6 in the letter from Bucky Askew to John Bayly dated May 19, 1988.

7           I will not take the time to read that to you, but will  
8 make it available to the members of the Board at a later time.  
9 We specifically ask from that letter for reasonable document  
10 requests.

11           Mr. Taylor is working with your staff in the hopes  
12 that we can narrow down what was submitted to us into a  
13 reasonable document request. Second, give and take between the  
14 monitors and the local programs.

15           The primary reason, in my opinion, for all of this  
16 paper is the fact that the monitors were not allowed to  
17 communicate with the Executive Directors of the local programs.  
18 If they could ask questions and get answers and give responses  
19 back and forth, we could have done away with most of what was  
20 here.

21           It would not have been in this draft report, and it  
22 would not have had to have been in the response. The third

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1 thing is a meaningful exit conference, again, give and take  
2 between the monitors and the local programs.

3 If these requests are granted, we should not have a  
4 repeat of our 1986-1987 experience. I would like to now  
5 recognize Ms. Lillian O'Brien, president and chair of the Board  
6 of Directors of Legal Services of North Carolina.

7 MR. VALOIS: Mr. Chairman, if I could just get Mr.  
8 McMillan to repeat those two policy questions which he noted.

9 CHAIRMAN DURANT: Just routine oversight and the cost  
10 associated with them. Is that correct, Mr. McMillan?

11 MR. McMILLAN: That is correct.

12 CHAIRMAN DURANT: Do you have a copy of your remarks?

13 MR. McMILLAN: I will submit one.

14 CHAIRMAN DURANT: You do not have them now?

15 MR. McMILLAN: No.

16 CHAIRMAN DURANT: Mr. Valois, I did not mean to  
17 interrupt you. Does that answer your question?

18 MR. VALOIS: I had written down here something. John,  
19 if you would just repeat it, you said something about singled  
20 out. That is what caught my ear, and then I missed the second  
21 part.

22 MR. McMILLAN: Just the question, is this routine or

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1 have we been singled out?

2 MR. VALOIS: What was the second one?

3 MR. McMILLAN: Can the costs associated with this  
4 level of scrutiny be justified? We are familiar with the costs  
5 of the auditors who come and audit our books and records on an  
6 annual basis.

7 While we know that the function of the monitors here  
8 is somewhat different -- and I do not know what it costs Legal  
9 Services Corporation to conduct its monitoring visit, nor could  
10 we ever determine, I do not believe, with any high degree of  
11 adequacy, what it costs these local programs to participate.

12 It was onerous and I do not believe it has to be to  
13 have a meaningful, productive monitoring experience. If we send  
14 you all of these documents that you ask for, first of all, it is  
15 very difficult for us to put them together.

16 In some instances, they do not exist. You ask that  
17 they be created. Once here, we have 16 local affiliated  
18 programs. The central office sent 156 pounds. If they sent  
19 similar amounts, what monitors could possibly have any sort of  
20 meaningful, digesting of those documents before the visit?

21 I cannot repeat enough that we want to be monitored,  
22 but we want --

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1           A PARTICIPANT: Mr. Chairman, are you going to permit  
2 questions per witness?

3           CHAIRMAN DURANT: What is your preference?

4           MR. McMILLAN: Maybe in the interest of getting  
5 through before your time, we can go through. If you want us to  
6 come back, we will be glad to come back.

7                           PRESENTATION OF LILLIAN O'BRIEN

8           MS. O'BRIEN: I have been a member of the Board of  
9 Directors of Legal Services with North Carolina for five years.  
10 For the past three years, I have been president of that Board.  
11 During this past three years, I have also been privileged to be  
12 a member of the Board of Governors of the North Carolina Bar  
13 Association.

14           The North Carolina Bar Association is the membership  
15 of our corporation, and it is also the entity which created us  
16 more than ten years ago. After hearing John's breakdown of what  
17 has happened since 1984, I really feel that during the three  
18 years that I have been president, that we have just been  
19 monitored the entire time.

20           We either have monitors there or we are waiting for  
21 monitor's reports or we are responding to reports and are  
22 waiting for final reports. All of this ended in May. Then two

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1 months later, we get a letter of notification for more  
2 monitoring and more documents and more printing.

3 This gets me to the point that I am particularly  
4 concerned about; the printing of all the documents because they  
5 do not print themselves. It takes manhours, people that our  
6 staff -- that have to spend all this time.

7 We know that last time, we do not know how much  
8 profit, but we do know that we spent \$35,000 on temporary help  
9 and on copying. That does not include all of our Executive  
10 Directors of the local programs who spent days and days and days  
11 compiling all of this at the end of the -- in responding and  
12 talking with the monitors and making all of this information  
13 available when they were there.

14 I would also like to emphasize what John said; we do  
15 want to be monitored. We know that we have a very good program,  
16 an excellent program. We do want to be monitored. We want to  
17 share with you the work that we do, the work that our fine  
18 staffs do, but we do not want to be singled out.

19 We want it to be routine. We do not want to have to  
20 spend so much of our time on the time that could be spent in  
21 representing the poor in our states and the poor in other legal  
22 matters.

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1 I am also here, I think to report, that the lawyers of  
2 North Carolina is represented by the North Carolina Bar  
3 Association. The lawyers on the LSNC board, the lawyers on our  
4 local boards are very offended by this monitoring because we do  
5 feel that we have been singled out.

6 If this is typical of every monitoring, then we would  
7 like to know that. We happen to know that it is not. We do  
8 have in our possession document requests for other programs who  
9 are being monitored this coming fall. We have theirs.

10 It is one third of what request is from us. We just  
11 feel that that reason alone, perhaps, gives us the feeling that  
12 we have been singled out. If we have not been, we would like  
13 for you to tell us. We would like for this board to discuss it.

14 Your board and my board share the responsibility for  
15 the funds that come as gifts to us. These funds, as all of you  
16 know, are intended to provide the poor people with the  
17 representation lawyers.

18 These hundreds of thousands of dollars -- and we have  
19 been told by people who know -- that Legal Services Corporation  
20 spent between a quarter to a half of a million dollars  
21 monitoring Legal Services of North Carolina.

22 I do not know how much was spent on the other programs

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1 in the states. If this could be done in a more cost efficient  
2 manner and with less paper being created, then there would be  
3 more money to represent the poor.

4 We just feel that too many hours during the last four  
5 years, at least, have been concerning the adversarial  
6 interactions between our program and the Legal Services  
7 Corporation. Our primary goal in North Carolina is still to  
8 provide equal access to justice for the poor and to give the  
9 poor quality legal representation.

10 I really hope that the experience which we have had  
11 with the LSC monitoring in North Carolina has not been repeated  
12 in other states. I hope that this will not be repeated in North  
13 Carolina in 1988.

14 Now I would like to recognize Norman Johnson, who was  
15 introduced to you as being on the ABA Standing Committee and  
16 Legal Aid to Indigents.

17 PRESENTATION BY NORMAN JOHNSON

18 MR. JOHNSON: Members of the Board, I had no idea that  
19 I would have this opportunity to speak to you for a moment, but  
20 I am pleased to have it and pleased to be here and glad to meet  
21 you all.

22 As someone said, I am a lawyer from Salt Lake, a

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1 security lawyer which has absolutely nothing to do with this.  
2 It has nothing to do with the delivery of services of the Board.  
3 When I was put on the committee, I really wondered how it came  
4 about.

5           There are accidents, I suppose. I have been very  
6 involved as Chairman of the Legal Aid Board in our community. I  
7 have been very active in bar activities, both on the state and  
8 the American bar level.

9           I am very aware of the emphasis that the American bar  
10 is placing on the delivery of legal services to the poor by one  
11 means or another in this country. I am very, very interested in  
12 what goes on here and what goes on in the states.

13           That was a wonderful invocation that was delivered.  
14 It had a sense, at least for me, of bringing me back to ground  
15 level. That is what we are in this for. Our mission is really  
16 to serve the needy.

17           I have no illusions about monitoring. I know that  
18 monitoring is necessary. Monitoring, by its very nature, has an  
19 adversarial tone. It is going to have it best in the area we  
20 are working in.

21           I also think it is so that that kind of a process can  
22 become so adversarial it becomes destructive of the relationship

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1 among the parties that are involved to the detriment of the  
2 people we are all trying to serve.

3 It can hurt moral and it costs a lot of money. It  
4 costs a lot of time that could be dedicated to those people. I  
5 do not know; we are hopeful, I suppose, that the Slade group--  
6 we are hopeful that the North Carolina experience -- I am not  
7 really speaking from the North Carolina experience -- is  
8 isolated.

9 We have got to hope it is isolated. Maybe you are  
10 picking on them. Hopefully, you are picking on them. We cannot  
11 generalize on this from what has happened there.

12 MR. VALOIS: Let me interrupt because I want to assure  
13 you that we are not picking on Legal Services of North Carolina.  
14 I am also from North Carolina. I know that that is not the  
15 case. If I thought it was the case, I would be very upset about  
16 it.

17 MR. JOHNSON: I have been put on Jim Newhart's  
18 subcommittee which is working on the monitoring standards. We  
19 are very interested in finding out what comments you have about  
20 that, what we ought to be doing, ideas we ought to be  
21 considering. We would like to work with you and hopefully you  
22 would like to work with us.

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1           I have been asked to carry back any questions or  
2 comments you might have in those respects to SCLAG and to that  
3 subcommittee. We just welcome the input. A general question  
4 was, I suppose in terms of this adversarial relationship, we are  
5 thinking along the same lines.

6           Are we headed in the same direction? Are we headed  
7 toward a state, hopefully, where we have got a continuing  
8 maintenance of high quality delivery, high quality performance  
9 with a minimum of friction, where we do not have a situation  
10 where the matters become so antagonistic that the system is not  
11 breaking down, at least is dysfunctional.

12           Those are basically the comments and questions I have.  
13 Again, I am pleased to be here. I am glad to meet you. I think  
14 we are in a great work. I am pleased to be involved in it.

15           CHAIRMAN DURANT: Thank you, Mr. Johnson, very much  
16 for those comments.

17           MR. MENDEZ: Thank you, Mr. Johnson. I have a  
18 question: Would it be fair to ask each grantee to allocate one  
19 percent of their budget that we give them towards the monitoring  
20 and the -- do you think that would be fair?

21           MR. JOHNSON: I do not know. I will certainly carry  
22 that question and notion back -- I do not know -- one percent

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1 towards the monitoring function.

2 MR. MENDEZ: Towards the monitoring function; one  
3 percent of our grant. Do you think that would be fair? If you  
4 look -- some in the smaller programs may have to be higher than  
5 one percent.

6 In the larger programs, I think one percent, seems to  
7 me, would not be too unreasonable.

8 MR. JOHNSON: I do not know, but thanks for the  
9 question. I will take that back. I think maybe people -- in  
10 Jim's subcommittee, our thought was to take all the input from  
11 the various segments of the process on all issues, on all issues  
12 we see. That would be, it seems to me, that is a very  
13 interesting notion.

14 MR. MENDEZ: The question you have, though, that goes  
15 beyond that is -- obviously you ought to allocate something  
16 towards, I think, monitoring.

17 MR. JOHNSON: Sure.

18 MR. MENDEZ: Then the question comes as, should it  
19 only be one percent of our grant or should it be one percent of  
20 the total amount or should it be more than one percent or should  
21 it be up to five percent to do that; some sort of total like  
22 that. It seems to me that would be one question.

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1 MR. JOHNSON: If needed?

2 MR. MENDEZ: Let me give you an example. This case,  
3 they give almost \$6 million a year. In the last four years, we  
4 have gotten right around \$24 million. We have gotten in access  
5 of \$20 million.

6 The monitoring costs on a program like that, because  
7 of the large dollars, probably is a percentage -- even though  
8 there is some materials there, it probably would not be as high  
9 as in a very small program such as yours.

10 I would not say it is very small, but yours does not  
11 have that kind of numbers and you have some of those types of  
12 things because you have the transportation expense for the  
13 gathering up of different things.

14 It could be different amounts in different areas. It  
15 seems to me like there ought to be some discussion about--  
16 because we are coming to -- it seems to me they are talking  
17 about two things here.

18 When we always talk about it, it comes to two matters:  
19 one is money; the second is time involved in putting the  
20 materials together.

21 MR. JOHNSON: Yes.

22 MR. MENDEZ: It seems to me you ought to have some

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1 sort of discussion about what ratio of money. We ought to have  
2 some standard number of hours of preparation or something along  
3 those lines.

4 The standard number of hours of preparation, it seems  
5 to me, may vary with the quantity of dollars, the number of  
6 subprograms and in other proportions. That would be some of my  
7 ideas.

8 MR. SMEGAL: Mr. Durant, I would like to follow up  
9 with maybe a question.

10 A PARTICIPANT: Do you want Mr. Taylor to finish his?

11 MR. SMEGAL: No, I want to respond to what Pepe just  
12 said. Looking at last year, fiscal year '88 budget, Pepe, what  
13 you are suggesting would involve a 33 percent cut in our  
14 monitoring. Is that you are suggesting; we cut back on  
15 monitoring?

16 MR. MENDEZ: No, that is not what I am saying.

17 MR. SMEGAL: We spent \$4.5 million this year. You are  
18 suggesting \$3 million, one percent.

19 MR. MENDEZ: No, no. I am talking about the programs  
20 themselves.

21 MR. SMEGAL: I am talking about the programs  
22 themselves also, collectively. We have a \$305 million budget

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1 and one percent of that is \$3 million. This year we have got a  
2 budget that costs \$4.5 million. Are you suggesting we cut back  
3 on monitoring?

4 MR. MENDEZ: No, that is our internal budget. I am  
5 talking about the amount of money they expend themselves.

6 MR. SMEGAL: I am talking about \$305 million dollars,  
7 which when you add it up, it comes up to \$305 million. Four and  
8 a half million of it was spent for monitoring. That is one and  
9 a half percent.

10 MR. MENDEZ: By us personally, not the program.

11 MR. SMEGAL: One pot, Pepe. There is just one sack of  
12 money; reach in and when you take it out, it is not there  
13 anymore.

14 MS. BERNSTEIN: Actually, Tom --

15 MR. WALLACE: You just explained my lobbying  
16 regulation better than I ever could, Mr. Smegal.

17 MR. SMEGAL: I am just wondering. I am just asking  
18 Pepe the question. Is he proposing to Mr. Johnson that ABA join  
19 with him in cutting monitoring. I would like to know if that is  
20 where we are going. It is kind of an interesting thought, Pepe.

21 MR. MENDEZ: Tom, I was giving him some thoughts, some  
22 alternatives about that. I think Mr. Johnson and I understood

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1 that to be that.

2 MS. BERNSTEIN: I was just going to say a follow up on  
3 Mr. Smegal's line of thinking, if I may. Mr. Mendez is talking  
4 about the percentage related to the service delivery, which  
5 would mean it would take it to 2.8 or something like that since  
6 that would be what goes to the programs rather than just -- is  
7 that correct? Yes.

8 MR. SMEGAL: So, Pepe -- if I were to endorse Pepe's  
9 proposal, it would even be a greater cut.

10 MS. BERNSTEIN: Yes, but per year. So the question  
11 is, it would depend on -- of course, part of the four million  
12 depended on getting all of the monitoring up to date.

13 If you are saying as a percent per year of the  
14 expenditure for delivery, that a certain percent should be  
15 dedicated to monitoring per year, that is how I understand your  
16 proposal. I am not sure they are in conflict, is that I am  
17 saying because part of the four million was getting up to date.

18 As I understand it now, we are there. We are -- I am  
19 looking for some sort of nod back there from somebody who does  
20 this -- we are basically up to date now and we are caught up  
21 with all this.

22 MR. SMEGAL: You and I are in full agreement, Pepe. I

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1 am just reinforcing what you were saying. Maybe there is such a  
2 number. Maybe it would be nice if someone told us that.

3 Maybe if the ABA SCLAG Committee said, "Yes, Mr.  
4 Mendez, I think that would be an appropriate number. We should  
5 spend this; 99 percent on delivery systems and one percent on  
6 monitoring."

7 MR. VALOIS: Mr. Chairman, are you going to permit  
8 general questioning and debate? If so, I want my turn. If not,  
9 let them finish.

10 CHAIRMAN DURANT: Mr. Mendez, do you want to respond  
11 to Mr. Smegal? If you do not, then we will go to Mr. Taylor.

12 MR. MENDEZ: Tom, I think one of the things that would  
13 be very appropriate is if we could set in this budget that is  
14 coming up some sort of percentage of the overall -- one of the  
15 things that I worry about.

16 Of the 305, we do not look only at the field programs,  
17 we also have to do some monitoring of the law school grants we  
18 have of the various other type of groups, the national and state  
19 support, that aspect.

20 I agree with your concept generally. I think we  
21 should look at some certain percent as being there. I also  
22 think that the local programs ought to look at some certain

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1 percent as being an appropriate amount that should be allocated  
2 for monitoring.

3 Let me see if I can just make one other comment. It  
4 seems to me that there ought to be a certain amount of money and  
5 a certain amount of time allocated towards justifying a major  
6 grant.

7 I think we are in agreement with that. The question  
8 is, how burdensome is it going to be. Let's assume that you  
9 spent over the last -- one percent last year. I mean, you said  
10 you spent \$35,000 of it.

11 MR. McMILLAN: That was just for copying.

12 MR. MENDEZ: Well, she said temporary time and  
13 copying. Let's assume that we double that to -- that probably  
14 would cover your people, so that would be about a one percent of  
15 the overall amount. That only happens once every two years.

16 MR. McMILLAN: We would be happy with collecting one  
17 percent allocation. I cannot imagine that not being totally  
18 appropriate.

19 MR. MENDEZ: I do not know if that is something  
20 appropriate to you and I do not know if you --

21 CHAIRMAN DURANT: Can we get Mr. Taylor to comment?

22 MR. TAYLOR: I do not really have prepared comments.

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1 I think that, as John said, if we between us, the corporation  
2 and its grantees, spent one percent on the monitoring and the  
3 oversight function between us -- not us spend one percent and  
4 you spent whatever -- I think that would be appropriate.

5 That is in line with what accounting audits would  
6 cost. I think that is something that we would --

7 MR. MENDEZ: It seems to me, though, that you have the  
8 corporation ought to spend one percent. It seems to me that  
9 each side ought to spend one percent of the total amount.

10 MR. TAYLOR: I think that is -- I would certainly  
11 think we spent far in excess of that before. Mr. Chairman, I do  
12 not have prepared remarks, but I have some materials that I  
13 would like to distribute.

14 CHAIRMAN DURANT: Please distribute them. While you  
15 are doing that --

16 MR. MENDEZ: You understand my --

17 MR. JOHNSON: Jack Curtain has asked me to inquire of  
18 the board on this issue. Apparently under Mr. Bayly, there was  
19 an understanding that the corporation would work with Slade and  
20 the American Bar in terms of the development of monitoring  
21 standards.

22 Jack has gone off that committee and JoAnne Darvey is

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1 chairing of that committee. The question as it is still there,  
2 is that something you still are interesting in doing?

3 It just seemed to me, in terms of what Mr. Mendez was  
4 suggesting, that you have to mesh standards before you decide  
5 what are the appropriate standards for monitoring, what are your  
6 allocations of dollars, what are your guidelines of dollars and  
7 time.

8 So, a question and a comment really.

9 MR. MENDEZ: Well, I cannot speak for the other Board  
10 members, but I know that I would be very interested in working  
11 with the ABA on that issue. You have to keep one thing in mind,  
12 though. I think both sides have a right to some reasonable  
13 expectations.

14 I also recognize we are only going to be here about  
15 six more months or thereabouts. We cannot bind our successors.  
16 I do not know what their view of this would be. It seems to me  
17 that that would not be an unreasonable thing to just look at  
18 that.

19 CHAIRMAN DURANT: Does Jim Newhart have a subcommittee  
20 meeting set up?

21 MR. JOHNSON: No. Before San Diego, I expect there  
22 will be one. I have not received any notice at all. Was that

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1 something that --

2 CHAIRMAN DURANT: Jim is in Detroit and so am I. If  
3 he would want to call and get together and talk about some of  
4 that, I would be more than glad to talk.

5 MR. JOHNSON: Good. I will pass that along to him.

6 MR. EAGLIN: Mr. Chairman, there is some instruction-  
7 - do you have more to say, Dick, now or can I speak?

8 I want to point out some structural comparisons. The  
9 Board should understand that Legal Service of North Carolina  
10 does not comprehend all of the legal services programs in North  
11 Carolina. There is the Charlotte program, Winston-Salem and  
12 Durham.

13 CHAIRMAN DURANT: I understood it was a number of  
14 different subsets; is that incorrect?

15 MR. EAGLIN: Yes, that is within Legal Services of  
16 North Carolina. My point is that, within the state of North  
17 Carolina, there are the three other programs; Charlotte, Winston  
18 and Durham. Is that correct?

19 MR. JOHNSON: Correct.

20 MR. EAGLIN: Independent of that. I have information  
21 from Terry Roche who, as you all know, headed up the Charlotte  
22 program, who indicated that by comparison, the monitoring of

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1 Legal Services of North Carolina was much greater than his own  
2 programming.

3 It indicates in his note here to me that last year  
4 when he was monitored, monitors were there, five monitors for  
5 four days with a draft report of 27 pages, some of which was  
6 deleted in the final.

7 Had you applied all of this to LSNC, this would have  
8 produced a report of perhaps 500 pages instead of the massive  
9 documents you have here. So, the question I had -- well,  
10 several questions; is there something about the structure of  
11 LSNC that is producing this?

12 I felt somewhat as -- I recall on a couple of  
13 occasions Mike Wallace has praised this confederation idea. I  
14 think there are advantages to that. Is there something about  
15 the structure of the confederation that produces this kind of  
16 result as compared to Terry's program in Charlotte?

17 Secondly, I wonder, keeping in mind what Professor Cox  
18 said this morning, is the staff getting anything out of this?  
19 From this mass of material, do we have the staff that can  
20 comprehend all that is there?

21 Are we asking the right questions? Professor Cox was  
22 raising a big issue as to whether the right questions were

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1 raised in the San Antonio study.

2 MR. MENDEZ: I would just point out Terry Roche's is  
3 one tenth the size of this one.

4 MS. BERNSTEIN: I think that your reference to what  
5 Mr. Cox said this morning is important, because I think one of  
6 the things that he brought up is that there is -- that any  
7 monitoring that we do is inefficient compared to what can be  
8 done if we were in a constant situation of comparing different  
9 models.

10 The competition that -- Clark, you were not there this  
11 morning, but Professor Cox -- the conclusion that he has reached  
12 is that the efficiencies in effective delivery of legal services  
13 will only be increased when there is more than one model in a  
14 community and when there are constantly in a state of  
15 comparison.

16 That is going to promote more efficiency than any  
17 monitoring that the corporation can do. While I am -- I guess I  
18 am a little bit reticent to immediately give up the concept that  
19 the monitoring is effective.

20 I think we have got to be open minded to alternatives  
21 to it. Let me just say, as far as all of this documentation--  
22 and I --

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1           CHAIRMAN DURANT: Let me ask one question. Is Mr.  
2 Cox's work that he talked about, is it funded by both LSC and  
3 the ABA?

4           MS. BERNSTEIN: He is a consultant -- you were, again,  
5 not there. I will try to clarify this so that I do not step on  
6 anybody's toes. The delivery of the services under the San  
7 Antonio project, which was the comparison of the different  
8 programs, was completely funded by LSC.

9           The study itself was funded by the ABA. Professor Cox  
10 is an economist who is employed by the -- or who was a  
11 consultant under contract with the ABA. The final report has  
12 not been accepted by the Delivery Committee of the ABA.

13           Therefore, we did not discuss the final report. We  
14 simply discussed some of the conclusions or some of the data  
15 that was drawn from that experience.

16           MR. VALOIS: Mr. Chairman, thank you. I am happy to  
17 see my friends from Raleigh and other parts of North Carolina up  
18 here again. I know we are here to discuss policy questions, but  
19 I am a little bit concerned that some of the facts which I am  
20 aware of concerning LSNC have not yet been put into the record,  
21 so to speak.

22           I appreciate my friend John McMillan talking about our

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1 duty to monitor, which of course is recognized in the statute.  
2 I know he is not asking us not to monitor them because he knows,  
3 as we all do, that we really have no choice.

4           The statute requires us to look after the people's  
5 money, and that is what we try to do. My perspective, quite  
6 frankly, on the LSNC is temperate, at least by sympathy, about  
7 paperwork because, I guess, nobody dislikes supplying government  
8 agencies with unnecessary paper which they do not read and is  
9 probably irrelevant in the first place anyhow -- I will take  
10 second seat to nobody on that subject except, perhaps, one of  
11 John's partners with whom I frequently commiserate about on that  
12 topic.

13           I think, again, the perspective which we need to take  
14 a look at here is -- includes some of these facts. The  
15 confederation, if you will, of LSNC includes at least 17 other  
16 affiliates. If we were to divide LSNC or if they were to be  
17 divided and our efforts were thus divided in monitoring, I do  
18 not know whether the cumulative total of monitoring each of the  
19 17 programs plus the headquarters and so forth would be greater  
20 or less.

21           I think we would only speculate. I think it is a  
22 factor we have to look at. Secondly, Ms. O'Brien, I know you

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1 mentioned we are coming back at you just three months after you  
2 have gotten a final report.

3           The fact of the matter is that the last monitoring,  
4 with two small exceptions, that LSNC was done or was completed  
5 in October of 1986. It was sometime in December of '87 that we  
6 completed it with respect to, I believe it was, Catawba and  
7 Central, if I am not mistaken.

8           The reason for that delay was not something that I  
9 think we can correctly blame on our monitors -- because I and  
10 John Bayly and Dick Talyor personally got involved in trying to  
11 iron that thing out, but it was really a fairly sticky issue  
12 about whether or not they would comply with a request for  
13 information.

14           They stood their ground for awhile and our folks stood  
15 our ground for awhile. Then, sometime in December of '87, as I  
16 recall, it sort of came to a head. There were some people on  
17 the Board getting ansy about it.

18           John Bayly, Dick Taylor and I got involved in it  
19 directly. It did get ironed out at that point in time. It was  
20 after that that the final report was issued. I guess you do not  
21 normally issue reports prior to that time.

22           I do not know whether one percent is a right number or

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1 not, but if Pepe is -- if I understand Pepe correctly, if we are  
2 asking about whether we should allocate one percent of each  
3 budget of each grantee or not, I do not particularly think it is  
4 a good idea.

5 We are currently on a monitoring schedule, as I  
6 understand it, of about 18 months. North Carolina LSNC has  
7 received \$12 million since our last monitoring visit. I do not  
8 know whether one percent of that would cover it or not.

9 I think we do have a duty as a Board to continue  
10 monitoring. I have seen, Dick, so you will know about it, a  
11 copy of a letter from Dick Sherner to you concerning reduction  
12 of a request on the documents.

13 That letter is dated August 10. I am aware that you  
14 are working with them and; I think, with our offices. If there  
15 is anything improper or excessive about what they have done, I  
16 am sure you are going to find willing ears at this end of the  
17 ladder.

18 While we are on an 18 month schedule for monitoring,  
19 we are also monitoring, I believe, 13 to 15 or 18 different  
20 programs per months. It is not just LSNC that is being  
21 monitored in October. I believe the number is 13 or 15 or  
22 something like that, other programs.

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1 I am convinced that North Carolina is not being picked  
2 on. If anybody can show me some evidence that they are, I will  
3 be on their side immediately. I do not think that all the  
4 policy discussion and the particular discussion about LSNC  
5 monitoring, as burdensome as it may seem, ought to detract us  
6 from our duty to monitor.

7 I have nothing else to say, except I am sure John  
8 agrees with all that.

9 MR. McMILLAN: I certainly agree that we want to be  
10 monitored. My whole thrust is, if we can find a way to do it  
11 more efficiently and more effectively, we ought to both strive  
12 to that goal.

13 CHAIRMAN DURANT: John, on that positive note, let's  
14 break because it is just after 12:30. I would hope that you  
15 would stay after our session because I think there are a number  
16 of questions. I appreciate your presentation and bringing a lot  
17 of this information to us.

18 MR. EAGLIN: Mr. Chairman, could we also have a few  
19 staffers respond to this? I want to try to understand within  
20 our own office what goes on, because I have do not have any view  
21 for that at all.

22 CHAIRMAN DURANT: We are going to break now for the

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1 Executive Session.

2 MR. EAGLIN: I understand that.

3 A PARTICIPANT: Mr. Chairman, would that mean you  
4 would resume at 1:30?

5 CHAIRMAN DURANT: Our hope is that we can resume at  
6 1:30, yes. If we get started right away with lunch, we should  
7 be done with our Executive Session.

8 (A brief recess was taken)

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CLOSED SESSION  
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## 1 OPEN SESSION RECONVENED

2 CHAIRMAN DURANT: The board meeting of the Legal  
3 Services Corporation will reconvene.

4 When we left briefly in Executive Session, we talked  
5 about the status of certain litigation matters and the status  
6 relative to certain personnel at the corporation.

7 When we left the Open Session, we were being addressed  
8 by a panel from north Carolina regarding monitoring of one of  
9 the programs in North Carolina. At the point that we broke, I  
10 think Mr. McMillan had a question posed to him. Didn't Mr.  
11 Valois have a question for you, was it just a compliment that  
12 you both knew each other.

13 Are there particular questions from any member of the  
14 board to the panel on any of the material that has been  
15 presented.

16 MR. MENDEZ: I would only suggest that -- when is the  
17 monitoring supposed to start?

18 MR. McMILLAN: November 28th.

19 MR. MENDEZ: If you do not get the issues resolved by  
20 the 1st of November, call Mr. Durant personally and work out all  
21 of the final problems.

22 CHAIRMAN DURANT: Are you in the process of working

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1 out --

2 MR. McMILLAN: We received a document request with an  
3 invitation to respond to that, which we have, and we have copies  
4 of both the document request and the response. Prior to the  
5 lunch -- just after the lunch recess when, Mr. Chairman, you and  
6 I spoke.

7 You expressed the hope that we would be able to  
8 negotiate and work that out with staff, and we would like to do  
9 that and hope that we would be able to do that. We were  
10 confronted when we discussed the matter with staff that they  
11 were not in a position to negotiate.

12 Now, I think we are into semantics and I think during  
13 the lunch period we were able to see why we are having this  
14 problem, and that is a resolution of the board that says that  
15 any time that a program invites the staff to negotiate that we  
16 get defunded.

17 I do not think that is what this is intending to say,  
18 but what the resolution says, "Whenever any recipient shall, by  
19 refusal or by invitation to negotiate or by any other means fail  
20 to produce any material in whole or in part at the corporation's  
21 request, the president of the corporation shall be informed of  
22 that failure in 48 hours."

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1           Within five working days then you start defunding. I  
2 do not think that is what this is intended to get to. I read  
3 from you the final report from the last monitoring visit which  
4 we had, which incidentally worked very well, and we had a  
5 meaningful monitoring.

6           We were hopeful that all future ones would be that  
7 way. We have supplied all of the documents. We want to supply  
8 the documents, we really do, but we want to do it in conjunction  
9 with maybe negotiation because this resolution is not the right  
10 word.

11           Certainly discussion of what we can do, what is  
12 meaningful for you, what you need and that is our objective.

13           MR. MENDEZ: They invited you to respond to that,  
14 which is a different sort of thing, than me saying that we  
15 absolutely want it and you are saying let's negotiate that. I  
16 think the letter to you was -- let's see what we can do about  
17 it.

18           MR. McMILLAN: What we are down to, apparently, is  
19 that everything has to be done in writing. That is what the  
20 staff says. This is what we get into when everything has to be  
21 in writing.

22           MR. MENDEZ: Who were the staff that told you that?

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1 MR. McMILLAN: Well, we were talking with Amelia  
2 DeSanto.

3 CHAIRMAN DURANT: Sometimes, but let me just --

4 MR. MENDEZ: Why don't we come up with a response?

5 CHAIRMAN DURANT: I do not think it is a -- two  
6 things. I do not think it is a -- Mr. McMillan, clearly, as I  
7 said to you just at the break, I think it is important that you  
8 have been here. I think it is important that you have laid out  
9 some of the particular points.

10 Obviously within this framework we can not make an  
11 evaluation of each of the particular things, and I do not also  
12 think that we want to get into the business of establishing a  
13 precedent where any particular program, prior to a monitoring,  
14 comes to a board meeting in order, if you will, negotiate  
15 differences or micro managing or whatever.

16 I think one of the particular reasons why, when it was  
17 brought to my attention regarding this through Mr. Wear, I mean  
18 by Mr. Eaglin through Mr. Wear, was that there had been some  
19 questions raised regarding the North Carolina situation before  
20 and it was important, therefore, to give you an opportunity to  
21 be here.

22 While we may have differences of opinion on certain

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1 things, I mean clearly I think there is a common sense agreement  
2 that monitoring is for a certain kind of purpose and not an  
3 adversarial one, and that none of us like to deal with a ton of  
4 paper.

5           There certainly are the fiduciary obligations that we  
6 need to be sensitive to. You clearly -- all of you have  
7 indicated a willingness to want to do that. I think that there  
8 is a sense in which clearly have to follow our regulations, but  
9 we do not want it to be such that, as you say, the whole process  
10 becomes kafka-like (phonetic).

11           I do not see that there is anything the matter with  
12 sitting down through the appropriate channels, through Mr. Wear  
13 and where appropriate, simply trying to work out the particular  
14 differences.

15           MR. TAYLOR: So that this resolution, Mr. Chairman,  
16 does not fit in with sitting down with members of the staff and  
17 with Mr. Wear, and I do not want to say negotiate, discuss.

18           CHAIRMAN DURANT: Since the author of the resolution  
19 just walked in --

20           MR. VALOIS: My interpretation of it is, and I would  
21 hope that the board would abide by it, not just for LSNC who  
22 happens to be here, but with every other recipient, is that we

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1 do not want to abdicate our duty to monitor people by a  
2 prolonged set of negotiations in which one party says I am not  
3 finished negotiating.

4 I play that game everyday. I do not want that to be  
5 the case. So far as doing as you have done already, Dick, which  
6 is to make inquiries, discuss it and all that is fine. We got  
7 into this cycle last time from October of '86 to December of  
8 '87, having a protracted impasses, it seems, over two little old  
9 programs, causing this report to get out late.

10 I do not want those kind of negotiations.

11 MR. TAYLOR: I do not think there really was an  
12 impasse. On October 31st we had a debriefing where we were told  
13 we could make no response and make no comments. We were  
14 informed for the first time that we not access to records.

15 We immediately that day, mailed the next business day,  
16 offered to provide any identified document at all, and received  
17 no response until we got a draft report that said we had failed  
18 -- a draft report that said we failed to provide documents.

19 We responded here, several of these volumes are the  
20 documents that has supposedly been denied to the program. It  
21 was the -- we did not have any negotiations at all. We did not  
22 have any response at all because no one could talk to us about

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1 it.

2 We would simply just like to have somebody we could  
3 talk to so we could kind of work it out and not have this kind  
4 of an impasse.

5 MR. WALLACE: Mr. Chairman, I apologize for missing  
6 the beginning of this as I was checking out. Certainly there is  
7 nothing in the resolution this board adopted that casts blame on  
8 either party for breakdown of negotiations.

9 It is simply a mechanism for keeping this board  
10 informed, I do not care whose fault it is. If the ball is not  
11 moving ahead, this board ought to know about it. During the  
12 eight months this has been in place, neither Mr. Bayly nor Mr.  
13 Wear has informed this board of anybody withholding information  
14 from us.

15 So, I do not whether the problem existed before or  
16 whether it did not exist before. I presume that it no longer  
17 does, or one of our presidents would have said something about.

18 MR. EAGLIN: I have two points, Mr. Chairman, and one  
19 of them relates to Mr. McMillan's presentation to us. He made a  
20 couple of suggestions in one of them, at least it was not  
21 developed enough for me and I want to ask him about -- to  
22 comment more extensively about the recommendation for more give

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1 and take between monitors and local programs.

2 I think you were touching on it a little bit right now  
3 in terms of how that debriefing was conducted last year, and  
4 perhaps expand on that and indicate how it might be more  
5 successfully done, that is the interchange between the programs  
6 and the monitors as they are departing.

7 I also mention to you, Mr. Chairman, that I want to  
8 get some idea from the staff about how such an amount of  
9 paperwork is processed. I had a talk once with Mr. Gomez before  
10 the Legal Services of North Carolina report was finalized. I  
11 think the comment had come up from Raleigh.

12 At that time he was reluctant to discuss the matter  
13 with me because he said it was not concluded, and therefore I  
14 was not entitled to any detailed information. I have received  
15 no information since then. One of the questions I put to him  
16 was physically how do manage all of this paperwork, where does  
17 all of this go?

18 I am thinking this amount of paperwork for Legal  
19 Services of North Carolina, and I know we have hundreds of  
20 programs, where do we put all that stuff? What warehouse do we  
21 own or what warehouse do we lease to stock that amount of paper?

22 So, if Mr. McMillan could comment about the

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1 recommendation for give and take and then if Ms. Sparks or Ms.  
2 DeSanto could talk about the paper flow in the monitoring  
3 process so I can understand what goes on, because I really do  
4 not understand how the monitoring functions at our headquarters  
5 level.

6 MR. McMILLAN: Let me respond to the first part of  
7 your question, and that is a suggestion about give and take and  
8 the way the provision is actually conducted. It is referred to  
9 in Bucky Askew's letter.

10 CHAIRMAN DURANT: Do you have a copy of that to  
11 circulate?

12 MR. McMILLAN: I only have one copy. Basically what  
13 we feel is important is that if the monitors uncover something  
14 they have a question about during the visit, if they can ask the  
15 question and have a response given to them, that perhaps you  
16 could resolve that issue right then and there.

17 CHAIRMAN DURANT: All right, stop right there, because  
18 that is the thing you mentioned to me just before the break. Is  
19 there a problem doing that that anybody is aware of?

20 MR. TAYLOR: I just would like to know, Mr. Chairman,  
21 is that -- if I asked the monitor or I asked Ms. DeSanto right  
22 now to talk with me about how we might reach agreement to

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1 accommodate your on-site interest and our desire to serve  
2 clients, is that an invitation to negotiate that triggers this  
3 resolution?

4 MR. VALOIS: Why don't you just discuss it with them.

5 MR. TAYLOR: Well, we tried to, Bob, but you said that  
6 we could not because of your resolution.

7 (Simultaneous conversation.)

8 CHAIRMAN DURANT: We will talk about that.

9 MR. MENDEZ: Let's make sure that we are talking about  
10 -- there are two different things. One is when we initiate the  
11 discussion asking for some question about negotiations or  
12 willingness to negotiate. The other one is where the program  
13 itself says let's negotiate.

14 MR. McMILLAN: No, the program says this is a  
15 particular problem for us, because it does the document does not  
16 exist.

17 MR. MENDEZ: Let me see if I can explain it to you.  
18 It is my understanding that the stuff that we sent out says  
19 let's talk about it, let's negotiate. There is a difference  
20 between what we started and what is started on the other end.

21 CHAIRMAN DURANT: Well, hold on a second. His first  
22 language says, "Whenever any recipient shall," Dick, "Whenever

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1 any recipient shall, by refusal or by invitation to negotiate or  
2 by any other means fail to produce any material at the  
3 corporation's request, then the president shall be notified,"  
4 whatever.

5 That does not say, I do not think, that you can ask  
6 for a clarification of what particular material is really --

7 MR. TAYLOR: Let me give you an example. During the  
8 first week that the monitors were in my office, that was the  
9 week of August 18, 1986, we received something in the  
10 neighborhood, and I am sure it in here, I think 162 or 168  
11 requests for documents.

12 Everyday we would get them. There were a number of  
13 those that were just onerous and difficult for us to produce on  
14 the spot. So, I would take them in to the team leader and say,  
15 "I cannot produce this, but I think I can get some material that  
16 might satisfy that. Let's talk about it."

17 Now, that was -- I was inviting the negotiation  
18 between myself and the monitor before January, 1988.

19 CHAIRMAN DURANT: It seems to me that your question  
20 goes to one part of this, and that is the time frame in within  
21 which to produce certain material. At the moment you have not  
22 said anything regarding whether it is the right to produce it or

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1 we have the right to request it.

2 In other words, at the moment you are talking about  
3 the burden of certain requests; is that correct?

4 MR. TAYLOR: Correct.

5 CHAIRMAN DURANT: My point is that when -- it is my  
6 understanding and correct me if I am wrong, when LSNC requested  
7 in this '86 sequence that John was talking about, that there  
8 were certain, if you will, adjournments or postponements when  
9 LSNC requested additional time to produce information.

10 Am I wrong? In other words, without this resolution  
11 coming into play at all; isn't that correct? I mean, the  
12 summary that was given to me, and as I understand from what John  
13 said, that there were certain periods in which information was  
14 requested, there was a legitimate reason why it could not be  
15 produced right away, and that additional time was provided for  
16 that.

17 MR. TAYLOR: I do not know what time frame you are  
18 referring to, December of '87, the last monitoring.

19 MR. MENDEZ: I do not think was in December --

20 CHAIRMAN DURANT: I have got a note here that on  
21 August 9th, that is the current one, what is the --

22 MR. TAYLOR: I just trying to find out, Mr. Chairman,

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1 if I can talk to your people about what we need to do to get  
2 this thing --

3 CHAIRMAN DURANT: Of course you can.

4 MR. MENDEZ: They do not know that.

5 CHAIRMAN DURANT: I do not think that is a fair  
6 characterization.

7 MR. WEAR: Excuse me, Mr. Chairman, if I might add  
8 something. I think that it is -- for the record this is Terry  
9 Wear, president of the corporation.

10 I think it is clear that the staff does talk to the  
11 people who are going to be monitored about the schedule and  
12 about the production of documents. The issue really is over how  
13 long it will be produced and whether or not the staff is, in  
14 effect, being stonewalled.

15 There is no allegation that that has happened in this  
16 case. That is something that we need to be aware of, certainly  
17 the staff has tried to work with the various programs. It turns  
18 out this program is the fifth largest in the country and there  
19 may be some relationship in the size and the amount of paper  
20 that you produce.

21 There is no indication that I have received that the  
22 request has been unreasonable, thus far. I have gone over it

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1 with the staff to be sure that that is not the case. I can also  
2 assure you that no program in North Carolina will be treated any  
3 better or any worse than any other program, simply because there  
4 are North Carolinians who are members of this board.

5 We will go forward and we will deal with you fairly  
6 and honestly and I do not think that you need to worry, at least  
7 in that regard.

8 MR. TAYLOR: I appreciate that. I understand the  
9 grant condition and I understand that our obligation to you is a  
10 contractual one and a statutory one to cooperate with the  
11 monitoring, but that it is limited by rules of reason and of  
12 necessity.

13 I just hope that we are able to flush out what is  
14 reasonable and necessary. I am going to continue to do that and  
15 work with your people.

16 CHAIRMAN DURANT: Is there a -- can I come back to  
17 the other question, though and I appreciate that, Dick.

18 It is the question that Mr. McMillan raised with me  
19 just prior to the break and Mr. Eaglin just touched on it in a  
20 different way.

21 Mr. Wear is -- if a monitor, whether it be the team  
22 leader or any individual monitor, is at a location, is there a

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1 problem of having the kind of discussion relative to providing  
2 information or whether it complies or does not comply or  
3 whatever.

4 John, have I characterized your input correctly?

5 MR. McMILLAN: Let me read one or two sentences from  
6 Bucky Askew, who has -- they have knowledge of monitoring in  
7 other than North Carolina.

8 "There still is an attitude persisting that monitors  
9 should not 'consort with the enemy.' This is evidenced by the  
10 anti-socialization rules or the way the monitors are being  
11 reprimanded or fired for giving advice to programs about how to  
12 correct a program or communicating with a program after the  
13 conclusion of the visit. I gave you several examples of this  
14 in our meeting March 16th.

15 Monitors are quite open in sharing with program staff  
16 that they are subject to many silly rules and prohibitions and  
17 may be disciplined swiftly if caught being too friendly wit the  
18 staff of the program.

19 The exit interview from the 1987 monitoring visit,  
20 which Lillian has referred to, just simply says you are not  
21 allowed to say anything. You cannot respond to anything that we  
22 are getting ready to say to you and there is very little said at

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1 that point.

2           You came back with this, which led to the subsequent  
3 monitoring of our documents, which led to the production of  
4 every document that they wanted. There is just one example of  
5 what we are faced with, and I am sure we can work it out.

6           There are some financial records that are requested to  
7 be copied and sent to Washington, which are intermingled with  
8 continuous feed computer paper. They are mixed in with four  
9 file drawers worth of these kinds of things, which they -- which  
10 would amount to, I think, 4,000 pages, are pulled out in the  
11 middle, copied and sent.

12           We raise the question if it has to be, and if it is  
13 worth the expense to you to have it done, we will do it. We  
14 would like to be able to discuss with your people, maybe explain  
15 why it is a problem, of course, and hopefully they will be  
16 content with seeing those particular documents at the on-site  
17 visit. That is just one thing.

18           MR. TAYLOR: We were sitting here thinking that if the  
19 resolution that is in front of us could be modified to clearly  
20 indicate that if it is a refusal that is one thing, but if it is  
21 did you seek to negotiate or to talk about it, if that language  
22 were removed it would seem to me that it would not hurt your

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1 position and it would certainly facilitate cooperation and  
2 working together.

3 CHAIRMAN DURANT: Mr. Mendez.

4 MR. MENDEZ: I do not want to change the resolution.  
5 I think that, and in the -- I this is my own personal  
6 preference, I will let Mr. Wear make his own determination.  
7 When you go into it ahead of the meeting, you will be setting up  
8 some requests and at that point there should be some options to  
9 negotiate and figure it out, which is apparently what is  
10 happening now.

11 When our corporation initiates the request for a  
12 discussion, there is no problem. It appears that the other  
13 thing, when you are saying that we are not going to do it, we  
14 want to negotiate about this, it is not to not give those. This  
15 only addresses the issue if you do not want to give something.

16 If you just going to speak about some issue and see if  
17 there is some reasonable way to get the information that is  
18 needed in a better or less onerous way.

19 MR. TAYLOR: That is not the way I think it reads, Mr.  
20 Mendez. The other thing, you are suggesting that if  
21 corporations monitors should fail to invite this discussion and  
22 just make a request, which for the sake of argument were

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1 completely unreasonable, that I would not be able to discuss  
2 that one. If the monitor should.

3 MR. MENDEZ: Let me give you the exact case that you  
4 were talking about. You were talking about if they ask for  
5 something, I believe it was 162 requests, they ask for something  
6 and you say, "Hey, we cannot provide it, we cannot do it right  
7 now, that is too onerous."

8 You are not saying that you are not going to do it,  
9 you are saying that it is -- that you cannot do it at this point  
10 in time. Now, if after receiving information it changes their  
11 opinion about that, this does not come into effect.

12 MR. TAYLOR: The language of the resolution appears  
13 different than the sense that the board has.

14 MS. BERNSTEIN: My understanding of the resolution is  
15 that the purpose of this is to keep all parties informed of  
16 problems in the monitoring requests. That is the reason why I  
17 want to leave it in there that the president is informed if  
18 there is an invitation by the programs to negotiate.

19 That does not mean that the program is wrong in doing  
20 that, it is just that at that point we are taking it out of the  
21 monitors hands and the president is going to intervene in this  
22 and he is going to say, "You jerks, you are asking for a lot of

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1 nonsense."

2           If that is what we need in order to get some of these  
3 things taken care of, I am not saying that that was the case,  
4 but I am giving you all the benefit of the doubt in this  
5 example, that is why the president needs to be told and that is  
6 why it is a good resolution, because it should work for internal  
7 controls and it does not operate to your detriment, it operates  
8 to your benefit.

9           MR. McMILLAN: We do not have any problem with the  
10 president being told, it is the next sentence.

11           CHAIRMAN DURANT: Which sentence is the one that  
12 bothers, the within five working days.

13           MR. McMILLAN: "Within five workings days after the  
14 president receiving and invitation from somebody, providing that  
15 --

16           MS. BERNSTEIN: Please let me finish one thing.

17           CHAIRMAN DURANT: Wait, LeaAnne has got the floor.  
18 Let LeaAnne just respond to that.

19           MS. BERNSTEIN: I want you to go on and read the  
20 sentence.

21           MR. McMILLAN: "Within five working days after the  
22 receipt of such information, the president shall serve upon such

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1 a recipient a written preliminary determination of grounds for  
2 suspension of financial assistance under part 1623 of the  
3 corporation's regulation, unless the president shall have  
4 previously determined that the corporation had not right to the  
5 requested information under the Legal Services Act, and the  
6 regulation guidelines issued pursuant thereto."

7 MS. BERNSTEIN: Okay, by reading the entire sentence  
8 you see the point, the president is looking at the situation, is  
9 forced into looking. You know, in 90 percent of the monitoring  
10 visits, they are making requests for information which are  
11 completely within the bounds of what is reasonable and  
12 necessary.

13 Maybe we get a monitoring team that just goes  
14 overboard and just asks for stuff that is completely irrelevant.  
15 At that point the president needs to be told about it. He does  
16 not need to get involved in every monitoring visit.

17 MR. McMILLAN: We do not propose to not comply with  
18 the request of the documentation, even if it is, as you say,  
19 irrelevant. If it is determined that we have to give  
20 documentation, even if it is irrelevant, we will give it. It  
21 may be expensive.

22 MS. BERNSTEIN: All I am saying is the resolution

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1 protects you.

2 MR. McMILLAN: What we do -- the only ones we object  
3 to are when there is confidential information.

4 CHAIRMAN DURANT: And the question of onerous.

5 MR. TAYLOR: Onerous is not covered by the resolution.  
6 That is -- it could go beyond the rule. It means as long as the  
7 corporation is -- unless the president has previously determined  
8 that the corporation has that right to request that information  
9 --

10 MS. BERNSTEIN: He would previously determined before  
11 he issues that suspension of funds. He would look at the  
12 situation. He would say, "Monitors come in here and tell me  
13 what all of this problem is about." He would talk to you, he  
14 would say, "Tell me what your concern is."

15 Then he would say, "Okay, this can be worked out, this  
16 is not a situation that is a refusal, and I want you to work it  
17 out. Therefore, he is not going to issue anything.

18 MR. WALLACE: Can I ask a question, Mr. Chairman.

19 MR. UDDO: I think there is an answer to you question,  
20 LeaAnne, and that is that I do not think the president will have  
21 the discretion to make an exception based on the onerous nature  
22 of the request.

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1           If there is a right to the information, it can be as  
2 onerous as hell and this does not give him the option to say,  
3 "Well, negotiate because it is onerous." He has got to issue  
4 that notice if the corporation has a technical right to.

5           CHAIRMAN DURANT: Mr. Wallace, you are the author.

6           MR. WALLACE: Mr. Chairman, let me ask Mr. McMillan as  
7 counsel for the corporation for us today, is it the position of  
8 the Legal Services of North Carolina that the corporation has a  
9 right to make onerous requests under the Legal Services Act and  
10 the regulations and guidelines issue pursuant thereto.

11           MR. McMILLAN: I am not sure I am prepared to answer  
12 that.

13           MR. WALLACE: I am not either. So, I suggest, because  
14 onerousness was not one of the things that we were discussing.  
15 We were discussing blunt headed refusals to give us information.

16           I would suggest that instead of spending a lot of time  
17 at the board level, that you get together with Mr. Wear and you  
18 all determine whether onerousness is a problem, whether we have  
19 a right to make onerous requests, and if there is a need for us  
20 to give the president discretion to negotiate away something we  
21 have a right to do, then the president can come back at the next  
22 board meeting and make a recommendation to give him some leeway

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1 here.

2 I did not think you were going to tell me we had a  
3 right to do what we are doing to you, and since you are not,  
4 let's move on to something else.

5 MR. McMILLAN: Mr. Wallace, I guess the only reason we  
6 got into this to start with is that we were, in response to the  
7 chairman, attempting to discuss with the staff about document  
8 requests, and were very hopeful that we would be able to work  
9 that out, as we have been able to work out the time of visits.

10 They have been most helpful, most cooperative and we  
11 have a time that is convenient with everybody for this  
12 monitoring and we look forward to it.

13 MR. WALLACE: Mr. Chairman, I have got a couple of  
14 questions I wanted to ask since 11:30.

15 CHAIRMAN DURANT: Go ahead, Mr. Wallace.

16 MR. WALLACE: Mr. Taylor, I am remember the August,  
17 1985 meeting quite well. Let me ask you whether Legal Services  
18 of North Carolina is still conducting legislative and  
19 administrative advocacy as you like to call it in the same way  
20 now that you were then.

21 MR. TAYLOR: We are conducting legislative and  
22 administrative advocacy, pursuant to the corporation's

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1 regulations. I think there have been some modifications in the  
2 way in which we have had to keep records and make reports and so  
3 forth.

4 Essentially we represent clients before the North  
5 Carolina General Assembly and various local governmental  
6 entities on specific retainers.

7 MR. WALLACE: Let me ask you whether you are in a  
8 position to tell the board whether during the period that the  
9 1986 regulations on lobbying and political activities were  
10 enforced, and just so we do not misunderstand each other,  
11 appropriations riders do not take away the force of effective  
12 regulations printed in the Federal Register.

13 Was Legal Services of North Carolina in complete  
14 compliance with those regulations?

15 MR. TAYLOR: We were in complete compliance with  
16 applicable law and regulations at all time, Mr. Wallace.

17 MR. WALLACE: Sir, you are not answering my question.  
18 Second, since 1987 has come in, were you in complete -- you have  
19 been in complete compliance with the regulations, including the  
20 restrictions on the use of private funds for legislative and  
21 administrative advocacy, as you all like to call it.

22 MR. TAYLOR: I believe we are in compliance with the

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1 regs, Mr. Wallace.

2 MR. WALLACE: That is good. It is my recollection  
3 that back in 1985, you all had at least one and maybe two full-  
4 time legislative and administrative advocates, and you took the  
5 position in your reports that the only time you had in the  
6 report as lobbying was that actually spent in efforts to  
7 persuade legislators and administrators.

8 Is that more or less accurate?

9 MR. TAYLOR: There was a note that I recall that my  
10 counsel was here too. I recall that there was no -- that there  
11 is -- I think that is accurate. There was not a definition of  
12 lobbying in the reg. There was not a North Carolina law and we  
13 were doing that.

14 I understand that legislative activities has been  
15 further defined by regulations and we report an account for what  
16 we described was monitoring at that time as legislative  
17 activities.

18 MR. WALLACE: I appreciate the assistance you provided  
19 in that hearing and showing us why we needed to define our  
20 regulations a little better.

21 Let me see if I can remember the code word that was  
22 used at my confirmation from the committee report on the Legal

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1 Services Act, it is true, is it not, that LSNC, its staff and  
2 its board supports providing the full range of legal services to  
3 eligible clients.

4 I think that is the report language, is that true or  
5 false?

6 MR. TAYLOR: Is what true or false, Mr. Wallace?

7 MR. WALLACE: That your staff and your board support  
8 providing the full range of legal services to eligible clients?

9 MR. TAYLOR: That is true, we support providing the  
10 services of lawyers and complying with the code of professional  
11 responsibility in North Carolina and providing the range of  
12 services which our clients need.

13 MR. WALLACE: To the extent Congress, through its  
14 restrictions on legislative and administrative advocacy have  
15 restricted your right to provide full range of legal services to  
16 eligible clients, you oppose those restrictions; is that  
17 correct?

18 MR. TAYLOR: We comply fully with the congressional  
19 restrictions.

20 MR. WALLACE: I understand that, but you oppose the  
21 restrictions if you want to provide the full range of legal  
22 services?

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1 MR. TAYLOR: I do not believe I have ever struck--  
2 taken a position on that matter.

3 MR. WALLACE: You oppose our regulations of both 1987  
4 and '87, at least in part; do you not?

5 MR. TAYLOR: I comply with your regulations, Mr.  
6 Wallace, and I do not believe I -- I did not appear before your  
7 committee at my request. I did not appear to comment on  
8 regulations, I have not commented to you in opposition to those  
9 regulations.

10 I appeared before your committee because there was an  
11 investigation conducted of my program, a report released to the  
12 members of the board and to you before we were given a copy, and  
13 there was going to be a virtual indictment and prosecution of  
14 our legislative advocacy before, in effect, a committee of the  
15 whole of the board.

16 We received this critical report the afternoon or  
17 evening before the meeting that started at 8:00 that morning. I  
18 came up here to hear the report and give some response to you.  
19 I did not come to oppose the authority of the corporation or the  
20 Congress.

21 I came to explain how we comply fully with the law and  
22 applicable regulations. We did explain that, and we certainly

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1 received no indication to the contrary from you or the  
2 corporation. So, we believed you believed, that you understood  
3 that we complied fully with the law and regulations.

4 MR. WALLACE: I did not suggest that you did not.  
5 That is why we changed them. You are not telling me now that  
6 after projects -- you have your own project advisory group;  
7 don't you, LSNC?

8 MR. TAYLOR: Yes.

9 MR. WALLACE: Project advisory group did oppose many  
10 parts of the regulations that were in place in 1986; is that  
11 correct?

12 MR. TAYLOR: I believe so, Mr. Wallace.

13 MR. WALLACE: All right, Mr. Chairman. I appreciate  
14 Mr. Taylor's time and I appreciate the stack of paper you have  
15 in front of you. Mr. Taylor is a good lawyer. He is going to  
16 comply with the regulations as best he possibly can, I have no  
17 doubt of that, but I think it behooves us to keep a very close  
18 eye on Legal Services of North Carolina.

19 I think it is pretty obvious to me that we are not  
20 coming from the same place on certain basic policy matters.  
21 Documents may be a lousy way for us to do our job. I may agree  
22 with you as I agree with Mr. Valois on that subject.

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1 I think we do have to keep a close eye on LSNC and  
2 everybody else that we give our money to. I certainly am sure  
3 Mr. Wear will take a good look at the monitoring office now that  
4 he is here. If there are less onerous ways for us to do our  
5 job, I look forward to his proposals on such.

6 That is all I have got, Mr. Chairman.

7 CHAIRMAN DURANT: Any other board member?

8 (No response.)

9 Mr. Uddo, did you have something?

10 MR. UDDO: No.

11 CHAIRMAN DURANT: Just one final word, Mr. McMillan,  
12 as I have said to you before and I say to you again, I  
13 appreciate the points that you have made. Certainly Mr. Wear  
14 know the feelings of different individual board members and I  
15 will just state mine again.

16 I do not like burdensome things, because I have to do  
17 it for my clients and other contacts, and if there are simpler  
18 and more direct ways to try and get the job done quickly and  
19 effectively and efficiently, we certainly want to know about  
20 that.

21 If you want to have any communication with me directly  
22 or whatever on particular things as they come up, I invite you

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1 to do that.

2 MR. McMILLAN: Thank you, Mr. Chairman. We appreciate  
3 the cooperation we have had so far in this particular upcoming  
4 monitoring and in the manner in which the last monitoring, which  
5 was very recently completed was handled. I thought it was an  
6 effective monitoring. If it continues in that trend, we will be  
7 making great strides.

8 CHAIRMAN DURANT: I will follow up on some of these  
9 things myself.

10 The next item on the agenda -- Mr. Eaglin, did you  
11 have anything else on that item?

12 MR. EAGLIN: I would still like the staff to explain  
13 to me how all of that stuff gets dealt with. Maybe they can do  
14 it by letter.

15 CHAIRMAN DURANT: I was just going to say, if we can  
16 have it done.

17 MR. EAGLIN: That has been longstanding since I talked  
18 to Mr. Gomez some time ago and it has just never been responded  
19 to.

20 CHAIRMAN DURANT: Could you prepare a response for Mr.  
21 Eaglin on those points?

22 MR. WEAR: We can either in a letter or personal.

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1           CHAIRMAN DURANT: That is fine. If that does not  
2 happen, I would appreciate you writing me, Mr. Eaglin, or  
3 calling me and letting me know.

4           The next item on the agenda is the discussion of  
5 clients ideas for effective representation and training. Mr.  
6 Eaglin, I think this was also at your request.

7           MR. EAGLIN: I was supporting a request from the  
8 clients who had indicated to me that they had an interest in  
9 discussing that. I happened to talk to Ms. Benavidez and Ms.  
10 Miller. So, when I expressed to Mr. Wear my support of that, I  
11 was expressing something indirectly with Ms. Benavidez and Ms.  
12 Miller.

13           CHAIRMAN DURANT: Then, Ms. Benavidez and Ms. Miller,  
14 on this item the floor is yours.

15           MS. MILLER: Since we, meaning Ms. Benavidez and  
16 myself, have been on this board, we have been trying to get  
17 something strong for the clients put together by the clients.  
18 After waiting since November of 1987, a promise from Mr. Mendez  
19 was that Mr. Bayly was to find some money to do what we  
20 requested, which was for the clients to have a meeting or a  
21 workshop for the clients, put on by the clients.

22           We want to do something that our concerns are dealt

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1 with. We want to put our ideas together. We want to ask this  
2 board at this time can we get something, a dollar figure or a  
3 date when we can do this?

4 CHAIRMAN DURANT: Now, it is my understanding that Mr.  
5 Wear has talked with you and Ms. Benavidez regarding receiving a  
6 specific proposal that you had been receiving from different  
7 client members around the country in order to be consistent with  
8 Mr. Mendez' previous motion or whatever to present it to him in  
9 order to try and have it worked out within the budget.

10 MS. MILLER: This was something that was briefly said  
11 at a break a while ago, it was not anything solid. It was a  
12 meeting in Santa Fe that you even made a motion. I do not know  
13 if you had similar ideas or were they something different from  
14 what we were thinking or what.

15 I do know if we do not have dollar figures or it is  
16 put in writing then we will not get it. We have been asking for  
17 it since we have been on the board.

18 MR. VALOIS: Mr. Chairman.

19 CHAIRMAN DURANT: Mr. Valois.

20 MR. VALOIS: Fellow board members, we have kicked this  
21 thing back and forth two, three or four times, and I have yet to  
22 have an understanding about what it is we are being asked to

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1 commit money for.

2 I think that before we take another step, one further  
3 inch, we need, if this is Ms. Benavidez' idea, or Ms. Miller  
4 idea or whoever's idea it is, needs to reduce it to writing,  
5 because we are simply not in a position to be handing money out,  
6 to me for vague ideas about meetings.

7 What is it that we are going to do at the meeting,  
8 where is it going to take place, who is going to be invited, how  
9 does it advance the purpose of this corporation? I think those  
10 things need to be set down somehow.

11 MS. MILLER: Mr. Valois, I have been working on this  
12 for about a month now. I stopped working on it because I was  
13 told there was no money. When Mr. Bayly was around I was told  
14 that there was a little money, that we could get two people from  
15 each region, meaning ten people from all over the 50 states.

16 The idea was being put on paper, but I stopped doing  
17 it because I was told we could not do it because the new  
18 president said we did not have the carry over funds that we were  
19 expected to have.

20 I have been working along with Charlie Moses and Mary  
21 Higgins at the corporation on this. It is nothing put together  
22 because we were told there is no money, so why work on something

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1 if we are not going to get it.

2 CHAIRMAN DURANT: I think what we can do is two  
3 things. One, we are moving in -- we are on a fiscal year basis,  
4 are we not?

5 MS. BERNSTEIN: Yes.

6 CHAIRMAN DURANT: If you prepare the work that you in  
7 process over the last 30 days and get -- solicit the comment  
8 that you were doing and reduce it to writing, and I would ask  
9 Mr. Wear to make whatever staff available to you to assist in  
10 that so that the board or Mr. Wear so that it can be done maybe  
11 even prior to a board meeting, if that is possible, can have it  
12 done.

13 MS. MILLER: I did show you a beginning, which you  
14 said you were pleased with. You thought it was a good idea.

15 CHAIRMAN DURANT: I do.

16 MS. MILLER: Will you explain it to the rest of the  
17 board, then?

18 CHAIRMAN DURANT: I think what you had indicated to me  
19 was that that that was an outline submitted by one particular  
20 region and you were waiting for comment from two or three of the  
21 other regions --

22 MS. MILLER: Not waiting, I just stopped. I just held

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1 it dead when I called the corporation and was talking to Ms.  
2 Higgens about it and she said, "Well, I do not want you to feel  
3 bad, don't get discouraged, but there is no money."

4 CHAIRMAN DURANT: Well, I will tell you what, Mr. Wear  
5 has just assured me that he will move on the -- once you have  
6 what you have reduced to writing, taking into account the  
7 additional things, consistent with what Mr. Valois is saying, we  
8 will have something firm to act.

9 MS. BERNSTEIN: Could I just ask, though, that when we  
10 do this, that the justification that you -- the objective that  
11 you want to accomplish by having whatever it is that you are  
12 suggesting we have, that the objective and the effect that you  
13 think that will benefit clients, not representational clients,  
14 but clients across the country, that that be set out in writing  
15 to, and that why you believe that some meeting of ten people  
16 will do that.

17 MS. MILLER: We wanted more than ten, but we were told  
18 that was all we could afford.

19 CHAIRMAN DURANT: You know I supported it, in fact  
20 initiated the motion with you in Santa Fe. If you continue to--  
21 - you and Ms. Benavidez what you were doing in terms of putting  
22 it together, and then, as I say, if you want any staff help or

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1 whatever in order to get it done as quickly as possible.

2 MS. MILLER: At that time we will receive a dollar  
3 figure or what?

4 CHAIRMAN DURANT: Mr. Mendez, you are the head of  
5 appropriations.

6 MR. MENDEZ: Lorain, one of the things that I would  
7 ask that you do is when you talk to the staff, have them work  
8 out some dollar numbers with you for how much cost. There are  
9 some people on the staff that I think could help you do that.

10 Mr. Richardson, I know, is back there and he will be  
11 able to tell you about how much some of these things would cost  
12 and the airline expenses and putting them up --

13 MS. MILLER: Will that be just for ten people or more?

14 MR. MENDEZ: I think what you do is why don't you come  
15 back with a couple of different proposals?

16 CHAIRMAN DURANT: Maximize choices.

17 MR. MENDEZ: Give us two or three different  
18 alternatives.

19 MR. VALOIS: Please tell us what we are going to do at  
20 this meeting.

21 MS. MILLER: I will.

22 MR. VALOIS: Also, how it is going to advance the

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1 purposes of the corporation.

2 MS. MILLER: At this meeting what we want to do is  
3 submit to the board what our requests and concerns are. It will  
4 be submitted to the full board. It is nothing that we want to  
5 do in secret and not let you know about it. We want to present  
6 it to you and ask your opinion about it.

7 MR. VALOIS: Prior to the meeting?

8 MS. MILLER: After the meeting.

9 MR. VALOIS: You are going to describe what the  
10 meeting is about; right?

11 MS. MILLER: Yes.

12 MR. VALOIS: You are going to tell us about that  
13 before the meeting?

14 MS. MILLER: Before the meeting.

15 CHAIRMAN DURANT: Anything else on that particular  
16 item?

17 MS. BENAVIDEZ: I just want to confirm what Lorain  
18 said and I want to let the people know that just before lunch,  
19 that is when we got the go ahead from the president, Mr. Wear.  
20 That is it, thank you.

21 CHAIRMAN DURANT: Anything else on that item?

22 MR. EAGLIN: No.

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1           CHAIRMAN DURANT: The next item is the discussion of  
2 LSC grantee funding applications. Tom, did you have a question?

3           MR. SMEGAL: Yes, I did. I understood from Mr. Wear  
4 that it was not in a status where we could discuss it today, has  
5 he changed his view of that? I talked to Terry earlier in the  
6 week.

7           MR. WEAR: Mr. Chairman, the staff is doing a little  
8 preliminary work on a grant application. It is basically taking  
9 the existing grant application and looking at it, the work  
10 predates my arrival at LSC and a number of the staff are  
11 involved in it from OSF and MAC.

12           The work is preliminary thus far. I do not know how  
13 much change, if any, will be made in the grant application, but  
14 it is something that we are reviewing. When we have a draft  
15 available, it will be sent out to the board members for their  
16 review and comment, as well as to others who may have an  
17 interest in it.

18           That, in a nutshell, is where we are on that at this  
19 point.

20           MR. SMEGAL: If we are not going to meet until  
21 November, and I have not heard us schedule any meeting, that  
22 process is going to be well along before we ever get a chance to

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1 publicly discuss it, it seems to me.

2 I think the board should have some input at this  
3 stage. If there are significant changes in the process, I would  
4 sure like to know about them before they are implanted in  
5 concrete.

6 MR. WEAR: Yes, as I said, we will be sending it out  
7 and would welcome comments from the board members on.

8 CHAIRMAN DURANT: Anything else on that item?

9 MS. BERNSTEIN: I was just going to suggest that in  
10 light of the visual aids we have here, that when it is -- when  
11 the application is being looked at, if it could be looked at  
12 partly in conjunction with paperwork reduction. In other words,  
13 getting the most information with reasonably --

14 MR. WEAR: Yes, well, the purpose for our making these  
15 changes is to try to move away from narrative questions and more  
16 to yes or no or checking the proper box sort of questions. That  
17 is what we are attempting to do on that. I do not know how much  
18 success we will have on that just yet.

19 CHAIRMAN DURANT: Martha.

20 MS. BERGMARK: My name is Martha Bergmark and I am  
21 public advisor, good afternoon. I do have a couple of questions  
22 about the refunding application schedule. Normally that

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1 application goes out by mid-September or so, and I am wondering  
2 if that is the contemplated schedule this year.

3 Last year the deadline was November the 5th, and of  
4 course there is a board meeting requirement, or has been in the  
5 past, a board meeting requirement prior to that. So, there is a  
6 great deal of interest and curiosity being expressed about what  
7 the schedule for the refunding application will be this year.

8 MR. WEAR: Mr. Chairman, we hope to adhere generally  
9 to the schedule that has been observed in the past. It is my  
10 understanding that the grant application went out about the last  
11 week of September last year. We hope to meet that schedule.

12 MS. BERGMARK: So if there are proposed changes in the  
13 refunding application, would those be available prior to that?  
14 I understand those will be circulated to board members well in  
15 advance of that; would that be correct?

16 MR. WEAR: They will be circulated for the board  
17 members in advance of that, yes. If there are other entities  
18 that have an interest in that, we will give them a copy as well.

19 MS. BERGMARK: That would apply to TAG?

20 MR. WEAR: Assuming they are an interested party.

21 MS. BERGMARK: A very interested party, and we are now  
22 almost, of course, at the 1st of September. Can we anticipate

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1 something in the next week or two, or what is your expectation?

2 MR. WEAR: Again, I do not have a schedule on that  
3 yet. It will be done as soon as possible.

4 CHAIRMAN DURANT: Anything else, Martha?

5 MS. BERGMARK: No.

6 CHAIRMAN DURANT: Anything else on that item?

7 (No response.)

8 The next item on the agenda are the addition of the  
9 amended items, the first is relative to the position of  
10 counselor to the president. Mr. Uddo, this was part of your  
11 amendment, the floor is yours.

12 MR. UDDO: The reason I put this on the agenda is  
13 because sometime after our last meeting in July, I was actually  
14 not informed, but found out that we had created a -- a new  
15 position had been created in the executive offices called  
16 counselor to the president.

17 It is my opinion that that position cannot be created  
18 without board action. As I read the bylaws, the creation of new  
19 officer level positions is something that can only be done by  
20 the corporation, specifically 1601.29, which specifies which  
21 officers the corporation shall have, and then further specifies  
22 such other officers as the board determines to be necessary.

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1 I am of the opinion that this position, counselor to  
2 the president, is an officer's position. I have been told that  
3 it carries an unclassified pay category which means that it is  
4 certainly not a staff position, it is not administrative or  
5 clerical staff, and I do not know what else it could be but an  
6 officer's position.

7 M O T I O N

8 MR. UDDO: Therefore, I would make a motion that the  
9 position be -- what is the right word, I guess un-created until  
10 the board has a chance to abolish, that is a much better word,  
11 until the board has a chance to consider whether or not such a  
12 position -- such an officer's position should be created, what  
13 the nature of that position would be and what the job  
14 description would be.

15 MR. EAGLIN: Second.

16 CHAIRMAN DURANT: What is your motion again, Mr. Uddo?

17 MR. UDDO: To abolish the position of counselor to the  
18 president as it having been improperly created under 1601.29.

19 MS. BERNSTEIN: I move to table until we decide the  
20 question as to whether or not it is, in fact, an officer's  
21 position, because otherwise it is irrelevant.

22 MR. UDDO: Make it a part of this notion.

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1 MS. BERNSTEIN: No, I just move to table.

2 MR. UDDO: How are you not going to?

3 CHAIRMAN DURANT: The motion to table takes  
4 precedence.

5 MR. UDDO: I would be happy to table this if we meet  
6 again in October or September. I do not want to table it for  
7 two months. I will be happy to present, in writing, my  
8 justification for why I think this is an officer level position.

9 MR. VALOIS: Well, there is one other alternative if  
10 the chairman will --

11 MS. BERNSTEIN: I thought the motion to table was no  
12 debateable?

13 MR. VALOIS: I was not going to debate it, I was just  
14 going to say a few words.

15 (Laughter.)

16 CHAIRMAN DURANT: We have to vote on the motion to  
17 table. Ms. Benavidez, yes or no?

18 MS. BENAVIDEZ: No.

19 Ms. Miller?

20 MS. MILLER: No.

21 Mr. Valois?

22 MR. VALOIS: Yes.

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1 Ms. Swafford?  
2 MS. SWAFFORD: Yes.  
3 Ms. Bernstein?  
4 MS. BERNSTEIN: Yes.  
5 Mr. Mendez?  
6 MR. MENDEZ: Yes.  
7 Mr. Wallace?  
8 MR. WALLACE: No.  
9 Mr. Smegal?  
10 MR. SMEGAL: No.  
11 Mr. Eaglin?  
12 MR. EAGLIN: No.  
13 Mr. Uddo?  
14 MR. UDDO: No.  
15 The nos carry.  
16 MR. WALLACE: Mr. Chairman, I am not a D.C. lawyer,  
17 but we have got one as general counsel, will somebody ask him  
18 whether or not he agrees with -- well, maybe the president can  
19 tell us. I do not know, but it is a simple enough question,  
20 either we know the answer to it or we do not. We might as well  
21 hear it today.  
22 MR. VALOIS: Mr. Chairman, as I was going to say

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1 before, there is at least one other alternative and that is that  
2 if the general counsel determines that the position is an  
3 officer's position, it seems to me an equally likely alternative  
4 is that the president come back to us and ask us to create that  
5 position, nunc pro tunc if you like or otherwise.

6 That seems to be the third alternative.

7 MR. UDDO: My intention is that if it would be  
8 determined that it was an officer's position, I assume that he  
9 would ask us to create that position, but I would assume that  
10 before we did that, we would have some job description for the  
11 position and some justification for the position and some idea  
12 why it is needed and the like so that we could make an informed  
13 decision.

14 I do not expect that if I would win on this that it  
15 would go away forever, but that we would get a chance to  
16 consider it as a board.

17 MR. WALLACE: Mr. Chairman, could we just ask the  
18 president if he is in the position to answer Mr. Uddo's legal  
19 concerns today?

20 CHAIRMAN DURANT: Are you, Mr. Wear?

21 MR. WEAR: Mr. Chairman, I will try. As I mentioned  
22 to Mr. Uddo before when we discussed the board agenda, the

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1 position of counselor to the president, is an existing staff  
2 position. It is on the corporation, what I will call the  
3 corporation's manning documents.

4 The position was labeled counsel to the vice  
5 president. When this position was filled, I simply changed the  
6 name on it, instead of counsel to the vice president it is now  
7 counselor to the president. The position is an unclassified  
8 position.

9 CHAIRMAN DURANT: Officer or non-officer?

10 MR. WEAR: The individual is not an officer, we have  
11 other unclassified employees at the corporation, they are not  
12 officers either. This job is not an officer position. The  
13 individual in the job reports to me and works closely with me on  
14 a variety of matters at the corporation. He has no line  
15 responsibility per se.

16 MR. WALLACE: Mr. Chairman?

17 CHAIRMAN DURANT: Mr. Wallace.

18 MR. WALLACE: Was counsel to the vice president an  
19 officer position?

20 MR. WEAR: No, sir, it was not.

21 MR. WALLACE: So is there any reason, in your mind,  
22 why a counsel to any officer of the corporation, whether

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1 president, vice president, or otherwise, whether a counsel to  
2 any officer of the corporation ought to be considered an officer  
3 himself?

4 MR. WEAR: No, sir.

5 MR. UDDO: Let me ask you a question, Mr. Wear. To  
6 your knowledge was that counsel to the vice president position  
7 ever filled?

8 MR. WEAR: The position was vacant when I came on  
9 board, I am not familiar with the history.

10 MR. UDDO: You do not know anything about its  
11 creation, do you?

12 MR. WEAR: I am not familiar with its history, no.

13 MR. UDDO: I am not either, I did not know there was  
14 such a position and I would feel the same way about it if that  
15 is what was being proposed today.

16 Do you have any other unclassified employees in the  
17 executives offices other than the named officers and the counsel  
18 to the president?

19 MR. WEAR: Yes..

20 MR. MENDEZ: I do not think that that is an  
21 appropriate, I think that is a personnel --

22 MR. UDDO: Just by position, I do not care about the

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1 name, just by position.

2 MR. MENDEZ: You said who was it.

3 MR. UDDO: By position, I do not think that is  
4 privileged information.

5 MR. MENDEZ: That is easily found out and determined.

6 MR. WEAR: Yes, it would take somebody about five  
7 seconds to straighten that out. To answer your question, the  
8 director of congressional affairs is an unclassified position.

9 MR. UDDO: Do you know anything about the creation of  
10 that position?

11 MR. WEAR: I have had some discussions about it. I  
12 guess I need to know more about what your question is.

13 MR. UDDO: I do not know when it was created and I do  
14 not know whether it was created by board action or not. I do  
15 know how long it has been there, so I do not know that that is  
16 an argument against my position that it should not require board  
17 action to create this position, I just do not know.

18 It seems to me the only people in the executive  
19 offices that are unclassified are the officers listed in the  
20 bylaws and the congressional relations -- what is the title?  
21 Director of congressional relations?

22 MR. WEAR: Yes.

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1 MR. UDDO: I do not know how that particular office  
2 was created, it may have been created consistent with the  
3 bylaws, for all I know.

4 All I can tell you is that when I read this it  
5 specifies five officers, all unclassified, and it says, "The  
6 board shall create other," I frankly do not understand what the  
7 resistance is. We ought to just have a board meeting on whether  
8 we should have this or not.

9 CHAIRMAN DURANT: Mr. Shea, do you agree with what Mr.  
10 Wear has said vis-a-vis that position that it is or is not an  
11 officer position?

12 MR. SHEA: I do not think it is an officer's position.

13 MR. UDDO: Can I ask a question?

14 CHAIRMAN DURANT: Yes.

15 MR. UDDO: Based on what?

16 MR. SHEA: Well, our bylaws identify who the officers  
17 are and that is not included among the list.

18 MR. UDDO: Could I request a formal legal opinion  
19 from the general counsel's office with some authority and  
20 documentation. You know I respect you, Tim.

21 (Simultaneous conversation.)

22 MR. SMEGAL: One question, was this counsel to the

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1 vice president that you transferred over to counselor to the  
2 president, was that a classified position?

3 CHAIRMAN DURANT: I did not do anything.

4 MR. SMEGAL: I am not asking you, I am asking Mr.  
5 Wear.

6 MR. WEAR: Mr. Chairman, in response to that question,  
7 I will have to check the documents to see. I do not recall.

8 MR. WALLACE: I think that Mr. Uddo has solved our  
9 problem here today, if we have one, by requesting an opinion  
10 from the General Counsel, which he is certainly entitled.

11 I do not think that even Mr. Uddo would think we are  
12 in a position to vote on his motion right now, if we are asking  
13 for an opinion from the General Counsel. So, maybe a tabling  
14 order would be appropriate at this point.

15 MR. MENDEZ: Mr. Wallace, I would like to correct  
16 something. I think that what Mr. Uddo is asking is the General  
17 Counsel reconsider his opinion.

18 CHAIRMAN DURANT: Or we consider that.

19 MR. UDDO: I am asking him to give some consideration  
20 to his opinion. I think he was caught off guard there and I am  
21 sure he will see the light when he gets into the books.

22 MR. SHEA: I would be happy to reduce or to re-

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1 examine, but I do not have a lot of -- I did not come here armed  
2 with authorities on it. I would be happy to do that for you.

3 M O T I O N

4 MR. WALLACE: Mr. Chairman, in light of the discussion  
5 and since I voted no on the previous tabling motion, I think it  
6 is now timely for me to move to table this until such time as we  
7 can receive the report from General Counsel.

8 CHAIRMAN DURANT: Is there a second?

9 MR. MENDEZ: Second.

10 CHAIRMAN DURANT: Ms. Benavidez, on the motion to  
11 table?

12 MS. BENAVIDEZ: No.

13 Ms. Miller?

14 MS. MILLER: No.

15 Mr. Valois?

16 MR. VALOIS: No.

17 CHAIRMAN DURANT: You do not want to table?

18 MR. VALOIS: No.

19 Ms. Swafford?

20 MS. SWAFFORD: Yes.

21 Ms. Bernstein?

22 MS. BERNSTEIN: No.

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1 Mr. Mendez?  
2 MR. MENDEZ: No.  
3 Mr. Wallace?  
4 MR. WALLACE: Yes.  
5 Mr. Smegal?  
6 MR. SMEGAL: No.  
7 Mr. Eaglin?  
8 MR. EAGLIN: No.  
9 Mr. Uddo?  
10 MR. UDDO: Yes.  
11 CHAIRMAN DURANT: It is not tabled, the motion is back  
12 on the floor.  
13 MS. BERNSTEIN: Mr. Chairman, I move we vote on that  
14 because if we have been to the -- we can call the motion because  
15 we have been told by the General Counsel it is not an officer's  
16 position.  
17 CHAIRMAN DURANT: Ms. Benavidez, on Mr. Uddo's motion,  
18 how do you vote?  
19 MS. BENAVIDEZ: No.  
20 CHAIRMAN DURANT: Mr. Uddo's motion is to abolish that  
21 job.  
22 MS. BENAVIDEZ: Yes. To abolish it, yes.

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1 Ms. Miller?  
2 MS. MILLER: Yes.  
3 Mr. Valois?  
4 MR. VALOIS: No.  
5 Ms. Swafford?  
6 MS. SWAFFORD: No.  
7 Ms. Bernstein?  
8 MS. BERNSTEIN: No.  
9 Mr. Mendez?  
10 MR. MENDEZ: No.  
11 Mr. Wallace?  
12 MR. WALLACE: No.  
13 Mr. Smegal?  
14 MR. SMEGAL: Yes.  
15 Mr. Eaglin?  
16 MR. EAGLIN: Yes.  
17 Mr. Uddo?  
18 MR. UDDO: Yes.  
19 CHAIRMAN DURANT: The chairman votes no. The motion  
20 fails.  
21 The next item is another amended item, number 7. Mr.  
22 Uddo, this regards the president's report.

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1 MR. EAGLIN: Maybe we better go to future board  
2 meetings?

3 CHAIRMAN DURANT: With unanimous consent because Mr.  
4 Smegal has to leave, we move to item number eight which is the  
5 schedule of future board meetings.

6 MR. MENDEZ: Mr. Chairman, the Audit and  
7 Appropriations has taken a vote and they will -- we are going to  
8 meet on November 19th and December 10th. If the board wants to  
9 have simultaneous meetings, that is fine.

10 CHAIRMAN DURANT: The dates you picked were the 19th  
11 of November and 10th of December?

12 MR. MENDEZ: Yes.

13 CHAIRMAN DURANT: Is there any objection to -- is  
14 there any wish to have board meetings on those days?

15 MR. WALLACE: Mr. Chairman, I am not sure that the  
16 board will need to meet on the 19th, because I know Mr. Mendez'  
17 committee does not anticipate making a report on that date. I  
18 can say that to the best of my knowledge my committee has  
19 nothing cooking for that day.

20 Unless Mr. Valois has something he expects to be  
21 presenting to the board by that time, I am not sure that we will  
22 need to meet in November.

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1 CHAIRMAN DURANT: Mr. Valois, do you have anything?

2 MR. VALOIS: Well, not at this time, but there is a  
3 possibility that I would need a short meeting, not necessarily  
4 in connection with that meeting prior to that time.

5 CHAIRMAN DURANT: Ms. Bernstein, is your Voucher  
6 Committee meeting?

7 MS. BERNSTEIN: I do not see that we would have a need  
8 to meet that day.

9 CHAIRMAN DURANT: Mr. Uddo, does your committee on  
10 State and National have anything?

11 MR. UDDO: As a matter of fact, I would like to  
12 schedule a meeting. My committee will meet in San Diego.

13 MR. SMEGAL: I cannot make it whenever it is.

14 MR. WALLACE: I do think we should schedule, at least  
15 for now, a board meeting for the 19th, because I think somebody  
16 just told Tom that the refunding application, when it is  
17 complete, would be available for consideration at that time.

18 I would assume it would be even earlier than that, but  
19 there may be some need to discuss that at a meeting as soon as  
20 possible. So, I think you should at least schedule one.

21 MR. MENDEZ: Basile, in the past we have taken the  
22 refunding applications and dealt with them at the committee

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1 level.

2 MR. UDDO: Your committee?

3 MR. MENDEZ: Yes.

4 MS. BERNSTEIN: This is not even something that is  
5 necessarily a board function to look at refunding applications.  
6 I am all for, if there is a change in the refunding applications  
7 being circulated to the board.

8 If after getting the application there is a major  
9 concern on somebody's part and there is a need to schedule a  
10 meeting, I think that we do that at that time rather than just--  
11 - it is not a board function to draft refunding applications.

12 MR. MENDEZ: Let me just --

13 MS. BERNSTEIN: Your committee did it, but I was  
14 against it.

15 MR. MENDEZ: I know.

16 MS. BERNSTEIN: It is just not the function of the  
17 board to be doing this.

18 MR. UDDO: The precedent has been set LeaAnne.

19 MS. BERNSTEIN: Let's be brave, let's do what is right  
20 instead of just going with something that happened long ago.

21 CHAIRMAN DURANT: I would hope that any, as Tom  
22 mentioned and also I think you did too, LeaAnne, if there are

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1 any changes I hope they are simple and nothing is easier done.

2 MS. BERNSTEIN: I do not know that they are going to  
3 be simple, but I think that communications regarding concerns  
4 with it, if they are major enough to call a meeting, then that  
5 is what we do rather than trying to schedule our lives about  
6 possible things that we really -- that is not really problem.

7 MR. MENDEZ: Tom, are you going to be there on the  
8 19th?

9 MR. SMEGAL: Of November?

10 MR. MENDEZ: Yes.

11 MS. SMEGAL: Yes.

12 MR. MENDEZ: If it is in Hawaii?

13 MR. SMEGAL: Particularly.

14 CHAIRMAN DURANT: Let me just ask you this, there are  
15 no objections, I gather for 19th or the 10th. Why don't we, if  
16 anybody has particular items prior to that or for those dates--

17 MR. UDDO: Only suggestion is it is easier to cancel a  
18 meeting sometimes than to start trying to get one in place.

19 MS. BERNSTEIN: Then I think if that is what you want  
20 to do, then I think you need to schedule one for September.  
21 Because, as I understand the schedule of sending this out to --

22 CHAIRMAN DURANT: That is not even a board --

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1 MS. BERNSTEIN: It is not a board function. I am just  
2 trying to address what he said.

3 CHAIRMAN DURANT: All right, so we do not need to  
4 schedule it.

5 MS. BERNSTEIN: Clark, make up your mind.

6 CHAIRMAN DURANT: I have, I said November and  
7 December.

8 MS. BERNSTEIN: I am saying if you think -- he just  
9 said it is easier to cancel a meeting. You told me that if  
10 there are concerns, then we may have to adjust this. I told you  
11 my position that we should not address it, period.

12 CHAIRMAN DURANT: If we use any dates other than the  
13 19th or the 10th, then we can deal with those if people have  
14 specific requests at that time. There is obviously nothing on  
15 anybody's agenda for the sake of specifically scheduling a  
16 meeting.

17 I assume that the work that Ms. Miller and Ms.  
18 Benavidez are providing can be done through the staff since Mr.  
19 Bayly already made a determination that there was certain money  
20 available. Mr. Valois?

21 MR. VALOIS: I agree with Ms. Bernstein that the  
22 changes, and I have not seen them yet unless they so radically

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1 affect the refunding application, it is not really a matter for  
2 the board to deal with.

3           However, if it is possible -- if it absolutely  
4 necessary, nobody else can do it, I do not mind doing it in my  
5 committee on short notice. I just do not see where it is  
6 something we ought to be getting into.

7           CHAIRMAN DURANT: I agree with you. So, why don't we  
8 just not, other than the 19th and 10th, unless there are  
9 specific requests, not schedule.

10           MR. VALOIS: Yes.

11           MR. UDDO: Didn't you just tell Mr. Smegal a few  
12 minutes ago that when it was complete he would have an  
13 opportunity to express his concerns?

14           MR. VALOIS: The hearing is not being held for Mr.  
15 Smegal, it is --

16           MR. MENDEZ: If there is a problem, we can circulate  
17 it and see if we can work it. If we cannot, then we can call a  
18 meeting.

19           MR. UDDO: My only point is it is harder to call one  
20 than to cancel on.

21           CHAIRMAN DURANT: We can call them on pretty short  
22 notice.

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1 MS. SWAFFORD: Let me agree with Basile on this. Most  
2 of the people, from what I can tell, are planning to be at that  
3 meeting on November 19th. Why don't we schedule a board  
4 meeting, we can always cancel it.

5 CHAIRMAN DURANT: We will do it for the 19th and the  
6 10th, then.

7 MS. BERNSTEIN: That will have nothing to do with the  
8 refunding applications because they will already be in.

9 MR. VALOIS: Right, that has to be September.

10 CHAIRMAN DURANT: I understand all of that. We are  
11 not setting these meetings --

12 MS. SWAFFORD: I am not trying to set the agenda here,  
13 I have been an advocate of having regularly appointed board  
14 meetings and then cancelling them if we do not need them. At  
15 least we have them scheduled, and then if we have things to get  
16 on the agenda, we get them on.

17 CHAIRMAN DURANT: So, let us schedule it for November  
18 19th and December 10th.

19 MS. SWAFFORD: If the time comes and nobody has  
20 anything important, then we cancel them?

21 CHAIRMAN DURANT: Fine. Are there any objections to  
22 the 19th of November and the 10th of December?

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1 MR. VALOIS: I would just like to make an observation  
2 about how helpful this has been to the public to be able to set  
3 these board meetings in public, instead of in private. It has  
4 really been helpful to them, I am sure.

5 CHAIRMAN DURANT: So we will have the Appropriations  
6 and the board meeting on those two days. Mr. Wear, you had a  
7 president's report to make and then we had another item on Mr.  
8 Uddo's amendments.

9 MR. WEAR: Thank you, Mr. Chairman. In response to a  
10 request made by some of the members of the board, I would like o  
11 take a few minutes to summarize the last oversight hearing held  
12 before the House Judiciary Subcommittee dealing with Core Civil  
13 Liberties and the Administration of Justice, which occurred on  
14 August 4th of this year.

15 As some of you know, the hearing was scheduled and  
16 began at approximately 9:30 a.m. and lasted until approximately  
17 4:15 or 4:30 in the afternoon with a short break for lunch and  
18 some other procedural -- other breaks, rather, that occurred as  
19 a result of procedural activity on the House floor.

20 Chairman Durant and Mr. Uddo and Mr. Wallace testified  
21 at this oversight hearing, and they may wish to offer additional  
22 comments on it.

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1           The purpose of the hearing, generally, was to inquire  
2 into the replacement of the former president of the corporation,  
3 and to also take some additional testimony on certain  
4 reimbursements and other travel expenses incurred by the  
5 chairman.

6           Chairman Durant appeared as the first witness, he was  
7 then followed by Mr. Uddo and Mr. Wallace. Mr. Durant delivered  
8 a short statement and then responded to questions for a  
9 significant period of time.

10           Under the subcommittee rules, each member of the  
11 committee is allowed to question a given witness for five  
12 minutes, and then the questioning moves on. The questioning  
13 alternates between the majority members of the subcommittee,  
14 which is the Democratic members, and the minority members, that  
15 is the Republican members.

16           So, the questioning did not always follow the same  
17 line of thought. When we moved to a different questioner, he  
18 sometimes had other questions to ask, which did not necessarily  
19 relate to those of his predecessor.

20           The questions, I think, covered everything in great  
21 detail. The chairman answered all of the questions that were  
22 directed to him. It was my impression as a result of sitting

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1 through the hearing, which incidentally was the longest  
2 oversight hearing that I ever sat through, and I was on the Hill  
3 six years.

4 It is my impression that the members of the  
5 subcommittee were satisfied with the chairman's responses and  
6 also with those of the other two witnesses and that the  
7 committee plans no further inquiry.

8 Now, we have asked the committee for its comments on  
9 that as to whether it intends to hold additional hearings, and  
10 we have not received a formal response yet. I would note in  
11 passing that Congressman Morrison stated late in the hearing  
12 that he felt there was no wrongdoing that had occurred, that he  
13 did disagree strongly with the leadership of the chairman of the  
14 corporation.

15 In general, the comments were divided between the  
16 Democratic members on one side and the Republican members. The  
17 Democratic members, and I should say some of them not all of them,  
18 were raising questions about the expenditures. Others had fewer  
19 questions.

20 The Republican members generally raised questions  
21 about the propriety of the hearing and whether the hearing was,  
22 in fact, called as an oversight hearing or as a method to

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1 detract or distract, rather, the chairman.

2 A copy of Mr. Durant's statement to the subcommittee  
3 is on file with the secretary of the corporation, as well as a  
4 summary travel report which was submitted at the time of the  
5 hearing. Any member of the board who has not yet received that  
6 and has an interest in it, we will be glad to send that out.

7 MR. EAGLIN: That is what, Mr. Wear?

8 MR. WEAR: Say again?

9 MR. EAGLIN: That is what I was asking you, what were  
10 you speaking of?

11 MR. WEAR: What I said was this, a copy of the  
12 chairman's statement, which was delivered at the hearing and a  
13 copy of a summary travel report which was submitted at that time  
14 is available from the secretary of the corporation and will be  
15 mailed out to any board member who wishes to have it.

16 In addition, the corporation has requested a copy of  
17 the transcript of the hearing. When the corporation receives  
18 that transcript, we will be glad to send that to any board  
19 member who requests it.

20 Mr. Chairman, I think that generally summarizes the  
21 hearing. I would be glad to respond to any questions that any  
22 board member may have.

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1 MR. EAGLIN: I would like now to request a copy of the  
2 transcript, since you just invited that.

3 MR. WEAR: Yes, sir, as soon as we receive that we  
4 will then send that to you.

5 CHAIRMAN DURANT: Ms. Koski, will you make that  
6 available?

7 MS. KOSKI: No. It is a rule of the Judiciary  
8 Committee that transcripts are not available to the public. A  
9 transcript is in the office of the subcommittee, but anyone is  
10 able to come in and look at the transcript.

11 The corporation will actually be receiving the  
12 transcript of the first hearing, that was a document that  
13 neither could be copied or distributed to anybody else.

14 MR. WALLACE: Whoa, Whoa.

15 MS. KOSKI: Excuse me, there is not a whoa. The fact  
16 of the matter is that this is Chairman Rodino's rule. It may  
17 not be a general Congress ruling, but it is the rule of the  
18 House Judiciary Committee.

19 MR. WALLACE: Let me ask a question. I mean, you  
20 folks put me under oath and I am not entitled to have a copy of  
21 my sworn testimony?

22 MS. KOSKI: That is an issue that we will be taking up

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1 with the General Counsel. As a courtesy to him, we gave him a  
2 copy of the last hearing. In general, hearings under oath are  
3 to be distributed to no witnesses. Hearings that are not under  
4 oath are distributed in section to the witness so that they can  
5 correct any kind of misstatement.

6 You, at most, would get a copy of your section. You  
7 would not get a complete copy of the hearing regardless of  
8 whether or not you were going to correct it or not. That is  
9 simply not committee policy.

10 MR. WEAR: May I ask a couple of questions on that.  
11 Then, if I understand it, each member who testified could  
12 request a copy of his testimony, and then we could merge that  
13 together and send it to our board members if we so desire?

14 MS. KOSKI: No.

15 MR. WEAR: Are you sure that your policy, as you have  
16 articulated it here, is in accordance with the House rules, have  
17 you reviewed that?

18 MS. KOSKI: I am not the parliamentarian of the  
19 committee, that is not my position. I have spoken with the  
20 parliamentarian about it. These are rules and I think it would  
21 be fine if you would like to write the General Counsel of the  
22 full committee and ask them if you can make copies of our

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1 transcripts.

2 I assume that the answer would is that you probably  
3 not give out the transcript at all.

4 CHAIRMAN DURANT: I certainly have no objection.

5 MS. KOSKI: To not getting it --

6 CHAIRMAN DURANT: No, I mean to get it out to  
7 everybody, the world.

8 MS. KOSKI: No one would have an objection except  
9 Chairman Rodino. He makes the rules of the House Judiciary  
10 Committee.

11 MS. BERNSTEIN: Does he have something to hide?

12 MS. KOSKI: No, there is not. The transcript  
13 ultimately will be printed in a full hearing. The hearing will  
14 be available to everybody. It is a rule and I cannot speak for  
15 Chairman Rodino. I have rules to follow as the counsel to the  
16 subcommittee.

17 MR. WEAR: Certainly when it was printed, though, it  
18 would be available for members of the public and that would  
19 include this corporation and others.

20 MS. KOSKI: But not the raw transcript.

21 MS. BERNSTEIN: That is a different question.

22 MS. KOSKI: The hearing booklet is a nice form.

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1 MR. WEAR: Do you have the time table for when that  
2 would be published, when that would be printed?

3 MS. KOSKI: It is unclear.

4 MR. WEAR: I beg your pardon?

5 MS. KOSKI: It is unclear, we are working on it as  
6 fast as we can.

7 MR. WEAR: It is unclear, but you hope to print it as  
8 soon as you can; is that correct?

9 MS. KOSKI: Yes.

10 MR. WEAR: Thank you.

11 CHAIRMAN DURANT: Any other questions?

12 MR. MENDEZ: I would just like to know from all of  
13 this Washington experience, what is the typical period of time  
14 that it takes to print these things.

15 CHAIRMAN DURANT: Ms. Koski, will there be any  
16 opportunities for corrections?

17 MS. KOSKI: The only corrections that are made on  
18 hearings are spelling errors, there are not other corrections  
19 that are made..

20 CHAIRMAN DURANT: I understand there are corrections  
21 going on now that are not just spelling errors.

22 MS. KOSKI: Corrections on?

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1           CHAIRMAN DURANT: On the transcript, is that incorrect  
2 information?

3           MS. KOSKI: We receive a copy of the transcript.  
4 Apparently there were certain power problems on the day of the  
5 hearing. There is not indication of that in the text of  
6 transcript. Having sat in the hearing, you may also remember  
7 that there were certain segments of questions that occurred to  
8 me were not in the transcript as I was reading it.

9           I called and them and they said, yes, in fact, there  
10 were certain times when the power went out. What we have asked  
11 them to do is put that in the transcript.

12           CHAIRMAN DURANT: You mean that the power went out?

13           MS. KOSKI: That the power went out for 20 seconds or  
14 the power went out for an hour and a half.

15           CHAIRMAN DURANT: As long as it was not for 18  
16 seconds.

17           MR. WALLACE: That is 18 minutes.

18           (Simultaneous conversation.)

19           MS. KOSKI: There was an explanation for this given so  
20 that there is a reason to know why you are answering a question  
21 when there was no question posed to you.

22           CHAIRMAN DURANT:

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1 MR. UDDO: Did they get my comment about Mr. Durant?

2 MS. KOSKI: They took one page.

3 MR. UDDO: I just wanted to make sure that that was on  
4 the record.

5 (Laughter.)

6 MR. WEAR: May I ask one other question, Ms. Koski,  
7 and that is in the past as you have printed these records of the  
8 hearings, approximately how long has it taken from the time that  
9 you have corrected the transcript until it comes back from GPO?

10 MS. KOSKI: There is a backlog in printing hearings  
11 from what I understand right now. I cannot give you a general  
12 time. I do not know the fastest time, I do not know the slowest  
13 time.

14 CHAIRMAN DURANT: This will be printed out?

15 MS. KOSKI: Clearly.

16 MR. WEAR: What is the average, six months?

17 MS. KOSKI: I do not know that answer.

18 MR. WALLACE: Mr. Chairman, a point of personal  
19 privilege, as long as we have this interaction between two  
20 branches of government, I would like to point out that I could  
21 not get Mr. Taylor to oppose my lobbying regulation a few  
22 minutes ago, so I hope you all will take that into consideration

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1 in conference.

2 CHAIRMAN DURANT: Any other questions? Mr. Wear, do  
3 you have any other items in your report?

4 MR. EAGLIN: Mr. Durant, concerning Mr. Uddo's  
5 characterization of you, I just wanted to know are you a bran  
6 flake or a snow flake?

7 CHAIRMAN DURANT: Well, I had not thought about that.  
8 Any other questions?

9 (No response.)

10 The next item on the agenda is the --

11 MR. UDDO: Clark, I am going to ask that you defer  
12 that to the next meeting. I have got to catch a plane and it is  
13 going to take a few minutes to discuss this.

14 CHAIRMAN DURANT: That is fine. If there are no other  
15 items, is there a motion for adjournment?

16 M O T I O N

17 MR. UDDO: So moved.

18 MS. BENAVIDEZ: Second.

19 CHAIRMAN DURANT: All those in favor signify by saying  
20 aye?

21 (A chorus of ayes.)

22 All opposed?

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1 (No response.)

2 CHAIRMAN DURANT: Meeting adjourned.

3 (Whereupon, at 3:45 p.m., the Board of Directors  
4 meeting of the Legal Services Corporation was concluded.)

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